

1883.
NEW ZEALAND.

WAIHARAKEKE AND HUNGAHUNGA BLOCKS

(FURTHER PAPERS RELATING TO THE PURCHASE OF).

[In Continuation of Papers laid on the Table on the 7th June, 1876.]

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

Mr. T. RUSSELL to the Hon. J. D. ORMOND.

SIR,—

Auckland, 3rd May, 1877.

Referring you to the agreement made by me with the late Government, as set forth in the Parliamentary Papers, 1876, C.-3a, I have now the honour to enclose a map, certified by Mr. Mackay, showing the piece of land which the Government have agreed to give me under that arrangement. A reference to Mr. Mackay will inform you that I have carried out my agreement with the Government by transferring to them my interest in Waiharakeke East, and by withdrawing from competition with them in the purchase of lands in the Thames District; and I have now to request that I may be furnished with an account showing the amount which I have to pay for the land, as by the enclosed plan, in the terms of agreement.

I have, &c.,

The Hon. J. D. Ormond.

THOMAS RUSSELL.

No. 2.

The Hon. J. D. ORMOND to Mr. T. RUSSELL.

SIR,—

Government Buildings, Wellington, 25th May, 1877.

In reply to your letter of the 3rd instant I have the honour to inform you that the purchase of the Aroha Block has not yet been completed, and that it is consequently impossible to prepare the account with which you request you may be furnished.

I have, &c.,

Thomas Russell, Esq., Auckland.

J. D. ORMOND.

No. 3.

Mr. T. RUSSELL to the Hon. J. D. ORMOND.

SIR,—

Auckland, 25th June, 1877.

I have the honour to enclose the original of the undertaking signed by Mr. Mackay, in reference to Waiharekeke East and West. You will observe Mr. Mackay's engagement is that I shall have a Crown grant for the portion on the west side of the river; but, in order to prevent complication, I suggest that Mr. Mackay be instructed to have that part conveyed to me direct from the Native owners.

I have, &c.,

The Hon. J. D. Ormond, Wellington.

THOMAS RUSSELL.

Enclosure in No. 3.

Mr. J. MACKAY to Mr. T. RUSSELL.

SIR,—

Cambridge, 2nd January, 1874.

In consideration of your not opposing the Government in the purchase of the Waiharakeke Block, I hereby undertake, on behalf of the Government, that, so soon as the purchase of the same shall be completed, you shall have a Crown grant for the portion on the west side of the River Waihou, adjoining the Hungahunga, on repaying to the Government the amount of purchase-money which shall have been paid by them for the same.

I have, &c.,

Thomas Russell, Esq.

JAMES MACKAY,
Agent, General Government.

No. 4.

Mr. E. HESKETH to the Hon. the NATIVE MINISTER.

SIR,—

Auckland, 18th January, 1878.

Re *Waiharakeke East and West*.

I have the honour to inform you that prior to Mr. Thomas Russell's departure for England he requested me to attend to this matter for him, and by telegram, dated the 4th July last, he duly informed the Hon. J. D. Ormond of that fact. I have perused the correspondence which has hitherto passed between the Government and Mr. Russell upon this subject, and I have the honour to request that you will be pleased to inform me what course the Government intends to adopt in relation to Mr. Russell's rights, and especially in reference to the proposal contained in his letter of the 25th June last, addressed to Mr. Ormond. The subject is one of great importance to Mr. Russell, whose rights have been fully recognized by the Government; and, as the Government have now had the matter so long under their consideration in connection with the Broomhall purchase, which this matter so seriously affects, I have the honour to request that the subject may have your prompt attention.

The Hon. the Native Minister.

I have, &c.,

EDWIN HESKETH.

No. 5.

Mr. E. HESKETH to the Hon. the NATIVE MINISTER.

In the matter of Mr. Russell's Agreement relating to Waiharakeke and Land in the Thames District, part of Te Aroha Block.

SIR,—

Auckland, 26th March, 1878.

In compliance with the request made of me yesterday by you, I have the honour to lay before you the following outline of facts, showing generally the nature of the agreement made by the Government with Mr. Thomas Russell (for whom I am acting) in reference to the above lands. In taking this course I would desire to press upon your consideration the importance on the part of the Government of completing the arrangement entered into by Mr. James Mackay, acting for the Government, and afterwards ratified and adopted by them, as the same is more fully disclosed in Parliamentary Papers, 1876, C.—3A.

I do not deem it necessary, nor is it your desire, that I should state all the facts in connection with this subject, inasmuch as they fully appear in the papers referred to, and in the correspondence which has since passed between Mr. Russell and the Hon. J. D. Ormond. The papers and correspondence referred to show how this matter commenced, and how it has proceeded, step by step, until it has reached its present position. That position will be most easily ascertained by a reference to Enclosure 4 in No. 5 of the papers referred to, in which Mr. Russell proposes a boundary for the piece of land to be granted to him to run at a right angle from the River Waihou to the southwestern boundary of Moon's survey. It will be seen by Enclosure 5 in No. 5 that Mr. Mackay undertakes to recommend this, and by Enclosure 7 in No. 5 the arrangement of the matters with Mr. Russell is left entirely in Mr. Mackay's hands for him to come to an agreement with Mr. Russell. This agreement has been come to, and a plan certified by Mr. Mackay, and showing the boundaries of the piece of land, part of the Aroha Block, to be granted to Mr. Russell, was duly forwarded to the Government by the last-named gentleman in his letter of the 3rd May, 1877. This agreement has, in every respect, been recognized and adopted by the Government; but, notwithstanding repeated applications have been made by Mr. Russell to have the agreement carried out, he offering on his part to pay the amount which the agreement provides he should pay, the matter remains unsettled. In addition to this offer on the part of Mr. Russell, I have the honour to draw your attention to the many other offers and suggestions for a settlement of this matter made by Mr. Russell, and disclosed in his correspondence with the Government, from date of the 3rd May, 1877, up to the time of Mr. Russell's departure for England on the 4th July, 1877; and notwithstanding that, by telegram of the 29th May, 1877, he drew the attention of the Government to the fact that the land the subject of his correspondence was included in the land promised to Broomhall by the Auckland Waste Lands Board, and pressed to have the agreement carried out, yet nothing has been done to alter the position of matters. I, therefore, have the honour most respectfully to draw your attention to this very important subject, and to ask your speedy consideration of the same, with a view that the foregoing agreement with the Government may be carried out without any further delay.

In claiming this consideration at your hands, I would desire to impress upon you the following points: (1) That the agreement has been made with the sanction of the Government, and its existence has been repeatedly fully acknowledged by them; (2) that this agreement is founded upon considerations at the time prejudicial to Mr. Russell, but of great benefit to the Government and the public; (3) that, for the making of this agreement, Mr. Russell gave up the position which he then occupied as a purchaser, and which position he could claim that the Government should recognize; (4) that Mr. Russell has faithfully adhered to the conditions imposed upon him by the agreement, and is still ready and anxious to do what may be required of him to complete the same. I have therefore to request that, upon these grounds—all of which are more fully disclosed in the correspondence referred to—I may be informed when the agreement so made will be carried out by the Government. I addressed you relative to this matter on the 18th January last, and also by telegram, but I have not received any answers thereto.

The Hon. the Native Minister, Auckland.

I have, &c.,

EDWIN HESKETH.

No. 6.

The Hon. the NATIVE MINISTER to Mr. E. HESKETH.

SIR,—

Auckland, 27th March, 1878.

I have the honour to acknowledge the receipt of your letter of the 26th March, requesting a settlement of Mr. Thomas Russell's interests in the Waiharakeke and other blocks at the Thames.

In reply, I must first express my regret that your previous letters and telegrams should have remained unanswered. The delay has, no doubt, arisen from the fact of my being compelled to be absent from Wellington during the greater portion of the last three months. I have telegraphed to the proper officers in Wellington to send me the whole of the original papers, and, when they arrive, I will see what can be done to dispose of the matter finally.

E. Hesketh, Esq., Solicitor, Auckland.

I have, &c.,

J. SHEEHAN.

No. 7.

Mr. E. HESKETH to the Hon. the NATIVE MINISTER.

SIR,—

Auckland, 2nd May, 1878.

Re *Mr. Thomas Russell's agreement relating to Waiharakeke and lands in the Thames District.*

I have the honour to request that I may be informed if you are now in a position to give me a definite reply to my letter to you of date the 26th March last, and answered by your letter to me of date the 27th March.

I have, &c.,

The Hon. the Native Minister, Auckland.

EDWIN HESKETH.

No. 8.

Mr. E. HESKETH to the Hon. the NATIVE MINISTER.

SIR,—

Auckland, 12th July, 1878.

Waiharakeke East and West, and Mr. Thomas Russell's Agreement as to same.

I have the honour to draw your attention to my letter of the 26th March last, in this matter, and to request that I may be favoured with the reply promised me by your letter of the 27th March last. I would respectfully remind you that, notwithstanding all my letters and applications in this matter since the 18th January last, I have not as yet received any intimation as to what the Government proposes to do to satisfy Mr. Russell's claim to have the land which is the subject of his agreement with the Government. As Mr. Preece appears to be endeavouring to obtain the titles to these blocks for the Government, I most respectfully request that you will inform me when Mr. Russell's agreement with the Government will be carried out. The matter is of the greatest importance to Mr. Russell, and it is of great moment to all parties concerned that the question should be set at rest finally by the agreement being carried out.

I have, &c.,

The Hon. the Native Minister, Wellington.

EDWIN HESKETH.

No. 9.

Mr. E. HESKETH to the Hon. the NATIVE MINISTER.

SIR,—

Auckland, 13th November, 1879.

I have the honour to draw your attention to the Parliamentary Papers, 1876, C.—3A, and to the agreement therein referred to, by which Mr. Thomas Russell, of this city, but now residing in England, was to retire from negotiating certain purchases of Native land in the Thames District, and allow and assist the Government to make and complete their purchases, and to receive therefor a title to a certain portion of the block called Waiharakeke, and situated on the west side of the River Waihou, and adjoining the Hungahunga Block. Since March, 1878, I have been acting in this matter on behalf of Mr. Russell, and I have from time to time applied to the Government to carry out their part of the arrangement referred to. On the part of Mr. Russell the arrangement has been faithfully carried out, he having conveyed to the Government his interest in Waiharakeke East, and withdrawn from competition with the Government in the purchase of lands in the Thames District. Long prior to my communications with the Government Mr. Russell had exerted his best endeavours to obtain that which he was to have, but failed. As Mr. Russell was to pay for this land the sum which it cost the Government to obtain it, he has applied for an account of the cost, and expressed his readiness to pay the same; but, notwithstanding all this, no account has been rendered to him, and the arrangement has not been carried out, and Mr. Russell is without the land. I would respectfully draw your attention to the correspondence relating to this matter, and inform you that the same is one of the greatest importance to the Government, and that all that is now asked for is simply a small portion of the land which Mr. Russell might have secured for himself if, instead of conceding to the Government, he had maintained his position and pressed his purchases to a conclusion. Mr. Russell had the means of doing all this; and, indeed, he could not only have had the land he now asks for, but the Aroha Block, and much more, notwithstanding the Government were purchasing also. The Government were tied to price, and Mr. Russell was not. I would refer you especially to Mr. Mackay's letter of the 2nd January, 1874, to Mr. Russell, and forwarded by the latter to the Hon. J. D. Ormond in Mr. Russell's letter of the 25th June, 1877. The following is a copy of Mr. Mackay's letter:—

“Cambridge, 2nd January, 1874.—Sir,—In consideration of your not opposing the Government in the purchase of the Waiharakeke Block, I hereby undertake, on behalf of the Government, that, so soon as the purchase of the same shall be completed, you shall have a Crown grant for the portion on the west side of the River Waihou, adjoining the Hungahunga, on repaying to the Government the amount of purchase-money which shall have been paid by them for the same.—Yours obediently, JAMES MACKAY, Agent, General Government.” In addition to this, Mr. Mackay, also acting for the Government, marked off on a plan the portion of land which Mr. Russell was to receive, and this plan, now in my possession, has also been referred to in Mr. Russell's letter of the 5th May, 1877, addressed to the Hon. J. D. Ormond.

I briefly capitulate these facts in order to show, first, the plain and distinct understanding come to; second, the carrying out of Mr. Russell's part of the same; and, third, the consequences which must follow if, instead of Mr. Russell receiving this land, the same is dealt with in manner following. I am informed that this land has been handed over to the Auckland Waste Lands Board, and that the same is now being prepared for sale by the Board. Of course, legally, Mr. Russell is powerless to interfere for want of title; and all I can do on his behalf is to draw your attention to the same, and remonstrate, as far as I am able, against this land being disposed of and a breach of the agreement being committed. To dispose of this land, which Mr. Russell has given up so much to gain, would entail serious consequences to the country; and I trust, while it is in the power of the Government to carry out an agreement, as to which I respectfully submit there is no doubt whatever, that this will be done, instead of compelling Mr. Russell to seek for substantial compensation if the land is otherwise disposed of. I have therefore to impress upon you the present position of this land and how it is being dealt with, and to request again that, before it is too late, the same may be given to Mr. Russell and the agreement be fairly carried out.

I have, &c.,

The Hon. the Native Minister, Wellington.

EDWIN HESKETH.

No. 10.

Mr. D. A. TOLE to the UNDER-SECRETARY for CROWN LANDS.

Crown Lands Office, Auckland, 3rd December, 1879.

I HAVE the honour, at the instance of the Waste Lands Board, to forward to you the accompanying copy of a letter* from Mr. Hesketh, of this city, solicitor, together with its enclosures, addressed by the same gentleman to the Hon. the Native Minister. The Board will be glad to receive early intimation of the decision of the Government upon the matter to which the correspondence in question relates.

I have, &c.,

The Under-Secretary for Crown Lands,
Wellington.

D. A. TOLE,

Commissioner of Crown Lands.

*No. 9—13th November, 1879.

No. 11.

The Hon. Major ATKINSON to Mr. E. HESKETH.

SIR,—

General Crown Lands Office, Wellington, 13th February, 1880.

Referring to your letter of the 13th November last, addressed to the Hon. the Native Minister, Wellington, and to the other correspondence which you have had with the Government respecting the claims of Mr. Thomas Russell to a certain block of land in the Thames District known as the Waiharakeke Block, I have the honour to inform you that, in order to enable the Government to arrive at an equitable decision, it is proposed that the claim should be inquired into and reported upon by two independent persons, one to be appointed by the Government, and another by Mr. Russell. Their joint reports to be subject to the approval of the Government, and to be submitted to Parliament. It is accordingly proposed to appoint Mr. J. E. Macdonald, District Judge; and, as Mr. Russell's solicitor, I shall be obliged by your informing me, at your earliest convenience, of the name of the gentleman you appoint on his behalf.

I have, &c.,

H. A. ATKINSON,

Edwin Hesketh, Esq., Solicitor, Auckland.

For the Minister of Lands.

No. 12.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

SIR,—

Auckland, March, 1880.

I have the honour to acknowledge the receipt of letter from the General Crown Lands Office, Wellington, dated the 13th February last, respecting the claims of Mr. Thomas Russell to lands in the Thames District, and informing me of the desire of the Government to arrive at an equitable decision, and that the claims should be inquired into and reported upon by two independent persons, whose report is to be subject to the approval of the Government and to be submitted to Parliament. In reply to the request contained in the letter that I, on Mr. Russell's behalf, should appoint a gentleman to act for him, I have to state that at present I fail to see that the claims are so doubtful or obscure that it is necessary to report upon them. I would respectfully submit that the parliamentary papers previously referred to contained the fullest possible acknow-

ledgement of the claims on the part of the Government, and the extent of these claims has been shown with sufficient clearness by the plans marked by Mr. Mackay, and which have been forwarded to the Government.

As Mr. Russell's rights have been clearly established and recognized, and as the extent of the land claimed by him has been delineated with reasonable clearness by the Government Agent on the plan referred to, it appears to me that the matter is ripe for the Government to deal with, and that report is unnecessary. Might I ask you if you have considered this, and, if so, why a report is required, especially when the same is to be subject to the approval of the Government and Parliament, It is in no spirit of opposition that I write this letter. I have the strongest desire to see the matter finally closed, and this too on equitable principles. I am not particular in asking that the exact boundaries of the land as shown upon the plan should be adhered to, excepting one or two points; and it has afforded me considerable satisfaction in finding the desire on the part of the Government to have this matter ended. If you would furnish me with the reasons for having a report, then I would ask you to consider whether the report should be of more than one person. If we each appoint a gentleman, would it not have a tendency to make them partisans?

I have, &c.,

The Hon. the Minister of Lands, Wellington.

EDWIN HESKETH.

No. 13.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

SIR,—

General Crown Lands Office, Wellington, 22nd April, 1880.

I have the honour to acknowledge the receipt of your letter of March last, in which you state that, acting upon Mr. Russell's behalf, you fail to see that his claims to land in the Thames District are so obscure that it is necessary to report upon them as proposed by the Government. In reply, I have to inform you that the proposals of the Government were arrived at after a very careful consideration of all the complicated questions which surround Mr. Russell's claims to land in the Thames District, and, unless you are at once prepared to accept them on his behalf, the whole question must remain open for the decision of Parliament.

I have, &c.,

Edwin Hesketh, Esq., Solicitor, Auckland.

WM. ROLLESTON,

Minister of Lands.

No. 14.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

SIR,—

Auckland, 7th May, 1880.

I have to acknowledge the receipt of your letter of the 22nd ultimo, relative to the claims of Mr. Thomas Russell to lands in the Thames District, and informing me that, unless I am at once prepared to accept the proposals of the Government, the whole question must remain open for the decision of Parliament.

In your proposal you state that the report is to be subject to the approval of the Government and of Parliament, and in the letter to which this is a reply you state that, if I do not accept the proposal, the whole question must remain open for the decision of Parliament. In my reply to the proposal I asked to be informed why such a report was necessary after the claims had received the fullest acknowledgments at the hands of former Governments, especially when, even after the report is made, the matter is still to be subject to the approval of Government and Parliament. Under these circumstances I fail to see the necessity for the report, or how the matters would be advanced a stage by such a report being made, if all is, as you propose, to remain open for the approval of the Government and Parliament. I regret that I should have received a reply of such a peremptory character, and especially when I find that it does not indicate any intention to meet the views I advanced in my letter, or furnish me with any reasons showing the necessity for taking the course proposed. This being the case, I am left in the same position as when I addressed you in March last; and, this being so, I am compelled to repeat what I then stated, that it appears to me that the matter is ripe for the Government to deal with, and that the report is unnecessary. I regret that I have not been furnished with reasons which might have enabled me to forward another answer.

I have, &c.,

The Hon. the Minister of Lands, Wellington.

EDWIN HESKETH.

No. 15.

The UNDER-SECRETARY, Crown Lands, to Mr. E. HESKETH.

SIR,—

General Crown Lands Office, Wellington, 13th May, 1880.

I am instructed by the Hon. the Minister of Lands to acknowledge the receipt of your letter of the 7th instant, relative to the claims of Mr. Thomas Russell to lands in the Thames District.

I have, &c.,

E. Hesketh, Esq., Solicitor, Auckland.

H. J. H. ELLIOTT,

Under-Secretary.

No. 16.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

SIR,—

Auckland, 1st October, 1880.

Re the Claim of Mr. Thomas Russell to Lands in the Thames District.

1. I HAVE the honour to address you upon this subject, and again to bring under your notice a matter of serious and vast import to the colony and my client, and to urge upon you the great necessity for having the extent of these claims definitely ascertained and finally settled without delay. Yesterday I was visited by Captain Steele, of Hamilton, who informed me that he was the accredited agent of Messrs. Grant and Foster, who desired to obtain lands from the Government in the Thames District; that he had learned from the Government that a large portion of the lands which he required for Grant and Foster were affected by Mr. Russell's claims; and that he wished for information as to these claims, with a view of having them removed, so as to enable him to perfect his negotiations for the land; and that he had been referred to me by the Hon. the Attorney-General, acting for the Hon. the Minister of Lands.

2. On Mr. Russell's behalf I at once informed Captain Steele that I should facilitate as far as possible the settlement of the claims upon any reasonable and fair basis; and that, out of consideration for the public good alone, I should readily accede to and take any course which would have the effect of removing the obstacles in the way of the Government closing with Grant and Foster. I felt that the same spirit which actuated Mr. Russell in retiring from competition with the Government in the purchase of these lands in 1872 would influence his conduct in the present circumstances if he were here; and, this being so, I am quite ready to meet the Government fairly and liberally in disposing of this matter. The occasion itself, and the benefits to be derived from Grant and Foster's settlement on these lands, are such as to call for some special considerations at the hands of one who has the welfare and interest of the colony in view. This consideration I am now ready to show in a thoroughly reasonable and liberal spirit.

3. First, I would ask leave (at the risk of being thought tedious, and notwithstanding my former communications of the 26th March, 1878, the 13th November, 1879, and March, 1880), to state what these claims are. By doing so this communication will in itself form a complete statement of the "case" for your consideration, and will therefore be convenient for reference in any subsequent correspondence. Moreover, I consider the subject of sufficient importance to justify me in taking this course, and in doing so I shall in good faith advance the case as I find it to exist in reality, and regardless of interests or consequences; and though doing this on behalf of a client, yet on the one hand nothing shall be kept back, and on the other hand nothing shall be advanced which I cannot fully substantiate.

4. I would first direct your attention to Parliamentary Papers, C.—3A, 1876. Mr. Russell's case is as follows: In the year 1872 the Thames District was open for purchase by Europeans, there being at that time no law forbidding it. In that year Mr. Russell began his negotiations, which at first affected both the eastern and western banks of the River Thames or Waihou. To carry out these negotiations he engaged two well-known and respectable land purchase agents, Messrs. Preece and Graham. They were to purchase the whole western bank of the river as far as the same was drainable, and estimated to contain from 80,000 to 100,000 acres. At this time none of the land so required was known as part of the Aroha land or block, but in modern times it has been so designated.

5. These agents, on behalf of Mr. Russell, obtained an agreement, dated the 12th March, 1873, from the Native owners to sell Hungahunga Block.

6. On the 18th March, 1873, a similar agreement was obtained to sell the block known as Waiharakeke. Copies of these agreements are set out in the private papers (Enclosures 1 and 2 in No. 5). Upon each agreement large sums (£100 and £30) were paid. The negotiations continued, and other purchasers were bought off, and after this Mr. James Mackay commenced to purchase on behalf of the Government. This brought about a spirit of competition, which was unfortunate for the country, and some conflict between the rival agents and their payments complicated matters, because the Native title to Hungahunga and Waiharakeke West was found to be mixed up with the titles to Waiharakeke East, on the opposite side of the river; and, as Mr. Mackay desired to purchase the east side of the river (the public believing then that that land was auriferous), and Mr. Russell the west side of the river, it was deemed advisable for Messrs. Preece and Graham to retire from making purchases, and leave the whole field in Mr. Mackay's hands, upon the understanding that the Government were to acquire the land on the western bank, and give it to Mr. Russell at the price paid for the same by the Government.

7. Now, at this time, I repeat, Mr. Russell had no desire for land on the east side of the river, as it was hilly and broken. His object was to buy the level, though swampy land, on the western bank, and then marked on all the plans as "Mangapouri or Hungahunga Swamp." This was the name then shown on all the plans of the time as covering the land extending northward for many miles below the point now claimed by Mr. Russell, and this was the land which the latter was to be left to purchase. When the surveys and purchases came to be completed the lands on the west side were called Te Aroha. This change of name, unless kept in mind, may lead to confusion. It will be seen, therefore, that, irrespective of names given to the land subsequently, the Government, through Mr. Mackay, agreed with Mr. Russell first to allow them to purchase, and then to purchase for him the western bank, and they should confine their purchases to the eastern bank of the river. Large payments had been made by Mr. Russell, and these, as before stated, extended to both sides of the river, and the benefits of all these passed to the Government. My authority for making these statements will be found in (1) Mr. Preece's letter No. 6 of printed papers, (2) Mr. Mackay's letter No. 5 of printed papers, and especially Enclosures 4, 5, and 6 in No. 5 of printed papers.

8. In Mr. Mackay's letter to the Government, as printed (No. 5), the following extracts occur: "I, however, ascertained that Mr. Russell's agents were in treaty for the portion of the Waiharakeke

Block situated to the south of the Aroha Block and on the eastern bank of the River Waihou or Thames, in addition to the Waiharakeke West and Hungahunga Blocks, situated on the western side of that river. Considering it highly desirable that the Waiharakeke East Block should be acquired for the public I opposed Mr. Russell in the matter, but finally came to an arrangement with him to confine his proceedings to the Waiharakeke West and Hungahunga Blocks, which action on my part was subsequently approved by the Government. I enclose copies of the correspondence in my possession which passed on the subject. . . . On the 12th March, 1873, the Natives entered into an agreement with Mr. Thomas Russell, through Messrs. Preece and Graham, to sell him the Hungahunga Block at the rate of 2s. per acre, and on the 18th March, 1873, executed a further agreement to sell the Waiharakeke West Block for 3s. per acre, translations of which documents are annexed. Subsequently it was found that the Native title to the two blocks was complicated and mixed up with claims to the Waiharakeke East Block, on the opposite side of the River Waihou, and it was probable some difficulty might have arisen with the Natives during the negotiations. It was deemed advisable in 1874 for Messrs. Preece and Graham to retire and leave the affair in my hands. The survey of the blocks was proceeded with in 1874."

9. Mr. Russell's letter to Mr. Mackay, as printed, and dated the 18th July, 1874 (Enclosure 4 in No. 5), is as follows: "Referring to the arrangement made with you (acting for the Government) before I left New Zealand in 1873, I now have to call your attention to the necessity for completing the purchase of the Waiharakeke Block in order that I may get a title to my portion of it. I shall shortly proceed with the survey of the Hungahunga Swamp, but I am not content with the northern boundary you have apparently assigned to me, and wish it to run at a right angle from the river to the south-western boundary of Moon's survey. My understanding of the agreement with you was that you were not to purchase any land whatever for the Government on the western bank of the river. I am however willing to accept modification of that arrangement, and will abandon the land below the boundary I have named, and not interfere with it—and this is the most valuable part of block—if you will agree to my present proposals about my northern boundary.—I have, &c., THOMAS RUSSELL.—James Mackay, Esq." Mr. Mackay's reply on same date (Enclosure 5 in No. 5) is as follows: "I have the honour to acknowledge the receipt of your letter of this date referring to an arrangement which you made with me in 1873 about the Hungahunga and Waiharakeke Blocks, Upper Thames District. I infer from your letter that you suppose I have in some manner or other interfered with the boundaries of those blocks, so as to curtail the area of the same. I beg to state the only action I have taken in the matter, other than considering certain offers made by the Ngatihana Tribe, was the giving to your agent (Mr. Buddle) a memorandum that, if you did not interfere with my purchases on the eastern bank of the River Thames or Waihou, I would not do anything against your acquirement of those on the western side, this being substantially the arrangement which I made with you in 1873, when I found you were negotiating for the purchase of Waiharakeke and Hungahunga Blocks. As far as I am concerned I do not see that the Government would derive any advantage from purchasing the Mangapouri Swamp, which is the outlet of a large part of the drainage of the Waiharakeke and Hungahunga Blocks, which you wish to acquire; and I am prepared to recommend the boundary mentioned by you, provided that you do not interfere with my land purchases undertaken on behalf of the Crown elsewhere.—I have, &c., JAMES MACKAY, Jun., Land Purchase Agent.—T. Russell, Esq." Then follows Mr. Russell's letter (Enclosure 6 in No. 5), dated the 31st July, 1874, to the Hon. Dr. Pollen, which is as follows: "In 1872, or beginning of 1873, I arranged to purchase the Mangapouri Swamp on the Waihou River, adjoining Mr. Firth's run, and extending downwards by the bank of the river, and through Mr. Preece negotiated with the owners, and then made considerable payments on account. It was found that the same owners held lands on both sides of the river; and, as the Government were purchasing the eastern bank through Mr. Mackay, I arranged with him that I was not to interfere with his purchases on the eastern bank, and he was to act in a similar way towards me on the western bank; and in our negotiations with the Natives this arrangement has been maintained. I was negotiating with the Natives for the Waiharakeke Block, which covers land on both sides of the river, but, as the largest portion was on the eastern side, I withdrew on Mr. Mackay giving me an undertaking to give me my portion at the same price at which he acquired the remainder. This is settled, but a portion of the swamp I have purchased is claimed by some of the owners of the Aroha Block (still on the western bank of the river); and I am unwilling to complicate matters by directly negotiating with the Natives for that part necessary to square my boundary. I have already purchased, surveyed, and partly paid for the upper part. I now propose that Mr. Mackay complete the whole purchase for the Government, the Government giving me what I require to square my land, so as to give me a boundary at right angles to the river, I paying the same for the land that I have already paid for the portions I have purchased, or a sum bearing a fair proportion to the price the Government may pay for the whole. This plan will save both parties money, will hasten the completion of the purchase, and I apprehend in every way facilitate the Government operations in that district. Mr. Mackay's letter on the subject is annexed.—31st July, 1874.—T. RUSSELL." Then follows Mr. Preece's letter to the Hon. the Native Minister (No. 6), in which he fully and clearly states his actions in purchasing the western bank, and the abandonment of his purchases on the east side.

10. Now, it will be observed that Mr. Mackay, in his letter of the 18th July, 1874 (Enclosure 5 in No. 5), refers to a memorandum given to Mr. Buddle, then acting as Mr. Russell's agent. That memorandum is as follows: "Cambridge, 2nd January 1874.—To Thomas Russell, Esq.—Sir,—In consideration of your not opposing the Government in the purchase of Waiharakeke Block, I hereby undertake, on behalf of the Government, that, as soon as the purchase of the same shall be completed, you shall have a Crown grant for the portion on the west side of the River Waihou adjoining the Hungahunga, on repaying to the Government the amount of purchase which shall have been paid by them for the same.—Yours obediently, JAMES MACKAY, Agent, General Government." This letter was given when the matter was urgent, and the parties were in the Native Land Court at

Cambridge, and it was the result of a conflict about Waiharakeke. This letter settled the Waiharakeke question, for it secured Waiharakeke West to Mr. Russell. This is what Mr. Russell refers to in his letter of the 31st July, 1874 (Enclosure 6 in No. 5), when he says, in reference to Waiharakeke Block, "This is settled." By this, he means that, so far as his position is concerned, the matter is definitely set at rest, and he is to receive Waiharakeke West as soon as the Government have completed the purchase of the block.

11. It may be said, Yes; but the Government have not sanctioned this act on the part of their agent, Mr. Mackay. I answer, they have done so over and over again. They have never disputed it. As authority for this statement I refer to Mr. Mackay's letter (No. 5), where he says, in relation to the arrangement he made with Mr. Russell, as follows: "which action on my part was subsequently approved by the Government."

12. Then, in the Hon. Mr. Bowen's telegram to the Superintendent of Auckland (No. 2 of printed papers), he says as follows: "As Mr. Mackay considers it highly desirable that the Government should have the east side of the river south of the Aroha Block, Mr. Mackay proposed to Mr. Russell that he should give up the land to the eastward of the river and retain that on the western bank. The Government afterwards sanctioned this arrangement." It will be noticed that Mr. Bowen there refers to the whole western bank, and not simply to Waiharakeke West, and the after portions of this letter show why this is so.

13. In support of my statement that Mr. Russell was buying land on the Waihou and in the Thames District before the Government, I refer to No. 2 printed papers, where Mr. Bowen says, "Mr. Russell was buying land at Waiharakeke and Hungahunga before the Government and previous to the Proclamation under the Immigration and Public Works Act." (See also Mr. Mackay's and Mr. Preece's letters.)

14. Then, again, Mr. Russell was not bound to price, the Government were; and, there not being any Proclamation issued, he was acting lawfully. Mr. Preece says in his letter, "That up to the time of his obtaining the agreement for sale (31st March 1873) the Government were not in negotiation for any land in the neighbourhood or within very many miles of it." Here, then, was a good and valid agreement, which, according to (No. 2) Mr. Bowen, Mr. Mackay was instructed to respect, and Mr. Mackay did respect it; and it is clear, and as important as it is clear, that the rights which Mr. Russell then had, and which were to be respected, included the whole western bank and very many thousands of acres more than he has ever claimed.

15. It is also clear that Waiharakeke West was not all that Mr. Russell was seeking for. Mr. Mackay says, in his letter, that he was asked by Mr. Russell if he would act for him in purchasing Waiharakeke and Hungahunga, and, on his declining, Mr. Russell employed Preece and Graham, who entered into the agreements. The intention and object of Mr. Russell is thus made plain. He desired the whole western bank, and agreed and paid moneys for it.

16. Waiharakeke West, containing about 1,487 acres, is one distinct claim, and is to be given to Mr. Russell on his paying therefor the amount which it cost the Government, and the right of the piece of land, I cannot forego on any terms. It was wanted for drainage purposes; and, as it lies between Hungahunga and the river, it is the only outlet for drainage. The acquisition, therefore, is indispensable; and, as to this, I do not foresee any difficulty, as Grant and Foster's intended purchases do not affect it.

17. I shall now leave Waiharakeke West, which I also look upon as settled: it only being a question of time when the Government complete the purchase of the whole Waiharakeke Block, when the account of the cost to the Government (which account the Hon. Mr. Ormond, in his letter of the 25th May, 1877, says could not be furnished as the purchase had not been completed) will be presented to Mr. Russell.

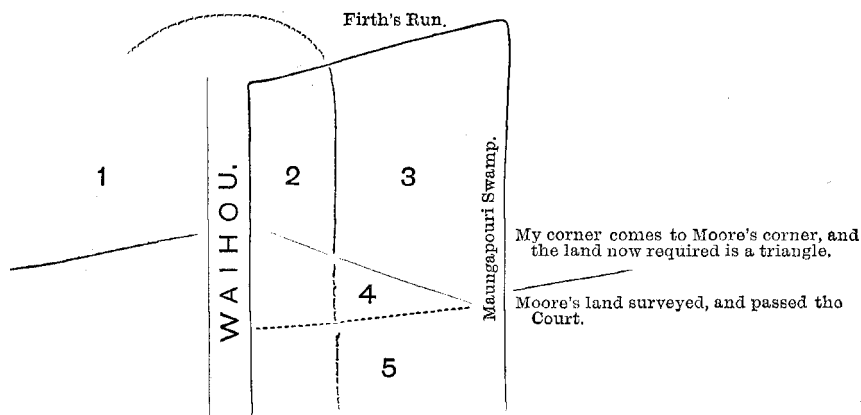
18. Now, as to Mr. Russell's claim to a portion of the Mangapouri Swamp, estimated to contain about 8,000 acres, which is a portion of the land required by Grant and Foster. The facts formerly stated as to Mr. Russell's intentions, and his negotiations, and the extent of his purchases, and the arrangement with Mr. Mackay as to the eastern and western banks, all apply to this claim; for the arrangements then made with Mr. Mackay are the foundation on which the claim is built. The principle of the arrangement then made is clearly stated in Mr. Mackay's letter of the 2nd January, 1874, relative to giving Waiharakeke West—namely, that the Government were to buy, and Mr. Russell retire, and then give the required land to Mr. Russell at cost price.

19. It was also quite clear (see Mr. Mackay's letter of the 18th July, 1874, Enclosure 5 in No. 5) that Mr. Mackay was not to buy for the Government on the western bank, but confine his purchases to the eastern bank; so that under this arrangement Mr. Russell could, strictly speaking, claim all land acquired by the Government on the western bank at cost price. This, however, Mr. Russell has not asked for, and on his return to the colony in April, 1874, he urged on his purchases; but it was again found that similar conflicts were arising almost every day, the purchasers' payments enuring for land on both sides of the river. In these circumstances Mr. Russell, at Mr. Mackay's instance, applied to the Government to have the principle of the arrangement contained in Mr. Mackay's letter of the 2nd January, 1874, relative to Waiharakeke West, extended to the lands further down the river. Accordingly, Mr. Russell wrote his letter of the 18th July, 1874. (Enclosure 4 in No. 5.) This, with Mr. Mackay's reply, is set out at pages 4, 5, and 6.

20. Now, the claims of Mr. Russell on the western bank were very extensive; but, in order to have all obstacles removed, and leave Mr. Mackay alone in the field, Mr. Russell wrote the letter to Dr. Pollen, set out at pages 6 and 7, limiting his claim to a small portion of the land, sufficient to square his boundary and give him some frontage to the river. Now, this letter expressly and definitely set out the arrangement and position of affairs, and the modification and limitation which Mr. Russell proposes to accept, and his reasons therefor; and, above all, it sets out with reasonable clearness the boundaries which Mr. Russell is willing to accept.

21. It will be noted that, in Mr. Mackay's reply to Mr. Russell, he says he is prepared to recommend the boundary proposed by Mr. Russell; and this reply of Mr. Mackay's is annexed to

Mr. Russell's letter to Dr. Pollen. With this letter a sketch is also forwarded illustrating the proposal then made. The sketch is as follows:—



And this explanation is given with it: 1 and 2, Waiharakeke Block, purchased by Mr. Mackay for Government (2 is the part I get, 1 the Government get); 3, the purchase and survey I have made from the Ngatihana of their share in the Mangapouri Swamp; 4, a further part of the swamp that is claimed by owners of the Aroha Block, which I intend to purchase, but respecting which I submit the annexed proposition; 5, Native land.

22. Now, this sketch (which shows the same as the plan afterwards certified by Mr. Mackay) shows No. 3 as the purchase and survey made by Mr. Russell of Mangapouri Swamp, and No. 4 shows the small portion he asks for. All this being clearly put to the Government, what is done upon it? The printed paper (Enclosure 7 in No. 5) is as follows: "Native Office (Land Purchase Branch), Wellington, 1st September, 1874.—Sir,—With reference to the purchase by Mr. T. Russell of the Mangapouri Swamp I am directed to forward to you a copy of a letter received from that gentleman, and to inform you that the matters therein referred to are left entirely in your hands for you to come to an agreement with Mr. Russell on the subject.—I have, &c., J. H. H. ST. JOHN.—J. Mackay, Esq., Thames." Now, this refers to the purchase by Mr. Russell of the Mangapouri Swamp (which name, or Hungahunga Swamp, was the correct name at that time), and it forwards Mr. Russell's proposal to Mr. Mackay, and tells the latter "that all is left in his hands to come to an agreement with Mr. Russell."

23. Then, did Mr. Mackay come to an agreement with Mr. Russell? We say he did, and what he did was, first, to recommend the boundary proposed by Mr. Russell in his letter of the 31st July, 1874; and, second, to draw the proposed boundary-line upon a plan, and mark its extremities A and B, and write on the plan inside the boundaries the following: "The block of land to be granted by the Government to Mr. Russell as per arrangement;" and attached a certificate thereto as follows: "The points marked A and B are those alluded to in the correspondence between myself and Mr. Thomas Russell respecting his purchase of lands on the west side of the River Waihou. (See Parliamentary Papers, 1876, C.-3A, page 5, Enclosure 4 in No. 5.)—JAMES MACKAY."

24. On Mr. Russell's return to the colony this plan, &c., was, on the 3rd May, 1877, duly forwarded to the Hon. J. D. Ormond with the following letter and telegram: "Auckland, 3rd May, 1877.—Sir,—Referring you to the agreement made by me with the late Government, as set forth in the Parliamentary Papers, 1876, C.-3A, I have now the honour to enclose map, certified by Mr. Mackay, showing the piece of land which the Government have agreed to give under that agreement. A reference to Mr. Mackay will inform you that I have carried out my agreement with the Government by transferring to them my interest in Waiharakeke East, and by withdrawing from competition with them in the purchase of lands in the Thames District; and I have now to request that I may be furnished with an account showing the amount which I have to pay for the land, as by the enclosed plan, in terms of agreement.—I have, &c., THOMAS RUSSELL.—The Hon. J. D. Ormond." "Auckland, 3rd May, 1877.—To the Hon. J. D. Ormond, Wellington.—Te Aroha Block, Thames. I respectfully refer you to Parliamentary Papers, 1876, C.-3A (Waiharakeke and Hungahunga Blocks), which contain the agreement I made with the late Government respecting the purchase of lands in the Thames District, and I write you enclosing plan, certified by Mr. Mackay, showing the part of the Aroha Block which I am entitled to receive from the Government under my agreement with them.—THOMAS RUSSELL." I have now in my possession a similar plan, with the line, &c., in Mr. Mackay's handwriting. This, then, was Mr. Mackay's action. Now, what have the Government said to it? Mr. Bowen, in No. 2 of printed papers, says the Government sanctioned it. Then, Mr. Russell asks for the account of the cost of these lands, so that he may repay the Government; and the Hon. J. D. Ormond, on the 25th May, 1877, replies that, as the purchase has not been completed, the account could not be furnished; and this Mr. Russell then accepted as a good and sufficient answer. Then, on the 14th June, 1877, Mr. Russell proposes to Government to complete purchase of Waiharakeke East in his name, subject to the agreement with the Government, and he will hand it over on receiving a grant for the land the Government have agreed to give him. To this the Government reply, on the 20th June, 1877, that it is thought advisable to complete the purchases in their names, "and, when completed, come to some equitable arrangement with you." So the matter remained, and Mr. Russell left for England, first informing the Government that he had left the matter in my hands. I then communicated with each Government, but nothing has been done towards a settlement, except that, in February last, I was asked to appoint a person to act with an appointee of the Government, and enable them to come to an equitable arrangement.

able decision of the matter. To this I had no objection so long as the right itself was acknowledged and the extent of the right only left to arbitration; in which case I was willing to leave the question solely to the appointee of the Government, for him to determine finally, and not to be left open for the approval of the Government and Parliament as suggested.

It will be seen, therefore, that Mr. Russell has two claims: one to Waiharakeke West, containing about 1,487 acres, as to which there is no dispute or difficulty; and one to the portion of the swamp, containing about 8,000 acres, as to which the difficulty with Grant and Foster exists. It shall be my best endeavour to facilitate the removal of this difficulty; and in order to do so I make the following suggestions or proposals: First. An undertaking to give Waiharakeke West in six months, and, in lieu of the 8,000 acres of swamp or level land, to give Waiharakeke East, containing about a similar area, at same price as Government paid therefor; such price not to exceed the price the Government paid for the 8,000 acres swamp, and subject to an equitable reduction for the large amount of hilly and broken land in Waiharakeke East which will have to be taken for the good level land in the 8,000 acres; Waiharakeke East to be bounded on the south side by the Wairere Stream or River. Title to the whole Waiharakeke Block, East and West, to be given in six months. In relation to this proposal to take Waiharakeke East, in lieu of the 8,000 acres, I would observe as follows: When Mr. Russell returned to the colony in 1877 he discovered that the Waste Lands Board at Auckland had, in ignorance of his claim, promised the land to Broomhall. This Mr. Russell represented to the Government, and they were much pressed with the difficulty. They then offered him verbally Waiharakeke East if he would give up his claim. Mr. Russell then declined the offer—first, because he did not want land on that side of the river; second, because he did not consider it, acre for acre, of the same value as the 8,000 acres on the west side; and, third, because he required the latter for a special purpose and object, which he had all along informed the Government of. Mr. Russell then tried to get Mr. Broomhall to take Waiharakeke East, in lieu of the land he claimed; and the Government offered Broomhall Waiharakeke East, instead of the 8,000 acres so claimed by Mr. Russell. Here, again, was a full recognition of the claim. Now, Grant and Foster are likely to form a good and valuable settlement—at least it is hoped so—and, rather than any obstacle shall remain when Mr. Russell can remove it, I am now willing to take Waiharakeke East on the terms proposed. If I was satisfied that, acre for acre, it is equal in value to the land we give up, then I would not ask for an allowance for hilly and broken country. Second. If Government are not prepared to give Waiharakeke East as above, then other land will be taken. Third. If no other land can be offered, then money compensation will be taken, bearing in mind the peculiar value of this block of 8,000 acres to Mr. Russell for drainage for the other blocks owned by him. Its value for this purpose being always present to the mind of Mr. Russell, to give it up now will be a serious loss. What compensation will be offered? I trust that in one or other of these methods this matter may be finally settled. In magnitude it is growing every year; and, as delay will cast a more serious obligation upon the colony, I have felt it of sufficient importance to justify me in laying the case thus fully before you.

Attached hereto is a sketch (sufficiently accurate) showing generally the different blocks of land and their relative positions, and also showing the portions now claimed by Mr. Russell. A glance at this sketch will conclusively show the vast extent of Mr. Russell's claims as they originally stood under the arrangement made with the Government—namely, that he was to buy the whole western bank. It will be also seen that a large portion of this western bank is now included in what is called the Aroha Block. At that time it was not so known. It was known only as Mangapouri Swamp. This sketch also shows clearly to what a very large extent these claims were modified and limited when Mr. Russell arranged with the Government to give him the small piece to square his boundary, thus leaving the rest of the western bank to the Government. And in perusing and considering this sketch I must ask you to bear in mind that no Proclamation stood in Mr. Russell's way. This is made clear from the printed papers (see Mr. Mackay's letter). He there shows—(1) That he had to respect all existing agreements, and this covered Mr. Russell's purchases, extending over a vast area; (2) that the two first Proclamations did not include these purchases, and, to quote his own words, "in fact it comprises none of the lands south of the Aroha Block or to the western side of the Thames River." This plainly shows that the Government recognized the arrangement by Mr. Mackay with Mr. Russell, and preserved the purchases and agreements made by the latter.

When the Proclamation of September, 1874, was issued, it covered these purchases, but, as Mr. Mackay explains, he was asked to alter the boundaries of the then already proclaimed district, so as to protect the Crown in its purchases at Waitoa and Piako, and he was requested to describe the boundaries, which he did to the best of his ability; but, as he says, "not having sufficient information to enable me to exclude Hungahunga and Waiharakeke West Blocks, they were included in the Proclamation." That this was so is placed beyond all possible doubt or question when we refer to Mr. Mackay's letter of the 23rd September, 1874, to the Hon. Dr. Pollen (Enclosure 8 in No. 5 of printed papers). In this letter he forwards the new boundaries for the new Proclamation, and states—(1) That Hungahunga and Waiharakeke West are within these boundaries; (2) that Mr. Russell has purchased these blocks; and he then states as follows: "As the acquisition of these lands by those gentlemen affects and is mixed up with the Native claims to land on the eastern side of the River Waihou, under negotiation by me for sale to the Crown, and it is very difficult to describe the boundaries so as to exclude the Hungahunga, Aratiatia, and Waiharakeke West Blocks correctly, I deemed it expedient to include them within the district proposed to be proclaimed under the Act, purposing at the time of finally completing the purchases on behalf of the Government to reserve those pieces from sale in the deed of cession executed by the Native owners, so that they can carry out their previous agreements with Messrs. Russell and Firth. I received instructions from the Hon. the Native Minister, in a letter dated the 1st September instant, that the arrangement of the question of purchase by Mr. Russell of the Hungahunga and Waiharakeke West Blocks was left entirely in my hands to arrange." Now, this letter, written at the very

time, and accompanying as it did the boundaries which for the first time were to include Mr. Russell's purchases, is the strongest possible proof that Mr. Russell was not to be interfered with, and, for the reason given by Mr. Mackay and that only, the lands were included in the Proclamation. This again affords evidence of the strongest character that Mr. Russell's claims and the arrangement with Mr. Mackay have been fully and completely recognized and sanctioned; and, notwithstanding all this, a very small portion of the land which Mr. Russell could have claimed is now being asked for.

The Hon. the Minister of Lands, Wellington.

I have, &c.,

EDWIN HESKETH.

No. 17.

The COMMISSIONER of CROWN LANDS, Auckland, to the Hon. the ATTORNEY-GENERAL.

SIR,—

Auckland, 8th October, 1880.

I have the honour to forward, for your information, the accompanying copy of a letter from Captain Steele, in which, on behalf of Messrs. Grant and Foster, he signifies his acceptance of the terms and conditions transmitted to you in my letter of yesterday's date relative to the proposed sale of a part of the Te Aroha Block as a special settlement for a party of Lincolnshire farmers. You will, however, observe that he stipulates that such acceptance is to be regarded as conditional upon the extinguishment, by the Government, of Mr. T. Russell's claim; and he asks that a written assurance to that effect may be given to him.

I have, &c.,

The Hon. the Attorney-General.

D. A. TOLE,

Commissioner of Crown Lands.

Enclosure in No. 17.

Captain W. STEELE to the COMMISSIONER of CROWN LANDS, Auckland.

SIR,—

Auckland Club, 8th October, 1880.

I have the honour to acknowledge the receipt of your letter of the 7th instant, covering resolutions passed at a special meeting of the Waste Lands Board, called to consider certain modified conditions proposed by me, on behalf of Messrs. Grant and Foster, for the purchase of a portion of the Te Aroha Block, containing 17,600 acres. I beg to say that, as agent for Messrs. Grant and Foster, I accept the terms and conditions as stated in your communication, on the understanding that Mr. Russell's claim be extinguished; and I am anxious to receive your written assurance to that effect. As a number of settlers may shortly be expected to arrive here for the purpose of settling upon the above-named block, I beg to express a hope that no time be lost in settling Mr. Russell's claim, so as to prevent disappointment or obstacle to the occupation of the land upon their arrival in the colony. I may add that I have telegraphed to my principals the acceptance of the Waste Lands Board's proposals. I cannot conclude without expressing my sincere thanks to you personally, and through you to the members of the Waste Lands Board, for the courtesy, patience, and consideration shown to me in this matter.

I have, &c.,

D. A. Tole, Esq.,

Commissioner of Waste Lands, Auckland.

W. STEELE,

Agent for Grant and Foster.

No. 18.

MEMORANDUM from the SURVEYOR-GENERAL to the CHIEF SURVEYOR, Auckland.

Russell's Claim, Te Aroha.

General Survey Office, Wellington, 25th October, 1880.

Chief Surveyor, Auckland.

By direction of the Hon. the Minister of Lands I forward herewith copy of his letter to Mr. Hesketh on the subject of Mr. Thomas Russell's claim, Te Aroha. Referring to your personal interview with Mr. Rolleston on the subject of your investigating above claim, he desires me to state that, "should it appear on inquiry that there are unsatisfied claims, the Government will be glad if he (you) will make recommendation of such a course as will, while adjusting these claims, enable Government to proceed with negotiations for the settlement of the land by Messrs. Grant and Foster and others." I forward file of correspondence in connection with Russell's claim, marked as in margin [L. 80-2471].

JAMES McKERROW,

Surveyor-General.

No. 19.

The Hon. the MINISTER of LANDS to the COMMISSIONER of CROWN LANDS, Auckland.

(Telegram.)

Wellington, 23rd October, 1880.

You can inform Captain Steele, for Messrs. Grant and Foster, that Government will agree generally to terms of settlement proposed by Land Board in respect of the whole area applied for by them, subject to any modifications in detail which may be found necessary. Mr. Russell's claim will be dealt with independently.

The Commissioner of Crown Lands, Auckland.

WM. ROLLESTON.

No. 20.

MESSRS. GRANT and FOSTER to the Hon. the PREMIER.

SIR,—

Healing, Ulceby, Lincolnshire, 18th November, 1880.

I have the honour to enclose copy of the several telegraphic messages that have passed between us, and to explain that, in asking you to get Mr. Russell's claim removed from that part of the Aroha Block which the Government have agreed to give us, we were urged by practical difficulties which impeded, and in fact prevented, our selling the land here. Mr. Russell has not made any difficulty, and indeed has recognized the greatly-increased value his adjoining lands would probably acquire from our settlement; but the fact has become generally known in England that this Aroha land now promised to us had been allotted by previous New Zealand Governments first to Mr. Russell, then to Mr. Broomhall; and that in both cases different Governments had declined to ratify the promises made, and had offered or paid compensation to the claimants. These facts have been studiously spread by opponents to our plans, and they have prevailed sufficiently to prevent purchasers taking up the lands from us. Under these circumstances we were naturally anxious to have the matter cleared up as much as possible before we pressed our immediate friends to accept our assurance that the title would be right. Moreover we had in view a proposal that we should colonize Mr. Russell's land in the Thames District, under which we should have had at our disposal for settlement about 40,000 acres, instead of 17,000.

We now understand the position taken by the Government to be that, as our agent Captain Steele has made an arrangement with your Government, we are bound by that arrangement whether Mr. Russell's claim is withdrawn or not. We have not heard from Captain Steele, but shortly expect to have letters. Meanwhile we wait receipt of information from him.

I have, &c.,

SAML. GRANT,

For self and J. S. Foster.

The Hon. the Premier, Wellington, New Zealand.

No. 21.

MR. E. HESKETH to the Hon the MINISTER of LANDS.

Re Thomas Russell's Claims to Land in the Thames District.

SIR,—

Auckland, 25th November, 1880.

I have the honour to address you again upon this subject, and this for the following reasons: As you are doubtless aware, I, on Mr. Russell's behalf, have had several interviews with Mr. Percy Smith, to whom I was referred by you, for the purpose of trying to arrive at some definite settlement of this matter. You are, no doubt, aware that Mr. Percy Smith, on the 31st October, made a proposal to me in the following terms: "31st October, 1880.—*Re* Mr. T. Russell's claim to Te Aroha. In accordance with my promise I have reconsidered the grounds on which I based my proposals for settling this matter, and can only say that I come to the same conclusion as at first, that such proposal is a fair method of adjusting the difficulty. That, in fact, I should not feel myself justified in recommending to Government anything else. I will briefly state what that proposal amounts to: "1. I consider Mr. T. Russell entitled to a portion of Te Aroha, bounded on the North by the production of the northern boundary of Waihekau No. 2 to the Waihou, including an area of about 2,940 acres. 2. That, in order to clear Te Aroha of this claim, I propose to recommend to Government to exchange this 2,940 acres for 4,000 acres at the south end of Waiharakeke East, on Mr. Russell repaying to Government the price paid by them to the Natives (about 6s. per acre, not 8s., as I said yesterday), but such price not to exceed 6s. per acre. Crown grant to issue on completion of title. 3. That, on completion of title to Waiharakeke West, Mr. Russell to receive a Crown grant for it on repayment of price paid by Government.—S. PERCY SMITH." To this letter I replied on the 1st November to the effect that, being satisfied that Mr. Russell was entitled to more than 2,940 acres, as stated by Mr. Smith, I could not of my own motion accept the offer of 4,000 acres in Waiharakeke East, and that, as far as I could see, Mr. Smith was wrongly informed as to the boundaries of the piece of land which Mr. Russell was to get, and that it would be necessary for me to cable Mr. Russell before I could reply. Having received a reply I was obliged to write declining the proposal made by Mr. Smith. On the 17th November I received another letter from Mr. Smith, in which he proposed to increase the offer from 4,000 to 6,000 acres in Waiharakeke East. This offer, as well as the first one, has been fully cabled to Mr. Russell, who replies that he cannot accept it, there being some serious misapprehension on the part of the Government as to the nature and extent of his claim; but he desires me to submit the following proposal to the Government, in the hope that it may be accepted, and the matter advanced towards a settlement. The proposal is that the whole matter be referred to the sole arbitration of Sir Dillon Bell, who shall take whatever evidence he can in the colony, and take Mr. Russell's evidence in London, the Government binding itself to give effect to the award, and that, pending the award, Waiharakeke East not to be disposed of by the Government. I do trust that this may receive careful consideration, and that it may be the means of disposing of this matter, as to which I cannot but feel that the whole facts in connection with it have not been fully and rightly understood.

I have, &c.,

EDWIN HESKETH.

The Hon. the Minister of Lands, Wellington.

No. 22.

The CHIEF SURVEYOR, Auckland, to the SURVEYOR-GENERAL.

SIR,—

Survey Office, Auckland, 6th December, 1880.

I have the honour, in compliance with your memorandum, to report the result of my investigation into Mr. T. Russell's claim to Te Aroha.

In the first place I much regret that Mr. Hesketh and I have not been able to agree as to a joint recommendation to the Government for the solution of this difficulty, as we take quite a different view of the extent of the claim. I the more regret this, as I am aware how anxious the Government are to see the matter settled; indeed, knowing this to be the case, I finally proposed to Mr. Hesketh to join in a recommendation, which was, I believe, more than an equivalent for Mr. Russell's claim, in order that it might be fairly set at rest. To this last proposal, however, Mr. Hesketh informs me he cannot accede; it therefore merely remains for me to put my view of the case before the Government, and leave them to decide as to what should be done further. The papers in connection with this claim are already sufficiently voluminous, and I will therefore state as briefly as possible the conclusion I come to. In the first place, there can be no doubt that an absolute promise was made to Mr. Russell by Mr. Mackay that Waiharakeke West should be granted to Mr. Russell on his repaying to Government the cost of acquiring the same. Secondly, I believe, over and above this, Mr. Russell was lead to believe that an indefinite part of Te Aroha should be granted to him on the same conditions after completion of the purchase by the Crown. I use the term "indefinite" advisably, for the exact boundary proposed by Mr. Russell in his letter,* which Mr. Mackay agreed to recommend, and on which the whole thing rests, cannot be fixed. Now, it is as to the position of this line that Mr. Hesketh and I differ, he relying on the map certified by Mr. Mackay in 1877, whilst I base my conclusions on circumstantial and other evidence, which I wish to place on record here. I would state at once that I consider the claim fairly met by taking as a boundary the production of Mr. Russell's present northern boundary of Hungahunga No. 2 to the Waihou River; this would include an area of about 3,000 acres of Te Aroha. I rely on the following facts as evidence of this: In Mr. Russell's letter of the 31st July, 1874,† he furnishes a rough sketch of the portion north of Waiharakeke West which he proposes to include (and which at that time represented his claim to Te Aroha). A comparison of this rough sketch with the tracing enclosed will show that the part enclosed south of the north boundary of Hungahunga No. 2 (line B.E) has nearly the same shape and appearance on both, that both lines start from Moon's south-west corner, and that such line roughly fulfils the conditions of squaring the boundary mentioned in Mr. Russell's letter. I am, of course, aware that Mr. Russell's sketch is a very rough one, but it is important as showing the extent and form as pictured to his mind at the time. Had Mr. Russell at that time been aware of the direction of his proposed boundary as shown on the tracing of 1877, he certainly would not in his own interests have made the shape of the proposed additions so different to what the tracing of 1877 shows it to be. I am not aware whether the agreements‡ to sell to Mr. Russell certain lands in this district were ever put forward as evidence of any claim to part of Te Aroha; but I would here state that a comparison of the names of places mentioned in these with the original Native Land Court plans shows that they are confined to the boundaries of Hungahunga No. 1 and 4 and Waiharakeke West—that, in fact, they include no part of Te Aroha.

With respect to the tracing, No. N. and D. 77 2048, enclosed in Mr. Russell's letter of the 3rd May, 1877, on which Mr. Mackay's certificate appears, and on which, no doubt, Mr. Russell mainly depends for the definition of his boundary, I would remark that I can explain the origin of this. I am persuaded that until the beginning of 1877 Mr. Russell was not aware that the sentence in his letter of the 31st July, 1874, "to run at a right angle from the river to south-west boundary of Moon's survey," was capable of being interpreted as including such a large portion of Te Aroha as is shown in that tracing; that, in fact, from that date the claim increased in magnitude. About March or April, 1877, Mr. Russell came to my office and asked to see the map of the Thames District, and when shown it asked me to draw on it a line at right angles to the river from the south-west corner of Orongomairoa. I showed Mr. Russell that it was impossible to do so exactly owing to sinuosities of the river, but that a line which most nearly complied with the conditions was one striking the river at the Manawaru Bush. Now, the tracing on which Mr. Mackay's certificate appears is taken from this Thames District map, or from one of the copies of it, and the line A.B is just the one I laid off. I may be mistaken, but I believe, until this visit to my office, Mr. Russell had no idea that the loose wording of his former letter might be made to include such an area, but, finding that it did so, he perhaps naturally adhered to it.

In reference to Mr. Mackay's certificate on the tracing he states that the line A.B is the boundary mentioned in correspondence between himself and Mr. Russell (*vide* C.—A, 1876, Enclosure in No. 5). He omits to add the words "and to which I agreed on behalf of the Government," which would have saved any further inquiry at all. It is to be observed all through the correspondence that Mr. Mackay carefully confines himself to saying that he agrees to Mr. Russell's proposals as respects Waiharakeke West and Hungahunga, without any mention of Te Aroha, excepting in his letter of the 18th July, 1874, where he says, "I don't see that the Government would derive any advantage from the purchase of Mangapouri Swamp," &c., and "I am prepared to recommend the boundary mentioned by you," &c., this boundary being, I feel convinced, one approximating to that I have indicated as what I consider Mr. Russell justly entitled to; or how otherwise are we to reconcile the fact that Mr. Mackay was actually engaged in purchasing Te Aroha at that time with the statement above, to the effect that the Government would derive no advantage from the possession of Mangapouri Swamp (or Te Aroha)? Mr. Mackay alone can explain under what circumstances he certified to the tracing of 1877, but it is clear to me that there is the same mental reservation in this as in his letters—the same seeming acquiescence, without positively committing himself. It does not appear that Mr. Mackay ever made the recommendation he was prepared to do, or that the Government ever approved it. My study of the claim has led me to believe that it has grown considerably since Mr. Russell first proposed his amended boundary, and that at the date I have indicated I believe that the justice of the case would be fully met by taking as his boundary the

* C.—3A, 1876, Enclosure 5 in No. 5. † C.—3A, 1876, Enclosure 6 in No. 5.

‡ C.—3A, 1876, Enclosures 1, 2, 3, in No. 5.

production of the line bounding Hungahunga No. 2 on the north to the Waihou River, or the line A.C on my tracing.

Having arrived at this conclusion, I propounded it to Mr. Hesketh, and asked him to join me in recommending to the Government that Te Aroha should be cleared of the claim by giving Mr. Russell 4,000 acres at Waiharakeke East, on completion of the purchase by Government, and on Mr. Russell repaying the cost of acquiring it, which is 6s. per acre. After communicating with Mr. Russell Mr. Hesketh declined. Knowing the anxiety of the Government to come to some definite conclusion on the subject, and feeling that the boundary I proposed was not capable of exact definition, and taking into consideration the mountainous character of the back part of Waiharakeke East, I then offered to join him in recommending that 6,000 acres should be given to Mr. Russell on the same terms; and in doing this I was actuated alone by the desire to come to a compromise, not because I believed Mr. Russell was entitled to as much of Te Aroha as this would represent. To this Mr. Hesketh replied that, after again referring to Mr. Russell, he could not join me. As I do not see my way to make any further concession, and as Mr. Hesketh has made a proposition to the Hon. the Minister of Lands, which would take the matter out of my hands altogether. I have no course open to me but to report as I have now done, and to again express my regret that my efforts have proved abortive.

I have, &c.,

S. PERCY SMITH,
Chief Surveyor.

The Surveyor-General, Wellington.

No. 23.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

SIR,—

General Crown Lands Office, Wellington, 14th December, 1880.

I have the honour to acknowledge the receipt of your letter of the 25th November, submitting, on behalf of Mr. Thomas Russell, that the whole question of this claim to land at Te Aroha should be submitted to the sole arbitration of Sir F. D. Bell, who should take whatever evidence he can in the colony, and also take the evidence of Mr. Thomas Russell after his arrival in London, the Government binding itself to give effect to any award that may be made. In reply, I now communicate to you the following telegraphic message of the 7th instant, which informs you of the decision of the Government in the matter: "In reply to your letter of the 25th November it would be impossible to submit Aroha question to Sir F. D. Bell, who leaves for England in a fortnight *via* Melbourne, but, were it possible, Government, for reasons previously indicated, could not agree to this proposal. I have not yet heard from Mr. Percy Smith."

I have, &c.,

WM. ROLLESTON,
Minister of Lands.

Edwin Hesketh, Esq., Solicitor, Auckland.

No. 24.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

SIR,—

Auckland, 3rd March, 1881.

Re Thomas Russell's Claim to Lands in the Thames District.

My last communication from you in this matter was dated the 14th December last, in which you inform me that you had not (then) heard from Mr. Percy Smith. I have the honour to ask whether you have yet heard from that gentleman, and whether anything can be done towards bringing this matter to a reasonable settlement. I repeat my wish and desire to look at and deal with the subject in anything but a small and narrow way, and I should be glad of the opportunity of discussing it with you either by letter or personally. May I again impress upon you the value and importance of having these claims investigated, if it be necessary, and disposed of. I have made suggestions for settlement, and shall be glad, and would ask that the Government will be pleased, to suggest some reasonable way of finally closing the matter. One fact I would make special reference to (and this out of consideration for those who may be called upon now or at some future time to deal with and close this matter). The fact I refer to is that I learn the whole of the Native claims to Waiharakeke East have not been acquired by the Government. This, I venture to think, may become a difficulty in the way of settlement, and, if it should assume this shape, I feel it will grow if not attended to. I refer to it with the utmost deference, and because I feared that, if any terms of any settlement were come to, this want of some of the Native interest might form an impediment in the way of carrying out that settlement.

I have, &c.,

The Hon. the Minister of Lands, Wellington.

EDWIN HESKETH.

No. 25.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

(Telegram.)

Government Buildings, 11th March, 1881.

WITH reference to your letter 3rd March, about Mr. Russell's claim, I hope to be in Auckland about the 21st instant, and I shall be glad to see you on the subject.

Edwin Hesketh, Esq., Solicitor, Auckland.

WM. ROLLESTON.

No. 26.

MEMORANDA by the Hon. Mr. ROLLESTON.

I HAD an interview with Mr. Hesketh upon this matter to-day (15th March, 1882). I told him, after a good deal of discussion, that I did not think Government would be at all likely to acquiesce in any arrangement more advantageous to Mr. Russell than that proposed by Mr. Smith, which he (Mr. Smith) admitted to be in excess of what he considered the justice of the case. I said any arrangement would have to be acquiesced in by the Cabinet and submitted to Parliament, and it was ultimately arranged he should write and ask the Government whether it would be prepared to acquiesce in a settlement of the case in accordance with Mr. Smith's recommendation, but placing the 6,000 acres at the southern end of Waiharakeke East. (I said that was not likely.) If not, what course would they propose for obtaining a settlement? I said my opinion was that, under the circumstances, it would probably be best for him to petition Parliament. I told him what Mr. Mackay and Dr. Pollen had said on the matter.

15th March, 1882.

WM. ROLLESTON.

No. 27.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

Auckland, 15th May, 1882.

(Telegram.)

Re Thomas Russell's Claims.

REFERRING to my interviews with you in Auckland upon this subject I have the honour to state as follows: Having considered your intimation that my request that the 6,000 acres offered by Mr. Percy Smith could not be offered as at the other end of the block, and having considered the delay which has taken place, and which is likely to take place, I have decided, instead of writing to you asking that my request be complied with, to accept the offer of Mr. Percy Smith of 6,000 acres, in terms of his letters of the 31st October and the 17th November, 1880. In taking this course I regret that the Government does not see its way clear to accede to what my client deems his fair and reasonable claims, especially when we have to pay for the land we receive: the public estate is not, therefore, being given away, but we are to pay the cost of it. However, as I have always informed the Government that I was prepared to deal liberally with the matter, I am determined that no fault shall lie at my client's door, and to terminate matters I accept what the Government offers.

EDWIN HESKETH,

The Hon. W. Rolleston, Wellington.

Solicitor for Thomas Russell.

No. 28.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

(Telegram.)

Government Buildings, 16th May, 1882.

I WILL bring your telegram about Mr. Russell's claims before the Cabinet as soon as possible. You understand that the acquiescence of Cabinet and Parliament will have to be obtained.

E. Hesketh, Esq., Auckland.

WM. ROLLESTON.

No. 29.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

(Telegram.)

Government Buildings, 19th May, 1882.

IN reference to my telegram of the 16th May I have now to inform you that I shall be prepared, on the part of the Government, to recommend to Parliament during its present session a settlement of Mr. T. Russell's claim in terms of Mr. Percy Smith's proposals.

E. Hesketh, Esq., Solicitor, Auckland.

WM. ROLLESTON.

No. 30.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

(Telegram.)

Government Buildings, 21st August, 1882.

REFERRING to my telegram of the 19th May it has been found that Mr. Russell's claim cannot be dealt with this session owing to the title to the Waiharakeke East Block (out of which the land proposed to be granted is intended to be taken) not being completed in consequence of the difficulty which exists with regard to the purchase of twenty-nine unsold shares in that block. I am sorry, therefore, the matter must stand over for the present.

E. Hesketh, Esq., Auckland.

WM. ROLLESTON.

No. 31.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

(Telegram.)

Auckland, 2nd September, 1882.

IN *re* Mr. Russell's claims. Feel justified in asking, as I now do, that Bill be introduced to obtain necessary sanction.

The Hon. W. Rolleston, Wellington.

EDWIN HESKETH.

No. 32.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

(Telegram.)

Wellington, 2nd September, 1882.

JUST received your telegram in which you say you feel justified in asking me to introduce Bill. I presume this has crossed my telegram of this morning; if not, I should be glad to know your reason for wishing to disturb the understanding arrived at. I know of none.

E. Hesketh, Esq., Auckland.

WM. ROLLESTON.

No. 33.

Mr. E. HESKETH to the Hon. the MINISTER of LANDS.

(Telegram.)

Auckland, 4th September, 1882.

You invite my reason for asking for sanction this session. In none of your telegrams do you say sanction cannot be obtained, and no reason is given me for such doubt as you express. Such being so, I cannot but feel that sanction can be obtained, and I have client's interests to consider. Your reasons for doubts are unknown to me. Not being a politician I cannot divine them. Hence my request.

The Hon. W. Rolleston, Wellington.

EDWIN HESKETH.

No. 34.

The Hon. the MINISTER of LANDS to Mr. E. HESKETH.

(Telegram.)

Wellington, 4th September, 1882.

I CONSIDERED my telegram, in which I said I would act in accordance with what I understood to be your wishes, as finally disposing of the matter for this session. It is certainly now too late to reopen the question.

E. Hesketh, Esq., Solicitor, Auckland.

WM. ROLLESTON.

No. 35.

Mr. T. RUSSELL to the Hon. the MINISTER of LANDS.

SIR,—

Auckland, 24th January, 1883.

Referring to the arrangement made with your Government for granting to me 6,000 acres in Waiharekeke East Block, in lieu of the 8,000 acres at Te Aroha sold to Messrs. Grant and Foster, I write now to urge upon the Government a speedy settlement of this matter. The Government have acquired more than sufficient of the block to satisfy my claim; the remaining owners are not likely to sell their interests except at an unreasonable price, and probably a long time hence; and I think it better at once to subdivide the land, giving the outstanding owners a fair portion of the block. Since my arrival in New Zealand I have had the block inspected, and find that, unless care is taken in the subdivision, the land to be cut off may be so selected as to render the remainder of the block valueless, or nearly so. The whole block owes its value to an area of fair land, of about 3,000 acres in extent, lying between the ranges and the river, but of this amount at least 500 acres at the southern end are very broken and of little value. The proposal made by the Government of giving me 6,000 acres at the south end of Waiharekeke East, and which I accepted, I still adhere to; but I must point out the importance of being careful in cutting off the portion of the block to be given to the Natives that they should not get more than an average quantity of good land. I understand the Government proposal is to give the dissentient Natives their share of the block at the northern end. This would give them a fair share of the good land and of the river frontage, and is, I think, an equitable arrangement. I am quite willing to take my 6,000 acres at either end of the block, provided it is so selected as to give me the 6,000 acres in one block, with a river frontage in the proportion which my 6,000 acres bears to the remainder of the block.

I have, &c.,

The Hon. W. Rolleston, Minister of Lands, Wellington.

THOMAS RUSSELL.

[illegible]

James Mackay

