

1886.
NEW ZEALAND.

NATIVE RESERVES AT ARAHURA, GREYMOUTH, NELSON, AND MOTUEKA.

(REPORT OF COMMISSIONERS APPOINTED TO INQUIRE INTO TERMS AND CONDITIONS UNDER WHICH THEY ARE TENANTED.)

Return to an Order of the House of Representatives, dated 21st May, 1886.

Ordered, "That the Report of the Royal Commission appointed to inquire into and investigate the condition of settlers on Native reserves on the West Coast of the Middle Island, together with the evidence taken at the inquiry, be laid before this House."—(Sir. Seddon.)

COMMISSION.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to our trusty and loving subjects, HARRY KENRICK, of the Thames, in the Colony of New Zealand, Esquire; GERHARD MUELLER, of Hokitika, in the said Colony, Esquire; and JAMES THOMPSON CATLEY, of Nelson, in the said Colony, Esquire.

WHEREAS the Governor of our said colony hath, by and with the advice and consent of the Executive Council thereof, deemed it expedient that a Commission should be forthwith issued for the purposes and in the manner hereinafter set forth: Now, therefore, know ye that we, reposing great trust and confidence in your zeal, knowledge, and ability, do by these presents constitute and appoint you, the said

HARRY KENRICK,
GERHARD MUELLER, and
JAMES THOMPSON CATLEY,

to be our Commissioners, to inquire into the terms and conditions upon which the present tenants or occupiers of portions of Native reserves at Arahura, Greymouth, Town of Nelson, and Motueka occupy or hold possession of the said lands respectively, and to report whether, in your opinion, the several rentals now payable in respect of the said lands are fair and reasonable, having regard to the circumstances of each case, and the conditions under which any such tenancy or occupancy commenced; also, whether any promises were made to the tenants of Native reserves at the several places aforesaid or any of them by Alexander Mackay, Esquire, as Commissioner of Native Reserves, that the rentals payable under the leases held by the said tenants should be reduced, and, if so, in what manner; also, whether such reduced rental (if any) was subsequently accepted by the Commissioner, notwithstanding the covenants contained in the said lease. And generally to inquire into the management and condition of the said reserves, and to inquire whether the tenants or sub-tenants thereof have any good cause of complaint, or suffered any damage to their interests in the said reserves by reason of any legislative enactments passed since the creation of such interests; and, taking the surrounding circumstances into consideration, whether the present tenants of the said reserves should be allowed or granted any concessions, and, if so, of what nature, either in respect of the covenants contained in the said leases or the rentals now payable by the said tenants thereunder respectively: whether, also, any valuation for improvements should be allowed to the said tenants, and, if so, upon what basis. And, for the better enabling you to carry these presents into effect, we do authorize and empower you to make and conduct any inquiry under these presents at such place or places in the said colony as you may deem expedient, and to call before you and examine upon oath such person or persons as you judge necessary, by whom you may be better informed of the matters herein submitted for your consideration, and also to call for and examine all such books, documents, papers, maps, plans, accounts, or records as you shall judge likely to afford you the fullest information on the subject of this our Commission, and to inquire of and concerning the premisses by all other lawful ways and means whatsoever. And our further will and pleasure is that you do report to us under your hands and seals (with as little delay as may be consistent with a due discharge of the duties hereby imposed upon you) your opinion on the matters herein submitted for your consideration, with power to certify unto us from time to time your several proceedings in respect of the matters aforesaid, if it may seem expedient for you so to do. And we do further declare that this our Commission shall continue in full force and virtue, and that you, our said Commissioners, shall and may from time to time proceed in the execution thereof and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

In testimony whereof we have caused these our letters to be made patent, and the Seal of our said Colony to be hereunto affixed.

Witness the hand of our trusty and well-beloved Sir William Francis Drummond Jervois, Lieutenant-General in Her Majesty's Army, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief in and over Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same; and issued under the Seal of the said Colony, at Wellington, this fourteenth day of July, in the year of our Lord one thousand eight hundred and eighty-five.

WM. F. DRUMMOND JERVOIS.

Approved in Council.

FORSTER GORING,
Clerk of the Executive Council.

REPORT OF COMMISSIONERS.

MAY IT PLEASE YOUR EXCELLENCY,—

We, the Commissioners appointed under your Excellency's hand and the seal of the colony to inquire "into the terms and conditions under which portions of Native reserves at Arahura, Greymouth, Town of Nelson, and Motueka are at present tenanted or occupied, and of all circumstances in connection therewith," have the honour to report that, in accordance with the instructions therein contained, we opened our inquiry at Nelson on the 24th of August last, where we examined fourteen witnesses. The following day we proceeded to Motueka, and on the 26th and 27th of August took the depositions of forty additional witnesses. Having returned to Nelson, we deemed it inadvisable to proceed to the West Coast without first procuring the attendance of Mr. Alexander Mackay, whose long and intimate knowledge of the management of the Native reserves forming the subject of this our Commission rendered his evidence necessary to the successful issue of our inquiries. Mr. Mackay's duties as a Judge of the Native Land Court precluding his attendance sooner, we adjourned till early in October. Re-opening in Greymouth on the 12th instant, we took, between that date and the 16th instant, the depositions of fifty-five witnesses. From the 17th to the 20th instant inclusive, at Lower and Upper Arahura, and subsequently at Hokitika, we examined some thirty witnesses, the whole of the evidence above referred to being appended to this our report.

In obeying the specific instructions embodied in our Commission, we have thought it advisable to apply the questions submitted to us to the varying circumstances of each locality, reporting separately upon the grievances and position of the tenants and occupiers within (1) the Town of Nelson; (2) District of Motueka, inclusive of Moutere; (3) District of Arahura, inclusive of Hokitika; (4) Town of Greymouth.

Commencing with the Town of Nelson, we have to report: The lessees occupy their lands (with but few exceptions) under leases issued prior to the Act of 1882 coming into operation. They complain—(1.) That having, in consequence of Mr. Commissioner Mackay's assurances repeatedly given, been led to calculate with certainty on a renewal of their leases when required, their interests have been seriously damaged since the passing of the Native Reserves Acts of 1882 and 1883, the effect of which has been to deprive them of this equitable right. (2.) That the right of compensation for improvements is limited by the Act of 1883 to improvements made before the passing of that Act on leases then in existence; further, that this right is not given at all to lessees under the Act of 1882. (3.) That the decision of the Board to submit leases for competition by tender rather than auction injuriously affects the interests of tenants. (4.) That no voice in the valuation is conceded to tenants.

One special application asking for a reduction of rent is referred to in Schedule A attached; in other respects the Commissioners have received no complaints.

Your Commissioners are of opinion, for the reasons given elsewhere in detail—(1.) That the tenants, in reliance upon Mr. Mackay's assurance, did count upon a renewal of their leases; and we recommend that a renewal of their present leases be offered them at a rental to be fixed by valuation (without reference to improvements) before the same is submitted to public competition. (2.) That a tenant-right to all improvements should be granted to lessees of the Trust, such right to be valued and paid for by the incoming tenant. (3.) They also coincide with the opinion universally expressed by the tenants that, when leases are submitted to public competition, auction is preferable to tender. (4.) That a voice in all valuations affecting their interests should be conceded to the tenants, exercisable in the manner hereinafter set out.

Referring secondly to the District of Motueka, including Moutere: The leases within this district are generally held for agricultural purposes by a class of tenants who have spent the best years of their lives in improving the land. The possibility, therefore, of having to compete for their homesteads with the outside public is keenly felt as a peculiar hardship. In some instances the tenants have lived for more than forty years on the same piece of land; all have spent both time and money in the endeavour to change the dense bush or rough tidal swamp into a cultivated homestead.

We find the grievances substantially the same as those complained of by the Nelson lessees—namely: (1) Loss of right of renewal, also claimed by these tenants to have been promised them by Mr. Mackay; (2) No provision granting compensation for improvements made on leases subsequent to the passing of "The South Island Native Reserves Act, 1883;" (3) That leases are competed for by tender rather than auction; (4) That they have no voice in the valuation made.

Being of opinion that the above grievances are substantial and well-founded, we would respectfully suggest that the same remedies be applied as in the case of the tenants of the Nelson reserve.

In addition to the above, special grievances have been brought to our notice, as follows: The following Native residents—namely, Pamariki Paaka, Tapata, and Kerei, ask that certain pieces of the reserve at present leased to Europeans, but formerly, by arrangement with the Commissioner, allocated to the applicants for individual occupation as cultivation reserves, may be given back to them on the expiration of the present leases. It would appear that the reserve, originally consisting of eight hundred acres, set apart for the use of some two hundred Natives, amounts at the present time to about twelve hundred acres, with fifty Native residents only. About one hundred and fifty acres are leased to Europeans, leaving over a thousand acres for Native occupation.

The pieces of land above referred to as wanted by the Native applicants were by them handed

over to the Commissioner, as a matter of personal convenience to themselves, to be placed on the same footing as other lands leased to Europeans, with this proviso, that, at the expiration of the leases the Natives could regain possession (on payment for improvements), if the land was required by them for cultivation.

The evidence taken by the Commissioners, at Motueka, of Native and European residents and lessees, together with the evidence of Mr. Mackay, is to the effect that the land asked for is not required for occupation, more land being now in Native possession than they can utilize, but that it is wanted simply to re-let; further, that an injustice would be done to the present lessees if deprived of their holdings. We are decidedly of opinion that the land in question should remain under the control of the Trust, and the present lessees be placed on the same footing as other tenants, in respect of renewal, &c.

Hohaia Rangiauru complains that a man named McNamara is in occupation of a portion of the reserve without a title. McNamara gave evidence in support of his claim to hold the land in right of his deceased wife, a Native woman. We would recommend that the Trustee inform both the Natives and McNamara that the latter has no right to be there.

District of Arahura, including Hokitika.

The leases in this district, originally taken up in the early days of a goldfield rush, when land was scarcely obtainable, and valued accordingly, have been occupied as agricultural leases, the reserve being covered with a dense bush, and subject over a considerable area to periodical inundations from the River Arahura, resulting in a serious loss of area to some lessees. The rents were fixed at a time when the land had a fictitious value, on a sliding scale increasing in amount every seven years. The settlers have had a long and arduous struggle against adverse circumstances, spending from £30 to £100 per acre in an endeavour to clear and bring into cultivation their holdings. They now complain that at a time when the value of their holdings has largely decreased in consequence of Crown lands adjacent being taken up as freehold at £1 per acre, added to the prevailing depression in agricultural produce, they (the lessees) are now called upon to pay increased rents, with the possibility of having to compete with the public for their holdings at the expiration of their leases.

These complaints have to some extent been met by the Commissioner conceding reduction in rent. Enough, however, remains to warrant our recommendation that a complete revaluation of the whole reserve be made as soon as possible, and that the present lessees be offered a renewed lease at the rent then fixed.

The subjects of complaint common to the tenants of all these reserves—namely: (1) Renewal of lease; (2) Sale by auction, not tender; (3) Compensation for improvements; (4) Voice in the valuation—have here also been brought forward as grievances by the lessees on much the same grounds as at Nelson and Motueka. For the reasons advanced elsewhere, we recommend that the like concessions suggested in the case of tenants of other reserves be conceded to the lessees here.

The special grievances brought to our notice are dealt with in Schedule B attached hereto, with the following exceptions: Several tenants complain that they have no road to their sections: this is a question of management, apparently within the province of the Board to deal with.

A question of some importance to the reserves generally, and to the Arahura Reserve in particular, has been brought to the notice of the Commissioners by the directors of the Humphrey's Gully Gold Mining Company, Limited, in a letter, "C," appended to this report. It would appear that certain portions of this and other reserves are likely to be injured by sluicing and other mining operations carried on in the neighbourhood, and that, to some extent, this has already taken place. A piece of ground adjacent to the Humphrey's Gully Company's mining lease, being injured by their operations, was leased by a Mr. Harcourt from the Commissioner. The company had to purchase his lease entirely unimproved, at a cost of £1,500; this lease, now in the company's name, is practically used as a tailing site by them, of course to its detriment. The company wish to have a right conceded to them to use this ground as a mining lease, being prepared to pay the capitalized value of the rent and hold it at a small rental. The right of re-entry on Crown lands, alienated or otherwise, for mining purposes, has been affirmed by statute. We think it certain that trustees of Native reserves, within mining districts, must accept the inevitable, and be prepared to yield their lands for similar purposes. This is anticipated in section 15, subsection 1, of "The Native Reserves Act, 1882," and section 13 of "The South Island Native Reserves Act, 1883."

The evidence of the Hon. Mr. Bonar, Chairman of the Humphrey's Gully Gold Mining Company, taken in conjunction with the statements set forth in the letter "C" attached, and the evidence given by various settlers, have decided us to recommend that the application of the company be acceded to. In addition, we would strongly call attention to the necessity of inserting a covenant in all future leases within mining districts, reserving the right to the Public Trustee to re-enter and determine the lease, should the same be required for mining purposes; of course on payment of compensation for improvements and goodwill. This would place the Board in a position to deal with the mining applicants for the land, without fear of unreasonable claims arising from the lessee.

Town of Greymouth.

The interests of the tenants in the Greymouth Reserve are so involved with those of the occupiers or sub-tenants, and both have suffered such serious injury by the legislative enactments of 1882 and 1883, that questions of extreme complexity and difficulty have arisen.

For example: the lessees—meaning the tenants of the Board—gain absolutely nothing—under the Act of 1883, but a claim for the value of improvements made by themselves prior to its having

passed, whilst they lose the pre-emption of renewal conceded to them prior to the passing of "The Native Reserves Act, 1882." On the other hand, the occupiers (locally known as sub-tenants), whilst gaining the same restricted right of valuation for improvements as the lessees, lose in effect more than their landlords; for to the immediate occupier the right of renewal means more than to the original lessee, who, in some instances, has drawn rack rents, without spending a shilling on his lease. By right of renewal, as affecting sub-lessees, we mean the right admittedly secured to them by the Commissioner of benefiting by a similar extension of term to that conceded to original tenants upon renewal of their leases. The original lessees of the Greymouth Reserve have been permitted to divide their holdings into building sites, sub-letting the same at a rent always in excess of their own—occasionally at a rack rent—to tenants who, as a rule, have erected substantial buildings, and otherwise spent considerable sums in improvements. These sub-tenants have neglected to guard their interests by any agreement as to valuation for improvements or renewal of lease, on their landlord's obtaining one for himself. These sub-leases fall in at periods, varying from one day to twelve years prior to the expiration of their landlords' term. In many instances renewals have been granted to the original lessees by the Commissioner during the currency of their leases, with an implied understanding that the same privilege should be conceded to the sub-tenants. As a rule, this understanding has not been acted upon. Sub-tenants, whose leases would have expired a day before the original lease of their landlords, find that, under these renewals, their interests cease years before the renewed leases expire, and that the expenditure and labour they have incurred will pass from them into the hands of the original lessee. Section 5 of "The Native Reserves Act, 1883," fails to meet these cases, as it only provides for a valuation about twelve months before the expiration of the original lease. Many of these sub-tenants have purchased from the first sub-lessee, paying considerable sums for improvements and goodwill, in the expectation of getting a renewal of these sub-leases. This hope has been disappointed by the renewal of the original leases as above referred to. On the other hand, some of the holders of original leases have bought in at substantial prices, counting on the sub-tenants' improvements becoming theirs before the original leases expired; counting also upon the Commissioner's custom to renew all leases on application. Thus it will appear that, whilst neither tenant nor sub-tenant could enforce their claims for a renewed lease at law, both have equitable claims to a renewal of the same lease, though based upon widely different grounds. The existence of these sub-tenants' interests was for the first time recognized in the Act of 1883, with the apparent intention of providing some remedy for their grievances. Sub-tenants, as also original lessees, complain bitterly of the failure of this Act to carry into effect its supposed intended purpose.

Having thus in detail referred to certain of the grievances brought under our notice at Greymouth, we would suggest the following remedies, distinguishing between those that can and should be immediately applied and those that, though equally important and urgent, yet, being rendered necessary as a consequence of the limited power conferred by the statute now in force, will require to await legislation before the remedy can be applied.

The following are the measures that we believe should at once be taken to deal with the evils and grievances which are daily growing in number and magnitude. It must be clearly understood that the Commissioners see no alternative but to recommend a special appointment to meet an exceptional emergency; such appointment they consider as purely a temporary one, ending with the adjustment of the difficulties, but rendered imperative under existing circumstances. The Commissioners are aware that they are placing a liberal interpretation upon the powers conferred upon a Native Reserves Commissioner appointed under section 27 of "The Native Reserves Act, 1882," but they are also aware that, if this interpretation is not conceded, the difficulties immediately requiring to be dealt with are insuperable.

Recommendation.

Our recommendation then is as follows—viz.: That a Native Reserves Commissioner be appointed, as provided by section 27 of "The Native Reserves Act, 1882," with power, subject to the direction of the Public Trustee, to negotiate a final settlement of all conflicting interests, whether of lessees or sub-lessees, on the Greymouth Reserve, that have arisen as a result of the method of managing the business relating to the administration of Native reserves in the past, and as a consequence of the delay in giving effect to the directions contained in section 5 of "The South Island Native Reserves Act, 1883." That such Commissioner, subject as aforesaid to the Public Trustee, shall have full power to appoint one or more valuers to assess the improvements effected by lessee or sub-lessee on their respective holdings, and shall, either himself or by such valuers, assess the value of the goodwill of the lessee in the unexpired portion of his lease, and also of both lessee and sub-tenant in any value attachable to the implied right of renewal claimed by both or either. The lessees should have the right of appeal against any such assessment—for actual improvements only—to the arbitration of two valuers; one to be appointed by the Commissioner, the other by the appellant, with power to choose an umpire, the cost of such appeal and of all valuations to be attached to the amount assessed, and paid as hereinafter provided. The Native Reserves Commissioner so appointed shall decide who is entitled to a renewed lease in fulfilment of the promise or agreements reported by the Royal Commissioners to have been entered into by Mr. Commissioner Mackay. Then such agreement shall, under the provision of section 10 of "The Native Reserves Act, 1882," be deemed to have been made with the Public Trustee. That, on such valuation being made, the Native Reserves Commissioner shall arrange a settlement between the lessee and his tenant, the one to purchase out the right of the other on the basis of the aforesaid valuation—the occupier having the first refusal; a renewal lease to be granted to the purchaser by the Public Trustee, under the provisions of section 10 of the Act of 1882. Should neither lessee nor sub-lessee agree to purchase out the other's interest, then, at the expiration of the original lease from the Trust, the said holdings held as sub-leases thereon shall be submitted to public auction in

the manner prescribed by the statute in force at the time. The compensation for improvements, attached as a premium to the lease, shall be payable by the purchaser to the person whom the Native Commissioner shall report to be entitled to the same. Should no purchaser be forthcoming at the auction, the improvements shall be revalued and be again submitted to competition with such value attached, and so on. That the Commissioner shall report to the Public Trustee, at the earliest possible moment, the result of his valuations, decision, and any settlement arrived at: such valuation, decision, or settlement to be deemed a final settlement of all disputes or claims against the Trust and all holding under them.

We would, for the information of the Commissioner, if appointed, direct attention to the special conditions contained in the leases granted of Blocks I. and II. to Messrs. Comisky and Bradshaw respectively, it being therein explicitly stated that no renewal would be granted, and that all improvements should vest in the Trust. The sub-lessees on these two blocks have spent very large sums of money in improvements, and are, we think, deserving of every consideration. We would recommend that leases for their respective holdings be granted to them at the expiration of the original tenants' lease, without payment of compensation to the original lessees. (See Mr. Girdwood's evidence, page 47; and also Mr. Mackay's).

A case of hardship has been brought under our notice—namely: One George McWilliams held, with the consent of the Commissioner indorsed thereon, an assignment of a portion of a lease originally granted to Mr. Rae. The original lease, after passing through two or three hands, was exchanged by the last holder for a new lease, under the Trust, of the whole of the block, including that portion assigned to McWilliams, whose interests appeared to have been overlooked or ignored. McWilliams' improvements, to the value of some £250, were, in consequence, lost to him. McWilliams has apparently a claim at law against his assignor, but his immediate grievance appears to be that, through the omission of the Commissioner or his agent to record in the books of the Trust the consent indorsed by them on the assignment, he is placed in his present position. We think that this case is one, with others of a similar character, for the special consideration of the Native Reserves Commissioner, when appointed.

Messrs. Hungerford and McKay stated in evidence to the Commissioners, that they hold the assignment of a lease from Ihaia Tainui to one Barrowman, with a further verbal permission from Tainui to quarry on the same ground; they ask for a lease from the Trust, in exchange for such title as they hold. The Commissioners find that the ground in question is required for harbour reclamation purposes; that Messrs. Hungerford and McKay purchased the above rights with a knowledge that they had no legal effect or validity. We cannot, therefore, recommend that their application be granted.

Your Commissioners have now reported in favour of—(1) The grant of pre-emption of renewal to all tenants; (2) That when leases are submitted to competition, it should be by public auction; (3) That valuation for improvements be conceded on all leases submitted to public competition; (4) That the upset price be a fair rental, to be fixed by valuation, and not "the best improved rent obtainable," as provided by subsection (b), section 15 of the Act of 1882.

We now venture to indicate the direction in which the above much-needed amendments to "The South Island Native Reserves Act, 1883," can be carried into effect.

Suggested Amendments to "The South Island Native Reserves Act, 1883."

Repeal section 5 and subsections (1) to (5), substituting the following in lieu thereof:—

Section 5.—The Public Trustee shall, as soon as may be before the expiration of the several leases now outstanding, cause the same to be divided into as many lots as there are holdings, and shall, subject to the following terms and conditions, offer a lease to the occupants of each holding, and, in default of such lease being accepted, the same shall be submitted to auction. The leases shall be for sixty-three years, at a rent without fine, premium, or foregift, except as hereinafter mentioned. The improvements on each lot made by the lessee or his tenant shall be valued in such manner as the Public Trustee shall direct. The upset price of each lot shall be fixed by the Public Trustee, at a fair annual rent, without reference to the improvements thereon made. The purchaser of the lease shall pay as a premium or foregift the value of the improvements, to be fixed as aforesaid.

Amendments affecting all Reserves at Nelson; Motueka, including Moutere; and Arahura, inclusive of Hokitika.

Section 10.—After the word "leased," in the second line, add "a renewal thereof shall be offered to the present holder, before being submitted to public auction;" and in subsection (2) strike out, in the last line, all the words after "tenant."

Freehold Tenure.

The tenants of the Greymouth Reserve expressed a general and strong desire to be permitted to acquire the freehold of their sections, advancing in support of the same the following reasons: (1.) That the Native owners would not be prejudiced by the sale, inasmuch as the purchase-money invested at five per cent. would, in the opinion of the lessees, produce a revenue larger than that at present accruing from rents. (2.) That more permanent and expensive buildings would be erected under a freehold tenure. (3.) That in all probability a serious reduction in the rents at present received will follow upon the completion of the Cobden Bridge, as many of the present lessees will remove to Cobden, where freehold sites can be obtained. (4.) Also that money can be raised at a lower rate of interest on freehold than leasehold security.

In opposition to the alienation of the fee-simple the following has been advanced—namely: That, by section 3 of "The South Island Native Reserves Act, 1883," the legal estate has been

vested in the grantees therein named, who unanimously and strongly protest against any such alienation. (*Vide* their evidence hereto appended, and translation of letter attached, "F.")

Some of the lessees objected to the sale of the land on the ground that, being unable to purchase their holdings, they would fall into the hands of speculators or mortgagees.

Your Commissioners are of opinion that if the Greymouth reserves were classed as lands for building purposes and leases for sixty-three years given at a fair rental, with a compensation clause for improvements, most, if not all, of the benefits expected to be derived from the sale of the land would accrue to the tenants under this improved tenure. The Native grantees favour this course. (*Vide* letter "F" attached.)

Having thus in detail reported, as directed, upon the grievances preferred by the tenants of the reserves in each locality, we have now the honour to answer the remaining questions submitted to us.

We have inquired into the management and present condition of the said reserves. We find many complaints preferred and much dissatisfaction existing, but, after careful consideration, and admitting (as we think must be admitted) the justness of both, we are of opinion that the causes are attributable to a sudden change from the personal management by an officer thoroughly conversant with the exceptional questions requiring to be dealt with, holding large discretionary powers as Governor's delegate under the Native Reserves Acts of 1856 and 1862, unfettered with statutory limitations, to the strict control of a Board created by statute, with duties so rigidly defined as to preclude the exercise of any discretion in dealing with individual or special cases.

Apart from this the only complaints deserving of remark are as follows—namely, the complaints of Messrs. Jones and Menteath, solicitors, as set forth in their letter attached (marked "E"), which appear deserving of attention, and we would recommend the same for favourable consideration.

Complaints have also been made that the fee charged for recording the Trustee's assent to assignments, subleases, mortgages, or surrenders, is excessive. (*Vide* evidence of Mr. Guinness, page 52.) Our attention has been directed to the extremely stringent covenants contained in the new leases for agricultural sections issued by the Board under the Acts of 1882 and 1883. Tenants state that they could not possibly comply with the conditions contained in these leases. We are of opinion that, taking into consideration the position and condition of the reserves and tenants, the covenants should be as simple as possible. The exceptionally stringent covenants providing for insurance, skilful husbandry, legal fencing, &c., appear to the Commissioners quite unnecessary, considering that no tenant right exists as against the Trust.

Strong complaints were made at Greymouth by the members of the legal profession there, that the prevailing custom of the department requiring all assignments to be forwarded to the Trust Office, Wellington, to be recorded before the consent of the Trustee is indorsed is in practice felt to be vexatious, expensive, and somewhat hazardous to the safety of the deeds requiring to be forwarded. The indorsement of the consent being a matter of form, complainants ask that they may be permitted to submit the assignments to the local agent, with full written particulars of same for record in Wellington, and that the local agent be authorized to indorse the consent. We beg to forward the complaint for favourable consideration.

We find that "promises were made" by Mr. Commissioner Mackay to certain tenants of Native reserves in various places that the rentals payable by them should be reduced, which promises, with the exceptions noted in Schedule "B" attached, have been carried into effect; the said reduced rentals having been accepted by the Commissioner, and, subsequently, by the Public Trustee, notwithstanding the covenants contained in the said leases.

We find that universally the tenants and occupiers, or sub-tenants, "have good cause of complaint, and have suffered serious damage to their interests in the said Reserves by reason of the passing of 'The Native Reserves Act, 1882,' and of 'The South Island Native Reserves Act, 1883,'" both passed since the creation of such interests; such complaints having been dealt with in our reports. We now proceed to set forth the same in detail, as under: Firstly, by being deprived of a well-grounded expectation of renewal of their leases—an expectation founded on the direct promises and unvarying custom of the Commissioner in granting such renewals when applied for—either at the termination or during the currency of the said leases. (*Vide* report of Mr. Commissioner Mackay, dated the 30th July, 1883, to the Under-Secretary of the Native Department—Parliamentary paper, G.—2A, extract appended, D," appended hereto—and his evidence given to the Commission, page 105 and following pages; also, the general testimony given by the tenants from all parts of the reserves.) Secondly, in consequence of the loss of the right of valuation for their improvements, tacitly conceded to them by the Commissioner, taken away from them by the Act of 1882, and only partially restored by the Act of 1883.

The right to a valuation at all is granted only by subsections (3) and (4) of the Act of 1883, and there is limited, firstly, to improvements effected on existing leases; secondly, under subsection (4), improvements made, even on these leases, subsequent to the passing of the Act, are unprotected. The immediate result has been the cessation of all improvements, and the stoppage of expenditure, even for necessary repairs. The extent of the loss thus suffered may be gathered from the well-founded statement of Mr. Commissioner Mackay, that the value of the improvements thus transferred by the Act of 1882 amounted, in the Town of Greymouth alone, to the sum of four hundred thousand pounds. (*Vide* Mr. Mackay's memorandum, dated July, 1877; Parliamentary paper G.—3A, Sess. II., 1879.)

In addition to the remedies already suggested, we would recommend the following—namely: The tenants to have the right of appeal from the valuation fixed by the Trust. Such right to be exercised by the Trust appointing one assessor, and the tenant a second, with the privilege of choosing an umpire. If the valuation be reduced on appeal, the Trust should bear the cost; but, if it be confirmed or increased, it should be borne by the tenant. That, in the event of the tenant refusing to accept a new lease, the same should be submitted to public auction—not tender—as pro-

vided by the Act of 1882. That in every instance of either grant or renewal of lease the upset price, when submitted to competition, shall be the rent fixed as aforesaid, with a full valuation for all improvements added as a premium to be paid by the purchaser to the person making such improvements.

The effect of the provisions of section 3 of "The South Island Native Reserves Act, 1883," upon the interests of the large body of tenants and occupiers of the Greymouth Native Reserve having been brought to our notice, we think it a matter of duty to enlarge upon what would seem to be a somewhat grave question.

A certificate of title has been issued under "The Land Transfer Act, 1870," in accordance with the authority conferred by the section and statute above referred to. Under this certificate, the legal estate in the Greymouth Reserve vests in the Natives therein named, as from the 1st February, 1879, as tenants in common. Power to control and manage this estate is, (by section 4 of the Act of 1883), given to the Public Trustee, apparently from the passing of the Act of 1883 (September 8th, 1883).

The following questions then arise—viz.: The legal estate in the Greymouth Reserve being vested in certain individuals, as from the 1st February, 1879, with a Trustee appointed only from the 8th September, 1883, and the land being under the Land Transfer Act, what is the legal effect upon the leases issued? (1.) By Mr. Commissioner Mackay, prior to the 1st February, 1879, these not being mentioned in or protected by the certificate of title. (2.) The legal position of lessees claiming under leases issued by Mr. Mackay subsequent to the 1st February, 1879 (date of vesting of legal estate by grant), and prior to passing of "The Native Reserves Act, 1882" (15th September, 1882). (3.) The position of the lessees holding leases issued by the Public Trustee and Board between the 15th September, 1882, and the 8th September, 1883 (date when power was given to the Public Trustee to deal with the estate). (4.) The effect upon lessees, sub-lessees, assignees, and mortgagees, none of whom have brought their Deeds under the Land Transfer Act, and the majority of whom are in ignorance of its necessity. (5.) Should leases not be issued in the form prescribed by Schedule E of the Land Transfer Act?

The peculiar position of the tenants of the Greymouth Native Reserve, and the complicated dealings between them and their sub-lessees or assigns, renders the bringing of this reserve at all under the Land Transfer Act open to question; but there can be no question that the tenants and occupiers should at once be made fully acquainted with their present legal position, and the consequent duties devolving upon them in respect of the titles they hold or claim to hold.

We may mention that the District Land Registrar, Mr. King, has, with wise forethought, lodged a general caveat in the interest of the holders of all leases. Whether this caveat will afford any protection to the holders of leases issued prior to the vesting of the legal estate or issue of certificate is a matter for legal opinion. Mr. King himself states that he thinks he could not receive for registration such leases, if presented, inasmuch as they do not purport to be issued by the owners named in the Certificate of Title or their Trustee. We trust that we shall not be deemed presumptuous in recommending that the opinion of the law officers of the Crown be at once taken on this most important subject.

In conclusion, we would respectfully point out that the many important questions it has been our duty to investigate—more especially those affecting the interests of the Trust tenants and occupiers at Greymouth—require, as we have already reported, prompt and immediate attention to prevent their growing in number and magnitude.

And this, Our Report, we have the honour to submit for Your Excellency's consideration in obedience to the Commission to us addressed.

Given under our hand and seal at Hokitika this 24th day of October, 1885.

(L.S.) HARRY KENRICK,
 „ GERHARD MUELLER,
 „ J. T. CATLEY.

APPENDICES.

SCHEDULE A. NELSON AND MOTUEKA.

Name.	Section.	Rent.	Remarks.
Adam, G. ...	Part 62, Nelson Sections 201, 202, Moutere	£ s. d. 7 10 0	Recommended for revaluation.
Brougham, G. ...		12 0 0	Six acres have been taken for educational purposes and additional loss sustained by inundation.
Goodman, R. J. (late Bucholz, S.)	Part 163, Motueka	7 10 0	Recommended for special consideration and re-assessment in view of reduction. Recommend re-assessment on expiry of present lease.

SCHEDULE B.
ARAHURA AND HOKITIKA.

Name.	Section.	Rent.	Remarks.
McYuigen, J. (late J. Morris).	36, 37, Arahura	£20	Recommend re-assessment with a view to reduction. Would be covered by general re-assessment, coupled with surrender and renewal.
Jones, R. E. ...	Part 1A, Arahura	£10	Lessee is charged for 40 acres, though he does not now possess 36 acres. Recommended for re-assessment with a view to reduction, coupled with surrender and renewal.
Douglas, W. ...	Section 67, 13A, Arahura	£6 10s., £13	Recommend that rent for the remainder of the term be at present rate—£6 10s. per annum.
Haworth and Craig	Sections, 4, 5, Hokitika	£6	Portion of this land having been lost through the flood, a proportionate reduction of rent from the date of the loss is recommended.
Jaine, J.	Section 71, Arahura	£14	Through misinterpretation of a promise of reduction of rent, intended to apply to the entire residue of the lease, the rent from the third term has been raised to £14. Recommend that rent be charged for the whole term at £4 4s. per annum, and that credit be given for sums paid under protest in excess of this amount.

The SECRETARY, Westland Education Board, to the ROYAL COMMISSIONERS ON NATIVE RESERVES.

GENTLEMEN,—

Hokitika, 16th October, 1885.

I have the honour, by direction of the Education Board of the District of Westland, to respectfully request that you will take into consideration the propriety of recommending that all lands on Maori reserves held for public school purposes shall be vested in the Education Board of the district within which they are situated, instead of being merely leased as at present.

I am, &c.,

The Royal Commissioners on Native Reserves, Hokitika.

JOHN SMITH, Secretary.

Hokitika—Application from the Education Board of the District of Westland to have all lands on Maori reserves, held for public school purposes, vested in the Education Board of the district within which they are situated instead of being merely leased, as at present.

The Commissioners forward this application for the consideration of the Board.

C.

The MANAGER, Humphrey's Gully United Gold Mining Company, to the NATIVE LANDS COMMISSIONERS.

GENTLEMEN,—

Hokitika, 19th October, 1885.

Availing themselves of the opportunity afforded by the present inquiry into the affairs of the Native reserves at the Arahura, the directors of the Humphrey's Gully United Gold Mining Company, Limited, desire to bring under your notice the position the company occupies as lessees of Blocks Nos. 78 and 81 of the Arahura Reserve.

As the company contemplate carrying on sluicing operations on a very extensive scale, and have already spent upwards of £60,000 upon their works, it became necessary to secure as large an area as possible to deposit tailings upon; they therefore acquired from the original lessee, at a very high price, a transfer of the lease for twenty-one years of the blocks referred to, and shewn on the accompanying plan, at a rental of £7 10s. per annum.

The land itself has no practical value, being too low and swampy for either pastoral or agricultural purposes, and was only taken up by the original lessees for speculation; but, in order to avoid possible complications in the future, the directors respectfully request you to recommend that their present lease be altered to a perpetual one upon such terms as you may consider equitable to both interests concerned.

They would further make the suggestion that, should the Commissioners decide upon recommending the issue of perpetual leases, they will take into consideration the importance which mining of this character is likely to assume in the Arahura District, and the necessity of providing in such leases a clause empowering the resumption of the land for mining purposes.

I have, &c.,

The Native Lands Commissioners.

JOSHUA GIBSON, Manager.

D.

EXTRACT from a Report of Mr. ALEXANDER MACKAY to the UNDER-SECRETARY, Native Department, Wellington, bearing date the 30th July, 1873, and being Parliamentary paper, 1873, G.—2A.

“WITH regard to the renewal of the leases no practical difficulty exists, and that fact must be generally known, as assurance has been given over and over again that, although a right of renewal cannot be inserted in the leases, the intention is to let the land in perpetuity for the benefit of the Natives, and that, whoever is in possession at the expiration of any of the terms of lease (provided the occupant would agree to pay an equitable rent for the premises in proportion to the increased value of the property), an extension of lease would be granted him. This principle is based on an old-established practice in England, where it is considered that those who are in possession of leases for lives or years, particularly from the Crown, have an interest beyond the subsisting term, which is usually denominated ‘the tenant’s right of renewal.’ This interest, although it is not a certain or contingent estate, there being no means to compel a renewal, yet influences the price in sales, and conduces to the security of the tenure beyond the fixed term.”

E.

The PUBLIC TRUST OFFICE, N.Z. (Native Reserve Branch), to Messrs. JONES and MENTEATH, Greymouth.

Wellington, 29th July, 1885.

Smith to Kilgour.—Assignment Part 186 is herewith returned unassented to in the hope that, with a view to avoiding the innumerable tenancies which would otherwise be created, a deed of sub-lease will be substituted therefor. In any case all rents to end of this year must be prepaid.

R. C. HAMERTON,
Public Trustee.

The PUBLIC TRUSTEE TO MESSRS. JONES and MENTEATH, Greymouth.

Re *Assignment J. Smith to R. Kilgour, Part 186.*—In reply to your letter of 13th instant, I have to state that if the assignor will covenant to pay the whole rent, which, on perusal of the deed submitted, you will find is not the case, I can have no objection to assenting to the deed, which is therefore returned for amendment in that direction.

R. C. HAMERTON,
Public Trustee.

Messrs. JONES and MENTEATH to the PUBLIC TRUSTEE.

SIR,—

Greymouth, 13th August, 1885.

Smith to Kilgour.—In reply to yours of the 29th July, 1885, we beg to inform you that Mr. Kilgour objects to take an underlease, and trusts you will consent to the assignment. As Smith, the original lessee, pays the whole rent to you and collects Kilgour’s apportionment himself, the fact of the assignment being made will not, we think, give your department any extra trouble.

We have, &c.,

The Public Trustee, Wellington.

JONES AND MENTEATH, per A. F. F.

DEAR SIR,—

Werita Street, Greymouth, N.Z., 25th August, 1886.

Smith to Kilgour.—The Public Trustee refuses to consent to this assignment for the reasons given in his letters (enclosed). As this is a rather serious matter, we should be glad if you would see him on the subject.

The tenure of the Native reserves, as you are aware, has never been very satisfactory. The tenants have, however, up to this time assigned, sub-let, and otherwise dealt with their holdings, and consent, so far as we know, has never been refused. Since the passing of “The Native Reserves Act, 1882,” and “The South Island Native Reserves Act, 1883,” and the reserve became vested in the Public Trustee, the tenants have felt more insecure, neither the original tenants nor the sub-lessees being sure of their position; consequently (of late) some of the original lessees have sold and assigned their interest in portions of the allotments let to them to the persons holding under them for lump sums, the assignees in some cases covenanting to pay an apportionment of rent, the original lessee covenanting to pay balance. As a matter of fact the original lessee pays the whole rent to the Public Trustee, and collects his assignees’ shares from them. This is the case with regard to Kilgour, and the Public Trustee will have no difficulty about it.

As we have several deeds in hand now, and are likely to have more of the same nature as Kilgour’s, we should like the whole question settled, as we shall have no end of trouble with the Public Trustee if it is not, and this we cannot afford at the price paid for conveyancing here now.

We can hardly see how “the innumerable tenancies” can be avoided if “The South Island Native Reserves Act, 1883,” is any good, as it especially provides for them.

It is not likely that a person who holds only a small part of an allotment would covenant to pay the whole rent on it.

We have, &c.,

A. S. S. Menteath, Esq.

JONES AND MENTEATH, per A. F. F.

F.

[Correct translation of letter addressed by the Natives interested in the Greymouth and other reserves to the Native Minister, signifying their opposition to the sale of these lands, and their willingness to grant long leases.—A. Mackay, 20th October, 1885.]

The Native Minister, Mr. Ballance.

Arahura, October, 1885.

WE, the persons whose names are hereto appended, desire to place this letter before you and the Government in case good may be derived from it for both parties, through the continual crying of

the persons occupying the reserves. The Government have appointed a Commission to inquire whether the reserves can be sold.

We, the owners of the land, earnestly state that we will not sanction the sale, but are willing to consider what else can be done to improve matters for the benefit of both Maori and pakeha.

We therefore propose that the original leases should be renewed for sixty-three years, and when that term is ended a further renewal of sixty-three years be granted.

It is provided by subsection (2) of section 15 of the Act of 1882 that leases be issued for a period not exceeding sixty-three years, to encourage the erection of houses on the land: let this period be enlarged.

A grant has been issued under the Act of 1883 to prevent the sale of the land.

We believe that the plan we suggest—*i.e.*, the lengthening the terms of lease, is one that will best conserve the interests of all concerned.

That is all from your friends,

Ihaia Tainui,
Hoani Tainui,
Inia Tuhuru,
Teoti Tauwhare,

Kinehe te Kaoho,
Moroati Pakapaka,
Henare Meihana.

[*Approximate Cost of Paper.*—Preparation, not given; Printing (1,350 copies), £6 3s.]

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