

No. 11 it was claimed that by deed of cession twenty 50-acre sections in the Kauhouroa Block had been promised the owners of the block by the Crown, and that such promise had not been fulfilled. In petition No. 12 A, B, C, it was claimed that the petitioners had been too hardly treated in the matter of the confiscation, or forced cession, of the Kauhouroa Block. In petition No. 12A, it was claimed that the confiscation had been excessive and wrongful in not discriminating between loyalists and rebels. In petition No. 13 it was claimed that the reserves in the Kauhouroa Block had not been returned to the Maori owners as promised.

79. In stating the case before us the petitioners' representatives separated the claims of the descendants of the rebels from those of the loyalists. The claims set up can be summarized as follows: (a) The Crown's possession of the block was the result of not a voluntary but a forced cession, amounting to a confiscation, and such confiscation was not justified; (b) the undertaking by the Crown in the deed of cession to set apart Pakowhai and twenty 50-acre reserves had not been fulfilled; (c) the consideration for the cession of the block was, *inter alia*, a verbal promise to grant to the loyalists certain blocks of land liable to be confiscated under the provisions of the East Coast Land Titles Investigation Act, 1866, and this promise has not been carried out.

80. So far as the descendants of the loyalists were concerned, they acknowledged the validity and propriety of the deed of cession, and did not seek to go behind it. There is nothing before us to justify the view that the cession was forced on the Natives who signed the deed. It was attacked, however, by the descendants of the rebels on the grounds (1) that the cession was tantamount to a confiscation, and that such confiscation was not justified, or, if justified, was excessive; (2) that the loyalists had no right to cede land part of which belonged to the rebels. The rebels had some interests, of course, in the Kauhouroa Block, and they were entitled to retain these interests until deprived of them in due course of law. It is clear that the rebels were not bound by the deed of cession, and that the Natives who signed it were not entitled to transfer to the Crown the interests of the rebels in the block. The Crown might have acquired these interests by obtaining a certificate under section 4 of the East Coast Land Titles Investigation Act, 1866. But that was not done, and on a strictly legal basis there is no answer to the claim put forward on behalf of the descendants of the rebels. That, however, is all that can be said in favour of the claim, for otherwise it is without merit. The land of the rebels was practically confiscated by the Act of 1866, and all that the Crown had to do to complete its title to the land was to obtain a certificate under section 4 of the Act. According to good conscience and equity, the Crown ought to be treated, so far as the rebels are concerned, as being in the same position as if a certificate had been obtained, and we recommend accordingly that the claim should not be recognized.

81. With regard to the second claim, the position is that the Crown agreed in the deed of cession to set apart Pakowhai for the benefit of Mere Karaka and her hapu, and twenty sections of 50 acres apiece for the benefit of owners, between the rivers Wairoa and Kauhouroa. Pakowhai was set apart, but the twenty sections were not. It is significant that there is no record of any complaint having been made as to the non-fulfilment of this undertaking. Other complaints were made, and unless this undertaking had been satisfied in some way it is unlikely that the Natives would have allowed it to be overlooked for so many years. And in addition to this, there is evidence of an agreement for satisfying the undertaking by a money payment. That is contained in a letter of the 19th August, 1872, from Mr. Locke, the Government Land Purchase Officer, to the Hon. J. D. Ormond. After briefly outlining the dealings in regard to Kauhouroa and the adjoining four blocks, Mr. Locke writes, "The Natives subsequently withdrew their claim to the twenty 50-acre sections on the payment of £800 in liquidation of all claims of the loyal Natives to the land retained by the Government." There is no evidence of the payment beyond Mr. Locke's statement on the subject, but in the circumstances that ought to be accepted, we think, as proof of the payment. This £800 cannot well be confused with the £800 referred to in the deed of cession. The deed