

ground and superintended the fixing of the boundaries, I was accompanied and assisted by almost the whole of the Natives concerned.

At one stage of the proceedings an old standing grudge between the Ngaituahuriri and Ngaiterangi hapus found vent, and gave me some trouble, but having summoned a general meeting for its consideration, we succeeded in effecting a very satisfactory reconciliation.

Altogether, I may report that the attempt to place this valuable Reserve on the new footing of individual tenure has, so far, proved entirely successful; and to shew the unanimity of feeling that prevails, I may mention that at the last general meeting, when I submitted the accompanying Minute for adoption, only one dissentient voice was elicited, and this proceeded from Teoti Wiremu Te Hau—a man of notoriously bad character, and consequently of no influence—who had purposely absented himself from the previous meeting, and, though invited, declined to attend when the apportionment of the Bush land took place. This man now contended for a larger share of the Bush than had been allotted him, and demurred to the place assigned him amongst the farms. On the latter point his wishes were complied with.

In conclusion, it is gratifying to add the testimony of Mr. Stack, the Native Catechist, who assures me that notwithstanding the very limited time that has elapsed since the completion of the work, a marked change is visible amongst the people, in the stimulus given to the industrial occupation of fencing, ploughing, Wood-cutting, &c.

WALTER S. BULLER.

Appendix D.

CHIEF COMMISSIONER'S
MEMORANDA.

APPENDIX—E.

E—No. 1.

LETTER FROM TI ORIORI (OF MAUNGATAUTARI) RESPECTING A FINE OF FIVE POUNDS
INFLECTED BY HIM.

Maungatautari, September 16, 1857.

Friend Mr. Smith,—

Salutations to you, or rather to you all, in accordance with the law. Here is the word. Te Aitu has come to me, the person of whom word has been sent to you, that it was he who killed the child; he was questioned by our meeting, and he spoke, but did not find that he had done any wrong, the evil that I saw was in those who made the false accusation; the error was, we sent three times to them by the mail, but they did not come: we then said they were too late, and fined them £5. This is all.

Recommended that Te Oriori should be informed that his letter has been received in reference to a false accusation of child murder by Te Aitu.
DONALD MCLEAN
9th October, 1857.

From your loving Friend,

To Thos. H. Smith, Esq.,
Assistant Native Secretary
Auckland

TI ORIORI.

Also recommended that this letter be referred to the Magistrate resident in the district where the murder is alleged to have occurred, as it is desirable

that the Government should be fully informed on all such matters so as to be able to explain and make accurate statements on the subject.—E. W. S., Oct. 9, 1857.

Approved—T. G. B., Oct. 9.

Referred accordingly to the Resident Magistrate (Waikato)—W. GIBBORNE, Oct. 10, 1857.

Ti Oriori, of the tribe Ngatikoroki, hapu of Ngatihaua, is a Native Magistrate, and resides at Maungatautari on the Horotiu, the eastern branch of the Waikato. He was appointed last autumn, and has had little experience in the duties of his office, and few opportunities of instruction from myself. Doubtless, this letter was written by him with the object of obtaining an expression of the opinion of His Excellency as to the propriety or otherwise of his conduct in the case which he has stated—a case which has excited a good deal of interest in the country. I respectfully suggest that opportunities of thus giving valued instruction should be carefully improved. I think that not only will the opportunity be lost, but the writer will be disappointed by a mere acknowledgment of the receipt of his letter.

2. I further think that Natives should be encouraged to communicate on all judicial matters, directly with the Resident Magistrate of the district. It is only through the local operations of this class of officers that the Natives can become really acquainted with, and obedient to law. The Native Assessors should be instructed to look up to the European Magistrate, and refer to him in all cases of doubt and difficulty. It will then be the duty of that officer, in case he sees in any subject thus referred to him matter of political import, to communicate thereon with the Government, and solicit the opinion and instructions of the Governor. If correspondence is carried on between the central Department and the Native judicial officers on judicial subjects, without any reference to, or communication with, the highest judicial authority of the district, embarrassment to that officer, and confusion in the public service, must, I submit, inevitably result. Before the enunciation of the principles contained in the recent Minutes of His Excellency and the Ministers on the subject of the government of the Natives, this subject was of little moment, but it is now of importance.

3. I have been in correspondence with Ti Oriori on the subject of the murder of this Maori boy. I was requested by him to go to Arikirua, and try the accused (three in number). But as the supposed murderers belonged to other tribes (Ngatiraukawa, Ngatikoura) the affair required caution, and I declined, except under certain conditions. The whole affair is still in esse. It is detailed in my journal, as far as it has yet gone.

4. One of the principal difficulties which I have experienced in introducing the new system into the Waikato district, is the tendency of the Maoris to allow the powers and duties of the judge to lapse into and be exercised by a "runanga," or assembly. Although a "runanga" is, in my opinion, a good machinery for supporting the authority of the Magistrates, and effecting the execution of their decisions, it is a very bad one for hearing and determining cases, besides being utterly subversive of order if allowed to usurp any judicial functions. The Native magistrate, from want of courage and force of character, has a strong tendency to allow the administration of justice to slip from his hands into those of a popular assembly, unless constantly supported by the presence and authority of the European magistrate. I observe by this letter that Ti Oriori allowed the "runanga" to try and pass judgment on three persons accused of slander.

5. The Maories hold very generally, the injurious notion that any one who infers against another, or even sues in a civil action, has, unless he gains a decision in his favour, been guilty of "slander." Although this doctrine has, to a great extent, disappeared from the lower districts of Waikato, it still obtains in the upper parts where the teacher has not been. The Maoris seem to have acted upon it in this case. I have always told them that a false accusation is not necessarily a wilful defamation, and a prosecutor is not punishable if he acts bona fide and is not instigated by pure malice.

I therefore, looking at the position of Ti Oriori and the abnormal state of his district, suggest that his letter should be thus answered—That in all matters touching his duties as Magistrate he should correspond immediately with the European magistrate, who will, if there is necessity, communicate with His Excellency's Government.

That in all matters of importance, he should be careful, as a rule, to ask the assistance and advice of the European magistrate. That the "runanga," to which he alludes, should not be allowed to interfere with judicial matters, but that he should be very careful to preserve his dignity and office from intrusion. That the magistrates are the only judges, and he must not recognize any assembly as a judicial tribunal.

That an action for defamation or slander does not necessarily lie against a man who has wrongfully accused another—that a man who sues or who accuses, although he may be mistaken, is not punishable, if he acts with due care, and from pure motives.

That he should communicate at once with the Resident Magistrate, and endeavour to cause the people to await their joint investigation, and abide their joint decision.—FRAS. D. FENTON, R.M., October 12th, 1857.

I entirely agree with the valuable recommendations of Mr. Fenton as to the nature of the answer which should be sent to Ti Oriori.—E. W. S., Oct. 12, 1857. Agreeing with Mr. Fenton as to the propriety of encouraging the Native Assessors to communicate with the European magistrate on all matters connected with their duties, I think all that is necessary in the present instance is to acknowledge Ti Oriori's letter, and inform him that in this and all other cases which may come before him in his capacity of Native Assessor, he should communicate with the Resident Magistrate in his district, who has been appointed by the Governor for the purpose of instructing the Native Assessors in their duties, and with their assistance to administer justice according to English law.—THOS. H. SMITH, Feb. 3, 1859.

I think Mr. Smith's recommendation embraces all that is now practically requisite.—C. W. R., Feb. 4, 1858.