1889.

NEW ZEALAND.

KARAMU RESERVE

(REPORT AND AWARD RELATING TO THE).

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

Messrs. T. W. LEWIS and J. N. WILLIAMS to the Hon. the NATIVE MINISTER.

SIR,— Napier, 4th June, 1889.

We have the honour to forward to you herewith a copy of the award made by us as the result of the investigation we were empowered to make under clause 6 of an agreement entered into between the counsel for the different parties in the action of Pene Te Ua and others *versus* Locke and others.

In forwarding our award we beg to submit the following report:—

We will first briefly refer to the past history of the Karamu Reserve.

A large tract of land known as the Heretaunga Block was leased to Messrs. Tanner and others in 1862 before it had passed the Native Land Court. The lease was made by Karaitiana Takamoana and Henare Tomoana, representing the Ngatihou and other tribes interested in the land.

The Karamu Reserve was made at the time of this lease by Henare and Karaitiana for themselves and their people. Part of the consideration between Tanner and others was that the reserve was to be fenced immediately at the cost of the lessees. The fence was erected in the year 1864, and is substantially the present boundary of the reserve.

When the survey of the Heretaunga Block was made for the purpose of passing it through the Native Land Court the Karamu Reserve was included in the survey, and subsequently passed the Court as a portion of the Heretaunga Block without being specially distinguished or reserved. This omission, which was no doubt intended to avoid a little additional cost and trouble at the time, has resulted in the expenditure of thousands of pounds in law-costs by the Natives. The Heretaunga Block passed the Native Land Court in 1866, and was granted, by grant dated the 1st April, 1867, under the Native Land Acts, 1865 and 1866, to the following Natives: Henare Tomoana, Arihi te Nahu, Manaena Tini, Matiaha, Paramena Oneone, Aporo Pahora, Karaitiana Takamoana, Te Waka Kawatini, Noa Huke, Tareha Moananui. Of these, Manaena Tini is dead and succeeded by his children, Emairana Hinekura and Rangitahia Manaena, minors, for whom Moanaroa Kokohu and Porohoro Tiakipou are trustees. Matiaha died previous to sale, and was succeeded by Rata te Honi, who sold to Messrs. Tanner and others. Aporo Pahora is dead. Karaitiana Takamoana is dead, and succeeded by his son Arapeti Piriniha, a minor, for whom Messrs. Bennett and Pitt are trustees. Te Waka Kawatini is dead. Tareha Moananui is dead. Matiaha's successor, Te Waka, and Tareha were found by the Supreme Court to have reserved no interest when they sold Heretaunga.

The grantees, all of whom were alive at the time of the sale except Matiaha, sold the Heretaunga Block to Messrs. Tanner and others. No mention was made in the conveyance of the Karamu Reserve, but some of the grantees in selling stipulated for the reconveyance of the reserve, which was undoubtedly intended to be kept for the then occupants, who, with one or two exceptions, were not represented in the grant, as orders made under the Act of 1865, as interpreted by the Court, limited the title to ten grantees.

The Heretaunga purchase formed one of the subjects of inquiry before the Hawke's Bay Alienation Commissioners in 1873, and evidence as to the history and details of the purchase is given at great length in the report and appendices of the Commissioners—*vide* G.–7, 1873, Appendices to Journals, House of Representatives.

The Karamu Reserve remained in the undisturbed occupation of the residents until 188 , when one of the non-resident grantees, Arihi te Nahu, claimed an interest in it. This claim was resisted, and an action was commenced by her in the Supreme Court, the action being defended by all the resident grantees, the other occupants and equitable owners, not being represented in the grant, having no *locus standi*.

Out of this action others arose, and, each party being represented by counsel and all the costs coming out of the estate, the reserve was ultimately directed to be sold by a decree of the Supreme Court for payment of costs and for partition among the grantees, the sale being advertised to take place on the 7th November, 1888.

The effect of this sale would have been to deprive the equitable owners and occupants who were not grantees of their ancestral home, and to render them destitute. This was strongly repre-

sented by themselves and others to the Government, and resulted in an action being taken by Pene te Ua and Reihana Paukena on behalf of the occupants, the Government supporting the Natives in the action.

This action commenced in the Supreme Court at Napier, before His Honour the Chief Justice, on the 30th March last, and occupied the Court until the 4th April, when a compromise was arrived at and approved by the Court, the case being adjourned *pro formâ* until the first sittings at Napier after next session of Parliament.

The terms of the compromise are expressed in the following agreement:—

In the Supreme Court of New Zealand, Wellington District.

PENE TE UA AND OTHERS *versus* LOCKE AND OTHERS.—Action to be settled on following terms:—

1. Injunction against proceeding with sale in suit Arihi *versus* Locke and others to be perpetual.

2. A sufficient proportion of the whole block to be first sold by auction by James Henry Coleman and Walter Shrimpton to defray the following charges and expenses: (*a*) To pay off the Colonial Bank's mortgage, principal and interest; (*b*) to pay the expenses incurred in the attempt to sell under the former decree; (*c*) to pay the costs of all parties, taxed as between solicitor and client, out of the estate of this present suit; (*d*) to pay the unpaid costs of all parties, taxed as between solicitor and client (out of the estate), of the former suit which have been ordered to be paid or may be ordered to be paid.

3. The land so sold to be vested in the said James Henry Coleman and Walter Shrimpton immediately after the auction sale, to enable the execution by them of conveyances or transfers to the purchasers.

4. The Ngatihori hapu to take one moiety in value of the whole residue of the block, and in addition a proportion of the remaining moiety for the shares therein of Henare Tomoana, Noa Huke, and Manaena's successors, in the proportions ascertained by the order or decree of the 30th day of August, 1888, in the suit No. 227, Gisborne Registry, the land taken under this claim to be surveyed off and vested in trustees in trust for the Ngatihori hapu and to be inalienable by sale or mortgage, or by lease, otherwise than from year to year, nor to pass under any will.

5. The residue of the block to be taken by Karaitiana's trustees, Arihi te Nahu's trustees, Hotene te Ruri, and Paramena Oneone, in the shares ascertained by the above decree.

6. The persons who shall be entitled under the designation of the Ngatihori hapu, and the proportions in which they are interested, to be ascertained by Mr. T. W. Lewis and Mr. J. N. Williams. Henare Tomoana, Noa Huke, and Manaena's successors, to be considered on such investigation as Ngatihori only, and not as having any special interest by reason of their names being included in the grant, but in no case to have a larger interest than their proportions as grantees brought in under this scheme.

7. The four grantees'—namely, Arihi's, Paramena's, Hotene te Ruri's, and Karaitiana's—portion to be divided into plots by the same persons as named in clause 3.

8. J. H. Coleman and W. Shrimpton to have power to employ surveyors and prepare plans, their expenses to be part of charge (*c*) under clause 2.

9. So far as practicable, the division is to be made so as to leave within the Ngatihori portion the buildings and gardens.

10. All parties to concur in promoting legislation for the purpose of giving effect to this agreement according to the true intent thereof.

11. If any doubt or difference shall arise as to the meaning of this agreement, or as to any matter omitted therefrom, or as to anything necessary to complete and carry out this arrangement and compromise according to the true intent and meaning thereof, such doubt and difference shall be referred to the award of Martin Chapman, Esquire, of Wellington, barrister-at-law, whose determination shall be final and binding upon all parties.

This agreement was signed by the following: G. E. Sainsbury, counsel for Colonial Bank of New Zealand; W. B. Edwards, counsel for the plaintiffs; J. W. Carlile, counsel for defendants Henare Tomoana, Moanaroa Kokohu, and Porokoro Tiakipo; H. D. Bell, for Karaitiana's trustees; E. ff. Ward, jun., solicitor and attorney for Arihi te Nahu, Hotene te Ruri, and Paramena Oneone; A. J. Cotterill, counsel for Arihi's trustees; Martin Chapman, counsel for Locke and Purvis Russell; E. H. Williams, counsel for Noa Huke.

In pursuance of clause 6 of the foregoing agreement, and in accordance with a notification published in Maori and English in the local Press, we commenced an investigation at Waipatu on Monday, 27th May, to ascertain who were the persons entitled, as Ngatihori, to participate in the Karamu Reserve, and the proportions in which they are interested.

Our joint inquiry was continued on the 28th May, at Waipatu; and on the 30th, Mr. Williams being engaged as Reviewer of Property Assessment, Mr. Lewis took further evidence himself to save time. On the 31st May and 3rd June we continued our joint inquiry, the 29th May and 1st June being occupied by Mr. Lewis in obtaining information required from the records of the Supreme Court.

Noa Huke being too infirm to attend the meeting at Waipatu, we visited him at his house at Hastings.

We append hereto notes of the proceedings at the several meetings held by us. They are necessarily much abbreviated, but fairly present the statements made by the Natives. Not being empowered to take evidence on oath, the information supplied to us was chiefly in the form of speeches, which could be greatly condensed without omitting any important point.

In our opinion the main, if not the only, equitable ground of claim to participate in the Karamu Reserve must be founded on the ownership, and occupation as proving such ownership, at the time of the first constitution of the reserve, and descent from such owners with continued occupation.

The name "Ngatihori" we found to be of considerable elasticity, expanding or contracting according to circumstances, and evidently could without straining be made to include Natives who do not adopt it, and others who, adopting the name, have never preferred any claim to Karamu.

The origin of the name was given by Tomoana, Otene Meihana, Meihana Takihi, and others in effect as follows: Many generations back Ngatihori had an ancestor named Te Taha, belonging to a hapu called Ngaitukuaiterangi. On his death the hapu was named Ngaitaha. A child of rank, not related to Ngaitaha, was subsequently born and named Hineitaia, and the tribes of Heretaunga considered the "ta" in the child's name an infringement of the *tapu* of the name of Te Taha, and changed the name of the Ngaitaha hapu to Ngatihori. Meihana, an old chief, stated that all the tribes in Heretaunga having the word "ta" in the names of their hapus changed their names. Amongst other changes the name of Tiakitai was changed to Ngahori.

The descendants of Te Taha, though all entitled on the above grounds to the name of Ngatihori, have settled down in various localities from Poverty Bay and Wairoa to Wairarapa, and adopted

other names, and only the hapu residing in the neighbourhood of the Karamu has retained the hapu name exclusively.

Of this hapu some have largely participated in other blocks and have never made any claim to Karamu—Paora Torotoro, for example. One of his family, Raihauia, and a brother of Urupene Puhara, named Hohepa te Ringanohu, preferred a claim as Ngatihori, but they have never occupied the reserve, and the claim they now make appeared to us simply to arise from the thought that if a share of Karamu was to be had for the asking they might as well have it.

We have, in our award, considered that the words "the persons who shall be entitled under the designation of the Ngatihori hapu" were limited, as undoubtedly the equity of the case requires, as we have said, to members of Ngatihori who have occupied or have been brought up on the Karamu Reserve.

In a few cases the daughters of Ngatihori occupants have grown up and married into other hapus, and are now residing away from the reserve. Bearing in mind, however, the somewhat loose nature of Maori marriage-ties, we did not consider that such removal annulled the rights in such cases.

The ascertainment of the proportions of the several interests has been a work of considerable difficulty, and, while in the nature of the case we cannot claim that our awards are in every case logically consistent, we have endeavoured to make them equitable, which we understand by the terms of the compromise to be the chief end to be attained.

There is another class of cases. It is that of the persons not Ngatihori who have occupied the Karamu Reserve in the first place as visitors, but have remained for many years. These people have always known that their residence gave them no claim to the land; that they have simply been friends and visitors without any responsibility to remain. Some of this class come and go as they will, and some have taken their departure altogether. We therefore think that those remaining may be left to continue as they have hitherto been—unrecognised in the title, occupants so long as they choose to remain, subject to the will and friendship of the equitable owners. In many cases these "resident" visitors are related to the wives of the Ngatihori.

Unless in cases where they are Ngatihori themselves, we have not included in our award the wives of the Ngatihori occupants.

We have as a matter of convenience grouped the Ngatihori awardees together, and families more or less closely connected. This follows in large measure their own method of location in the past, and would be convenient to adopt in the future allocation of the land. We do not, however, understand that the partition we have made involves the immediate division of the land, although all occupation with different proportionate interests must mean eventually partition into sections representing such interests.

For purposes of convenient division into proportions, we have supposed the land to which the Ngatihori became entitled after the sale of the portion of the reserve required to pay costs, and adding the shares of Henare Tomoana, Noa Huke, and Manaena's successors, to be divided into one thousand shares. We hope that each share may represent one acre, but for the present purpose this is immaterial, and in our award we have stated the number of one-thousandth shares we consider each should receive as his proportionate interest. We think that the division we have made, and which has been arrived at after considerable difficulty, is not only equitable, but will, on the whole, give satisfaction to the Natives concerned.

We append hereto the notes taken by us and the lists handed in by the Natives.

We have, &c.,

T. W. Lewis.

The Hon. the Native Minister, Wellington. J. N. Williams.

In the matter of the Karamu Reserve, and of the action between Pene te Ua and another, Plaintiffs, and Samuel Locke and others, Defendants.

Whereas by an agreement entered into in open Court by counsel on behalf of the several parties to this action it was agreed as follows:—

Action to be settled on the following terms:—

1. Injunction against proceeding with sale in suit Arihi *versus* Locke and others to be perpetual.

2. A sufficient proportion of the whole block to be first sold by auction by James Henry Coleman and Walter Shrimpton to defray the following charges and expenses: (*a*) To pay off the Colonial Bank's mortgage, principal and interest; (*b*) to pay the expenses incurred in the attempt to sell under the former decree; (*c*) to pay the costs of all parties, taxed as between solicitor and client, out of the estate of this present suit; (*d*) to pay the unpaid costs of all parties, taxed as between solicitor and client (out of the estate), of the former suit which have been ordered to be paid, or may be ordered to be paid.

3. The land so sold to be vested in the said James Henry Coleman and Walter Shrimpton immediately after the auction sale, to enable the execution by them of conveyances or transfers to the purchasers.

4. The Ngatihori hapu to take one moiety in value of the whole residue of the block, and, in addition, a proportion of the remaining moiety for the shares therein of Henare Tomoana, Noa Huke, and Manaena's successors, in the proportions ascertained by the order or decree of the 30th day of August, 1888, in the suit No. 227 Gisborne Registry; the land taken under this claim to be surveyed off and vested in trustees in trust for the Ngatihori hapu, and to be inalienable by sale or mortgage, or by lease, otherwise than from year to year, nor to pass under any will.

5. The residue of the block to be taken by Karaitiana's trustees, Arihi te Nahu's trustees, Hotene te Ruri, and Paramena Oneone in the shares ascertained by the above decree.

6. The persons who shall be entitled, under the designation of the Ngatihori hapu, and the proportions in which they are interested, to be ascertained by Mr. T. W. Lewis and Mr. J. N. Williams, Henare Tomoana, Noa Huke, and Manaena's successors to be considered on such

investigation as Ngatihori only, and not as having any special interest by reason of their names being included in the grant, but in no case to have a larger interest than their proportions as grantees brought in under this scheme.

7. The four grantees' (namely, Arihi's, Paramena's, Hotene te Ruri's, and Karaitiana's) portion to be divided into plots by the same persons as named in clause 3.

8. J. H. Coleman and W. Shrimpton to have power to employ surveyors and prepare plans; their expenses to be part of charge (*c*) under clause 2.

9. So far as practicable, the division is to be made so as to leave within the Ngatihori portion the buildings and gardens.

10. All parties to concur in promoting legislation for the purpose of giving effect to this agreement according to the true intent thereof.

11. If any doubt or difference shall arise as to the meaning of this agreement, or as to any matter omitted therefrom, or as to anything necessary to complete and carry out this arrangement and compromise according to the true intent and meaning thereof, such doubt and difference shall be referred to the award of Martin Chapman, Esquire, of Wellington, barrister-at-law, whose determination shall be final and binding upon all parties.

G. E. Sainsbury,
Counsel for Colonial Bank of New Zealand.
W. B. Edwards,
Counsel for the Plaintiffs.
J. W. Carlile,
Counsel for Defendants, Henare Tomoana, Moanaroa Kokohu, Porokoro Tiakipo.
H. D. Bell,
For Karaitiana's Trustees.
E. ff. Ward, Jun.,
Solicitor and Attorney for Arihi te Nahu, Hotene te Kuri, and Paramena Oneone.
A. J. Cotterill,
Counsel for Arihi's Trustees.
Martin Chapman,
Counsel for Locke and Purvis Russell.
E. H. Williams,
Counsel for Noa Huke.

We, the aforementioned Thomas William Lewis and James Nelson Williams, having made due inquiry, do hereby declare that the persons mentioned in the schedule hereto are entitled, under the designation of the Ngatihori hapu, to participate in the Karamu Reserve in the proportions set down opposite the name of each person.

Schedule.

No. 1.—Meihana, 50 thousandths; Otene Meihana, 25 thousandths; Mere Otaki, 5 thousandths; Iritana te Waimatao, 5 thousandths; Te Taha Otene, 5 thousandths; Paerikiriki Otene, 5 thousandths; Meihana, 5 thousandths = 100 thousandths.

No. 2.—Urupene Puhara, 20 thousandths; Epina te Rahu, 5 thousandths; Wiremu te Wairoa, 5 thousandths; Makarena Tepehi, 5 thousandths; Horomona Waimarama, 5 thousandths; Tangataki Hapuku, 20 thousandths; Pohuka Hapuku, 20 thousandths = 80 thousandths.

No 3.—Reihana Wahapaukena, 50 thousandths; Ngawahie, 10 thousandths; Repora Huruhuru, 10 thousandths; Reihana te Mamairangi, 10 thousandths; Renata Tauihu, 45 thousandths; Tuahine Tauihu, 10 thousandths; Pura Tauihu, 10 thousandths = 145 thousandths.

No. 4.—Noa Huke, 45 thousandths; Pene te Mamairangi, 75 thousandths; Kanara te Ua, 10 thousandths; Anihera te Ua, 10 thousandths; Perepetua te Ua, 10 thousandths; Anihera te Mihikore, 10 thousandths; Atatukiterangi Karauria, 10 thousandths = 170 thousandths.

No. 5.—Panapa Tuari, 20 thousandths; Karaitiana Tuari, 4 thousandths; Mere Panapa, 1 thousandth; Paranahia Panapa, 1 thousandth; Te Mete Tukopa, 1 thousandth; Mihinaere Panapa, 1 thousandth; Pane Panapa, 1 thousandth; Waiu Panapa, 1 thousandth; Tomoana Panapa, 1 thousandth; Pita Panapa, 1 thousandth; Piri Panapa, 1 thousandth; Tuaki Panapa, 1 thousandth; Matua Panapa, 1 thousandth; Nokowaka Panapa, 1 thousandth; Mere Tini Panapa, 1 thousandth; Pita Koana, 10 thousandths; Kapariera Mokonui, 10 thousandths; Raiha Kapariera, 1 thousandth; Ruihi Kapariera, 1 thousandth; Tipene Kapariera, 1 thousandth = 60 thousandths.

No. 6.—Moanaroa Kokohu, 20 thousandths; Porokoro Tiakipou, 20 thousandths; Emairaina Hinekura, 20 thousandths; Rangitahia Manaena, 20 thousandths; Matinga Pekapeka, 40 thousandths; Heni Unaiki, 15 thousandths; Waaka Tunui, 10 thousandths = 145 thousandths.

No. 7.—Henare Tomoana, 100 thousandths; Ihakara Rakena, 15 thousandths; Nikera Whitingara, 30 thousandths; Henare Hape Tomoana, 40 thousandths; Te Rehunga Tomoana, 50 thousandths; Te Hira te Ota, 10 thousandths; Te Wetene te Karetu, 5 thousandths; Tamati te Wahine Hehe, 5 thousandths; Homene Nikera, 5 thousandths = 260 thousandths.

No. 8.—Hararutu Ngapu, 30 thousandths; Te Hau Mihihata, 10 thousandths = 40 thousandths.

T. W. Lewis.
J. N. Williams.

[*Approximate Cost of Paper.*—Preparation, nil; printing (1,300 copies), £2 10s.]

By Authority: George Didsbury, Government Printer, Wellington.—1889.