

not to challenge the settlement arrived at by the Native Land Court, and ratified by 'The Ngaitahu Reference Validation Act, 1868.'"

Mr. Fenton, Chief Judge of the Native Land Court, was requested to furnish a report on the recommendation, and he accordingly did so. His report will be found in the attached appendix.¹

A statement on Mr. Fenton's report was made by Mr. H. K. Taiaroa, M.H.R., dated the 26th October, 1876, which is annexed.²

In 1878 John Topi Patuki again petitioned Parliament, and on the 25th September, 1878, the Native Affairs Committee reported on the petition.³

A Royal Commission was appointed by the Governor on the 15th February, 1879, to inquire into and report upon the question. Its report was never completed, and is based on the assumption that the New Zealand Company having been interested in the purchase, the purchases were made subject to the system of the tenths.⁴

THE TENTHS.

It is clear from Mr. Clarke's report of 1864 that no grievance was entertained by the Natives, or, at any rate, expressed, as to the non-fulfilment of any promise relating to the tenths up to that time; and it is equally evident from the records of the Native Land Court inquiry of 1868 that no such claim was then brought forward.

A memorandum by Mr. Alexander Mackay on the origin of New Zealand Company's tenths, dated the 29th July, 1873, will be found in the Appendix to the Journals of the House of Representatives, G.-2B, 1873.

A memorandum on the origination and management of Native reserves in the Southern Island, also by Mr. Mackay, is published in his work, "Native Affairs, South Island," pp. 263-267, Vol. ii.

It appears clear that the New Zealand Company intended, throughout their purchases, to recognise the principle of tenths, and instructed their agents accordingly.

The Wellington deed to the New Zealand Company is dated the 27th September, 1839.⁵ This deed, executed by the chiefs, reserves the tenth of the whole land sold by them to the Company. Mr. Commissioner Spain, who was appointed by the Imperial Government, reported in March, 1845, that he had made percentage reserves in the Wellington purchase.

The Nelson deed is dated the 25th October, 1839.⁶ This deed, executed by the chiefs, specified "that a portion of the land ceded by them, suitable and sufficient for the residence and proper maintenance of the said chiefs, their tribes, and families, will be reserved by the said governors, directors, and shareholders of the New Zealand Land Company of London, and held in trust by them for the future benefit of the said chiefs, their families, tribes, and successors for ever." In the Nelson award Mr. Spain recognised the tenths.

In the New Zealand Company's third purchase from the Natives, dated the 8th November, 1839, the reserves are the same as in the Nelson deed.⁷

In the Ngaitahu deed there is no trace of tenths, nor is there any evidence that such were ever held out as an inducement to the Natives to sell.

In Sir George Grey's evidence before the Middle Island Native Land Commission of 1879, he said, in reply to questions (pp. 635-638 of evidence), "It was part of the plan of the Company to set apart a certain proportion of the land for the benefit of the Natives?—I don't think that any land I bought was under that agreement. The original purchases of the New Zealand Company were in that way, but I think their subsequent purchases were not. Their view was to give one-tenth back again. It was to be laid out in small sections, and every tenth section was to belong to the Natives. I found this system gave rise to such frequent disputes as to trespass that I went upon the plan of keeping very large reserves for them. Such was my intention.

"The Imperial Government recognised that system of the New Zealand Company setting apart one acre for every ten?—I think in their instructions to me they did not.

"Mr. Nairn.] Do you remember when that was repealed?—No. I think at the time I came here it had ceased. From the time I came here I think it ceased, because, for example, as well as I recollect, I bought a great part of Wellington back again. The Natives did not admit that the sale of the Wellington District was complete, and when I repurchased I paid a considerable sum of money, and made large reserves for them, and the whole of the tenths vanished in that repurchase," (p. 638 of evidence).

Sir George Grey further appears, from his evidence, to have considered that in any purchases made under his orders there was no obligation to observe the principle of tenths, and stated (pp. 644-46 of evidence), "I should state that I did not view the purchases by the Government of their waste lands from the Natives in the same way as I regarded a private European purchase, because the Natives, by selling to the Government, really obtained protection against their enemies. That was particularly the case with the Natives about Akaroa, who might have been attacked at any time. Then, again, it was certain a great part of the money for which land was sold would be employed in making roads and public works, which would give a great value to the remainder; and the Natives would have the same rights with regard to the land as the Europeans. It was not an absolute parting with the land. They still had the same right as the

¹ App. 24, G.-7, 1876, pp. 3-5.

² App. No. 25, G.-7B, 1876.

³ App. No. 26, Report of Native Affairs Committee, 25th September, 1878; extract from I.-3, 1878.

⁴ App. No. 27, Reports by Messrs. Smith and Nairn, 9th August, 1880, G.-7, 1880, and 31st January, 1881, G.-6.

⁵ App. No. 28, Port Nicholson Block, original purchase, 27th September, 1839.

⁶ App. No. 29, New Zealand Company's second deed of purchase, including Nelson, 25th October, 1839, pp. 64, 65, Vol. i., N.A., S.I.

⁷ App. No. 30, New Zealand Company's third purchase, 8th November, 1839, pp. 65, 66, Vol. i., N.A., S.I.