

51. The force of about five hundred men sent in transports under Major Brassey to Opotiki arrived there on the 8th September. The landing was opposed by the Natives, and, after a landing was effected, there was the fighting which is described by Mr. Cowan in the second volume of his "History of the New Zealand Wars" (Chapter x). The Hauhau hapus of the Whakatohea fortified themselves, said Mr. Cowan, between four and five miles up the valley. The entrenchment consisted of three redoubts, and these were captured ultimately after a strenuous resistance by the Natives. Intermittent skirmishing continued in the district until November, 1865. This was followed by the surrender of a number of Hauhaus, including the chief Mokomoko, who was concerned in the murder of Mr. Volkner.

52. The force of Arawas sent out to capture the murderers of Fulloon was under the command of Major Mair. There was fighting between this force and the Natives of the Whakatane district, and the story of the fighting is told by Mr. Cowan in the second volume of his "History of the New Zealand Wars" (Chapter ix). The Hauhaus were driven ultimately to their fortified pa at Te Teko. This was besieged, and on the 20th October the garrison surrendered. About twenty of the principal offenders in the murder of Fulloon were captured.

53. On the 17th January, 1866, an Order in Council was made declaring the district described in the schedule to be a district under the New Zealand Settlements Act, 1863, and reserving and taking it for the purpose of settlements. The boundaries of the district were altered by an Order in Council made on the 1st September, 1866.

54. It is clear that the Natives of Opotiki and Whakatane were engaged in rebellion against Her Majesty's authority when they resisted with arms the advance of the forces sent out to capture the murderers. Their cases came, therefore, within the terms of the New Zealand Settlements Act, 1863, and the Governor was justified in confiscating their lands as a penalty for their rebellion.

55. It has been said, however, that a few only of the twenty hapus of the Ngatiawa Tribe took part in the rebellion while the others remained loyal or neutral. It was claimed that in these circumstances the effect of the confiscation was to punish the innocent as well as the guilty. It is probable that some of the hapus were loyal, but it is impossible at this distance of time to determine exactly the hapus concerned in the rebellion or to ascertain their respective interests in the land confiscated. It would be idle to attempt to discriminate now as to the complicity of the different hapus, and all that we can say is that it has not been proved to our satisfaction that the land of any innocent hapu has been confiscated. If any such land was confiscated, the hapu was entitled to compensation for it under the New Zealand Settlements Act, 1863.

56. The next question to be considered is whether or not the Bay of Plenty confiscations exceeded what was fair and just. The total area included in the proclaimed district was 448,000 acres. Of this, 118,300 acres were restored to loyal Natives and 112,300 acres to rebel Natives. There was an area of 6,340 acres which had been sold privately before the confiscation, so that the area finally confiscated was 211,060 acres. The territory confiscated included an area of 87,000 acres which was claimed by the Arawas, and was ceded to them. This claim was disputed by the Ngatiawas, who said that this area belonged to them. If the area be treated as belonging to the Arawas, the Ngatiawa had originally 107,120 acres, and were left with 50,321 acres, which was increased by grants to 77,870 acres. The Whakatoheas had originally 491,000 acres, and were left with 347,130 acres. The Tuhoes had originally 1,249,280 acres, and were left with 1,234,549 acres. These figures are based on the tribal boundaries as given on what is known as Heaphy's plan. There is some dispute as to the correctness of the boundaries as shown on this plan.

57. The Whakatohea Tribe have in their favour the report of the Commission which sat in the year 1920. The concluding sentences of the report are these: "We have not sufficient material before us to say what would have been a fair and just area to confiscate, nor do we think it wise for us to go into that question. We have no hesitation, however, in affirming that, judged by the light of subsequent events, the penalty paid by the Whakatohea, great as was their offence, was heavier than their deserts."