

REPORT.

To His Excellency the Governor-General of the Dominion of New Zealand.
MAY IT PLEASE YOUR EXCELLENCY,—

We, the Commissioners appointed by Your Excellency to inquire into and report upon certain specified questions in connection with the confiscation of Native lands under the New Zealand Settlements Act, 1863, and the amendments thereof, and also to inquire into the claims and allegations made by the respective petitioners in the petitions specified in the schedule to the Commission, have the honour to report as follows :—

1. We commenced our sittings in New Plymouth on the 9th February, 1927, and finished them in Wellington on the 12th May, 1927. We held sittings in New Plymouth, Waitara, Opotiki, Whakatane, Tauranga, Russell (Bay of Islands), Ngaruawahia, Wairoa (Hawke's Bay), and Wellington. The places selected for sittings and the dates of the sittings were those suggested by counsel who represented the Natives. Due notice of the times and places of these sittings was published in the *New Zealand Gazette* and also in the *Kahiti*. We wish to acknowledge the assistance afforded to us by counsel on both sides, and by the officers who attended our sittings. These included Mr. Shepherd, of the Native Department, Wellington, who was present at all the sittings; Mr. Gambrill (Wellington), Mr. Darby (Auckland), Mr. Moverley (New Plymouth), and Mr. Pfeifer (Napier), all of the Lands Department. These gentlemen spared no pains to supply us with as full and accurate information as it was possible to obtain, and this involved considerable work on their part, particularly in the case of Mr. Darby. We wish also to commend Mr. Watkins, of the *Hansard* staff, for the excellent way in which he reported the addresses and evidence.

QUESTION No. 1.

2. The first question we are directed to inquire into and report upon is this : "Whether, having regard to all the circumstances and necessities of the period during which Proclamations and Orders in Council under the said Acts were made and confiscations effected, such confiscations or any of them exceeded in quantity what was fair and just, whether as penalty for rebellion and other acts of that nature, or as providing for protection by settlement as defined in the said Acts." This question assumes that in every case confiscation was justified, and directs an inquiry as to the extent only of the confiscation. Mr. Smith, who appeared as counsel for the Natives in most of the cases, claimed that, notwithstanding this apparent limitation of the inquiry, the Natives were entitled to raise the question whether or not there should have been any confiscation at all. In support of this claim Mr. Smith relied on the fact that a number of the petitions referred to us for inquiry alleged that the confiscations were not justified, and in this way raised the whole question of the justice of the confiscations. Mr. Smith's contention was not really disputed by Mr. Taylor, who appeared for the Crown, and in each case the question whether or not there should have been any confiscation at all was raised and discussed. Mr. Smith contended that in dealing with this question under the several petitions we were not bound by the limitations imposed on us in connection with question No. 1, and that Natives who had denied the sovereignty of Her then Majesty and repudiated her authority could claim the benefit of the provisions of the Treaty of Waitangi. Mr. Taylor contended that the limitations referred to must be treated as applicable to all the petitions. It is true that in terms these limitations do not apply to the petitions referred to us for inquiry, but we think that in dealing with these petitions, and in ascertaining what accords with good conscience and equity, we should treat petitioners whose ancestors were rebels as not entitled, except in special circumstances, to claim the benefits of the Treaty of Waitangi.