

An interesting description of these islands, including an account of their striking history, is given by Mr. W. M. Fraser in the *New Zealand Journal of Science and Technology*, Vol. 3, No. 1, paragraphs 8-14, year 1925.

(2) At the inquiry it was alleged on behalf of the petitioners—

(a) That the Natives properly entitled to the Poor Knights Group had not, either by themselves or by their chiefs or elders or predecessors, signed the deed of sale to Polack, nor consented thereto :

(b) That the islands were the scene of a terrible massacre more than one hundred years ago, that thereafter the islands became sacred to the survivors and to their descendants on account of the “*tapu* of blood” and that the Natives entitled had thereafter at no time either abandoned their claims or sold their interests to any European or to the Crown :

(c) That the Crown, having had knowledge of all the facts relating to the alleged sale to Polack, and having been aware of the reports of its own officers appearing on the Old Land Claims file, cannot claim now that, at the auction in 1882, it was a *bona fide* purchaser for value without notice of the adverse claim of the Natives interested :

(d) That accordingly the Poor Knights Islands should be restored to the Natives entitled.

(3) At the inquiry it was claimed on behalf of the Crown—

(a) That the Crown had purchased the islands at public auction from the mortgagee of the original grantee :

(b) That the original grantee had acquired his title through the Land Claims Commission in 1864, after a proper hearing of the claims of the Natives before a competent tribunal :

(c) That all possible steps were taken to deal with any objections by interested Natives :

(d) That the Crown's title to the islands should not be disturbed after so long a lapse of time.

(4) After a minute examination of the old records and after a reperusal of the evidence given at the present inquiry, this Court makes the following comments :—

(a) The Court is satisfied that a great massacre did take place on the Poor Knights Islands about the year 1808, and that thereafter the survivors gave up occupation of the islands, regarding them as sacred under the “*tapu* of blood.”

(b) The Court is satisfied that prior to the massacre the two main islands in the group carried a substantial population. The remains of ancient stone forts of considerable extent can still be seen. Extensive old cultivation areas can still be traced. The details about the massacre indicate that well over one hundred persons must have permanently resided there, apart from the war-party of Te Tatua that was absent in the south.

(c) The Court is satisfied that Te Tatua was the principal chief of the islands at the time of the massacre, and that neither he nor his only son, Hori Wehiwehi, nor his only grandson, Pouaka Wehiwehi, ever consented to the alleged sale to Polack or to the acquisition of the islands by the Crown. It is quite impossible for the Court to believe that in 1845, so soon after the massacre, and in the lifetime of Hori Wehiwehi, one of the survivors of the massacre, the persons entitled to the islands would have sold them to Polack in face of the *tapu*. Nor would the Natives in after-years have continued to bury their dead on these islands if they had sold the islands to Polack.

(d) No evidence whatever has been produced or led on behalf of the Crown to indicate that the signatories to the deed of sale in 1845 were entitled, in their own right or as chiefs of the tribe directly interested, to sell the Poor Knights Islands to Polack or to any one else. No evidence has been given to show that the signatories were the people of Te Tatua or their descendants, and no evidence has been given to show that the signatories had ever occupied the islands or exercised rights of any description there. It is true that an attempt was made to indicate that Maihi, one of the signatories, was the same person as Hori Wehiwehi, but the advertisements in the *Maori Messenger* of the 15th July, 1844, and the 1st August, 1844, clearly show that the “Maihi” who signed the deed of sale was the well-known chief Kawiti (Marsh Brown Kawiti). Moreover, on the cross-examination of Hana Paengatai and other witnesses, the Crown Solicitor was unable to connect up any of the signatories with Te Tatua and other persons to whom the islands had clearly belonged.

(e) The fact that eleven Natives stated to be chiefs of Ngatiwai did sign a deed of sale purporting to dispose of the islands to one Polack is by no means conclusive evidence that they had a right to sell. Polack's own letter of the 20th December, 1844, to the Colonial Secretary stated, “I propose to purchase from a chief called Hokianga, his father, only brother, and son (sole claimants), of the Whangaruru Tribe.” A report dated the 3rd October, 1849, on Old Land Claims File 1209/12, refers to a recommendation by Mr. Clark, Protector of Aborigines, that the purchase of these islands “should be made from the whole of the Whangaruru Natives, who have partial claims thereto,” thereby implying that other Natives, in his opinion, had claims. Further, Mr. C. O. Davies, one of the witnesses to the deed of sale, stated on oath to Mr. Commissioner Bell on the 8th October, 1861, that “I told him (Polack) that I was doubtful whether the names of the sellers appended to the deed comprised all the claimants, whereupon he (Polack) told me that he took all the responsibility upon himself.”

(f) The Court making this present report regrets to have to say that the proceedings before the Land Claims Commission on the 20th July, 1864, do not make very satisfactory reading. Mr. Commissioner Bell had quite rightly recommended that a Mr. Davies assemble “all the Natives concerned in the title to the islands,” in order to come to a satisfactory arrangement with them. Mr. Davies produced only four Natives at the hearing, including Tawatawa, one of the signatories to the original deed of sale. It was not shown that any “assembly of Natives concerned” had previously been held, nor was it shown that Tawatawa and the others had been chosen to represent the Natives