

1948
NEW ZEALAND

**REPORT OF ROYAL COMMISSION APPOINTED TO INQUIRE INTO AND
REPORT UPON CLAIMS PREFERRED BY CERTAIN MAORI CLAIMANTS
CONCERNING THE MAHIA BLOCK**

Laid on the Tables of Both Houses of the General Assembly by Command of His Excellency

*Royal Commission to Inquire into and Report upon Claims preferred by
certain Maori Claimants concerning the Mahia Block*

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland,
and the British Dominions beyond the Seas, King, Defender of
the Faith :

To Our Trusty and Well-beloved Counsellor Sir Michael Myers,
Knight Grand Cross of Our Most Distinguished Order of Saint
Michael and Saint George, and to Our Trusty and Well-beloved
Hanara Tangiawha Reedy, of Ruatoria, Farmer, and Albert
Moeller Samuel, of Auckland, Retired : Greeting.

* * * *

WHEREAS by a certain deed of cession bearing date the 20th day of
October, 1864, the Chiefs and people of the Ngati-Kahungumu Tribe
whose names were thereto subscribed, did, for them, for their relatives
and for their descendants to be born thereafter, in consideration of the
payment of the sum therein mentioned, sell and absolutely convey to
Her Majesty the Queen an area of land on the Mahia Peninsula, the
boundaries of the said land (hereinafter referred to as the Mahia Block)
being described in the deed aforesaid by reference to divers place-names
believed to represent natural features :

And whereas certain Maoris have claimed that they would, but for
an alleged divergence of the boundary of the said Mahia Block, as fixed
by survey, from the boundary as determined by the place-names and
natural features aforesaid, be the owners of an area of 2,270 acres, or
thereabouts, included within the surveyed boundary of the Mahia Block,
and this claim is more particularly set forth in Petition No. 82 of 1936,
of Hirini Whaanga Christy and others, presented to the House of
Representatives :

And whereas the Government is desirous that the truth and justice of the respective claims and complaints of the Maoris as hereinbefore set forth should be tested by inquiry so that, if such complaints be well founded and of substance, the Government will be able to take order for the redress of the grievances laid upon the Maoris :

Now know ye, that We, reposing trust and confidence in your impartiality, knowledge, and ability, do hereby nominate, constitute, and appoint you, the said

Sir Michael Myers,
Hanara Tangiawha Reedy, and
Albert Moeller Samuel

to be a Commission :

* * * *

(c) In respect of the Mahia Block aforesaid, to inquire and report—

(i) Whether, due regard being had to all the circumstances, it is reasonably established that the boundary of the block as fixed by survey probably diverged from the boundary thereof as described or intended to be described in the deed of cession aforesaid ; and

(ii) If it be reported that it is reasonably established that the boundary probably diverged as aforesaid, then to recommend what compensation, if any, in money or money's worth, should now be granted to the former Maori owners of the land erroneously included within the boundaries of the said Mahia Block, or their descendants or representatives :

Provided, however, that in any case where you shall see fit to recommend that compensation in money or money's worth be granted in respect of the purchases or cessions hereinbefore set forth, you shall have regard to the value of the land, as nearly as may be, at the time of the purchase or cession thereof, and not to any later increment in the value thereof :

Provided, further, that you shall be at full liberty to disregard or differ from any findings, whether of fact or otherwise, conclusions, opinions, or recommendations of any former tribunal in respect of any matters or questions of similar character or import to those confided to you by these presents :

And We do hereby appoint you, the said

Sir Michael Myers,

to be Chairman of the said Commission :

And for the better enabling you to carry these presents into effect, you are hereby authorized and empowered to make and conduct any inquiry under these presents at such times and places as you deem expedient, with power to adjourn from time to time and place to place

as you think fit, and so that these presents shall continue in force, and the inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place :

And you are hereby strictly charged and directed that you shall not at any time publish or otherwise disclose save to His Excellency the Governor-General, in pursuance of these presents or by His Excellency's direction, the contents of any report so made or to be made by you or any evidence or information obtained by you in the exercise of the powers hereby conferred upon you except such evidence or information as is received in the course of a sitting open to the public :

And you are hereby authorized to report your proceedings and findings under this Our Commission from time to time if you shall judge it expedient so to do :

And, using all due diligence, you are required to report to His Excellency the Governor-General in writing under your hands not later than the thirty-first day of March, one thousand nine hundred and forty-eight, your findings and opinions on the matters aforesaid, together with such recommendations as you think fit to make in respect thereof :

And, lastly, it is hereby declared that these presents are issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of and subject to the provisions of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council of the Dominion of New Zealand.

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this thirteenth day of August, in the year of our Lord one thousand nine hundred and forty-seven, and in the eleventh year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.]

B. C. FREYBERG, Governor-General.

By His Excellency's Command—

P. FRASER, Native Minister.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Claims preferred by certain Maori Claimants concerning the Mahia Block shall report

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved Counsellor Sir Michael Myers, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, and to Our Trusty and Well-beloved Hanara Tangiawha Reedy, of Ruatoria, Farmer, and Albert Moeller Samuel, of Auckland, Retired: Greeting.

WHEREAS by OUR Warrant of date the thirteenth day of August, one thousand nine hundred and forty-seven, issued under the authority of Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of and subject to the provisions of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, you, the said

Sir Michael Myers,
Hanara Tangiawha Reedy, and
Albert Moeller Samuel,

were appointed to be a Commission to inquire into and report upon claims preferred by certain Maori claimants concerning . . . the Mahia Block as set forth in the said Warrant:

And whereas by Our said Warrant you were required to report not later than the thirty-first day of March, one thousand nine hundred and forty-eight, your findings and opinions on the matters thereby referred to you:

And whereas it is expedient that the time for so reporting in respect of the claims relating to the . . . Mahia Block should be extended as hereinafter provided:

Now, therefore, We do hereby extend until the thirtieth day of September, one thousand nine hundred and forty-eight, the time within which you are so required to report in respect of the claims relating to the . . . Mahia Block aforesaid:

And We do hereby confirm the said Warrant and Commission save as modified by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this thirty-first day of March, in the year of our Lord one thousand nine hundred and forty-eight, and in the twelfth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.]

B. C. FREYBERG, Governor-General.

By His Excellency's Command—

W. E. PARRY,

For the Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD,

Clerk of the Executive Council.

To His Excellency the Governor-General, Lieutenant-General Sir Bernard Freyberg, V.C., G.C.M.G., K.C.B., K.B.E., D.S.O.

MAY IT PLEASE YOUR EXCELLENCY,

MAHIA BLOCK

1. The report which we now have the honour to make relates to the Mahia Block and is our third and final report upon the matters which we were directed by Your Excellency's Commission of the 13th August, 1947, to inquire into and report upon.

2. We held sittings at Wairoa on the 8th, 9th, and 11th days of March, 1948, when Mr. F. C. Spratt appeared on behalf of certain Maori claimants, Mr. Mafeking Pere for other claimants, and Mr. F. W. Nolan for the Crown Lands Department. On the 10th March we visited the Peninsula at the request of the representatives of the parties and made an inspection from various points to which our attention was directed. We also contemplated a trip some distance out to sea to view the points which are now said by the Maoris to be Pukewhātu and Pakake-a-Mahere, but this visit became unnecessary as Mr. Nolan, after hearing the evidence, said he would be prepared to admit that these two points could, and that the Pukewhātu on the Crown line could not, be seen from the seaward on the western side of the Peninsula.

3. We have found the case to be one calling for careful examination by reason of—

- (i) The great lapse of time between the original transaction and the making of the Maori claims;
- (ii) The manner in which the claims have on different occasions been presented and developed;
- (iii) The apparently careful and orderly sequence of the place-names in the description of the boundaries in the deed of sale; and
- (iv) The absence of plans and other documents which were lost and destroyed by the earthquake and fire in Napier and on the East Coast on the 3rd February, 1931.

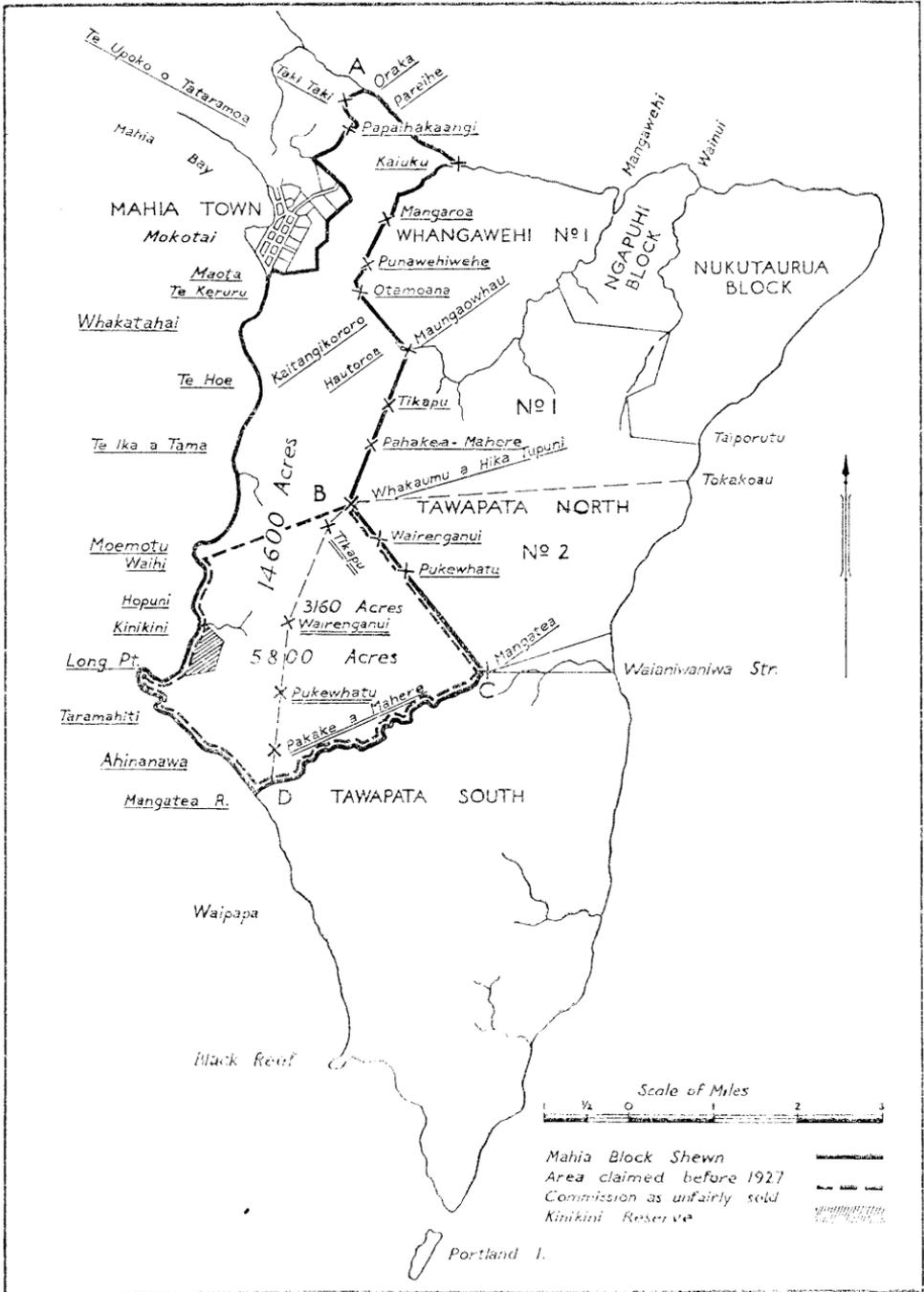
4. At the inquiry in Wairoa, counsel for the parties placed before the Commission all the information that they had been able to obtain. We felt, however, that further research might disclose additional information which might be helpful in the elucidation of the somewhat difficult problem with which we were presented. Accordingly, by direction of the Commission, our Secretary made considerable further research. Various files have been examined that it was thought might afford or lead to further information; efforts were made to trace a plan that was spoken of as having been seen in or about 1925 in the Office of the East Coast Commissioner at Gisborne; information on various points was sought from Judge Harvey, of the Native Land Court, and from Mr. Pfeifer, whose names had been mentioned at the inquiry and who, the Commission thought, might possibly be able to elucidate certain aspects of the matter. A search was also made at the Alexander Turnbull Library to trace documents, such as letters from Mr. Locke to Sir Donald McLean, which might have a bearing, and a search was also made of records of the Hawke's Bay Provincial Council.

5. As a result of the inquiries and research referred to in the last preceding paragraph, we held a further sitting in Wellington on the 5th July, when Judge Harvey and Mr. Pfeifer attended and were examined as witnesses. At that particular sitting Mr. Spratt appeared on behalf of the Maoris, the Crown not being represented. The evidence of Judge Harvey and Mr. Pfeifer, though somewhat vague and indefinite in some respects due to lapse of time and loss of documents, has nevertheless been helpful in enabling us to form our conclusions.

6. We append to this report a plan or sketch showing the Mahia and surrounding blocks (indeed, the whole Peninsula) which is necessary for a due appreciation of the matters in controversy. The line ABC represents the eastern boundary of the Mahia Block as claimed by the Crown. The line ABD represents the line as now claimed by the Maoris to be the true boundary-line. It will be seen that the parties are in agreement as to the line from A to B. The area now in dispute between the line BC and the line BD as ascertained by a survey made a few days prior to our sitting in Wairoa by Mr. Glanville, a surveyor employed by the Maoris, is 3,160 acres. At the inquiry before Judge Carr, to which we shall refer later, it was estimated that the area in dispute was 2,270 acres approximately, but at that time there had been no actual survey of the boundary-line as claimed by the Maoris. As we have already said, Mr. Glanville's survey is a very recent one. The land shown in the sketch as comprising 5,800 acres, which land includes the 3,160 acres now in dispute, was the area claimed by a section of the Maoris of Tawapata South in a previous claim, which was referred to Mr. Justice Sim's Commission in 1927 (the Confiscated Lands Commission) and rejected.

7. We need say no more regarding the view taken by Mr. Justice Sim's Commission than that we respectfully agree with it. The decision of that Commission does not, however, conclude or, indeed, affect the present claim, except to give rise to the comment that different sections of the Maoris have made two conflicting and irreconcilable claims. That fact, however, has no more weight with us than that it necessarily demands that the present claim be closely scrutinized.

8. At the time of the deed of sale of the Mahia Block, the 20th October, 1864, there had been no survey and the land was described in the deed in accordance with the natural features of its boundaries. The description was as follows: "The boundaries of the said land, which is now being parted with, commence from Oraka, thence to Pareihe, thence to Mangaroa, thence to Punawehiwhi, thence to Otamoana, thence to Kaitangikaroro, thence to Hautaroa, thence to Mangaowhau, thence to Tikapu, thence to Pakake-a-Mahere, thence to Whakaumu-a-Hika-Tupuni, thence to Wairenganui, thence to Pukewhatu, thence to Maungatea, thence to the sea, thence to Te Ahimanawa, thence to Taramahiti, to Moemotu, te Ika-a-Tama, te Hoe, te Whakatahae, te Kereru, to Maota, to Mokotahi, te Mahia, te Waha-o-Toanga, te Upoko-o-Tataranua, to Papawhakaango, to Takitaki, te Pakipaki, thence meeting Oraka, the commencement of the boundary."



9. The consideration was expressed to be £2,000, of which “the sum of one thousand five hundred pounds (£1,500) has been received by us this day and the balance of five hundred (pounds) will be paid to us when the survey of the said land has been completed.” Endorsed on the deed is a sketch of the land, but the only two relevant place-names on that sketch are Oraka and Mangatea, the latter as a stream. On the sketch appear the words and figures “About 16,000 acres.” It is not stated in the deed, but there is contemporary evidence, which we regard as satisfactory, that the understanding with the Maoris was that if the block should be found on survey to exceed 16,000 acres, some further payment should be made in proportion to the excess, but the contemporary evidence does not suggest that there was to be any deduction in the purchase-price of £2,000 in the event of the area turning out to be less than 16,000 acres. In fact, it turned out to be only 14,600 acres.

10. The deed was signed by Mr. McLean (afterwards Sir Donald McLean) and seventeen Maoris, who are referred to in the deed as “The Chiefs and people of Ngati Kahungunu,” one of whom was the paramount Chief, Ihaka Whaanga. We shall have to refer later to the various surveys and plans that were made of Mahia and the surrounding blocks, but for the moment it is sufficient to say that the line ABC as claimed by the Crown and shown in the sketch appended to this report has never appreciably varied, and no complaint of any kind seems ever to have been raised until 1924 when a petition was presented to Parliament which, as already stated, was referred to Mr. Justice Sim’s Commission in 1927; and the claim made then was quite a different claim from the one which is made now. The present claim was first made in a petition to Parliament in 1936 by Mr. Sydney Christy and others.

11. We are told that the genesis of the present claim was a certain plan which is said to have been seen by Mr. Christy in 1924 or 1925 in the office of the East Coast Commissioner at Gisborne and which now turns out to have been prepared by Mr. Harvey, apparently in the sense that he superimposed certain place-names on a lithograph of Mahia Peninsula that was issued by the Survey Department. The plan cannot now be found, though, now that we have heard what Mr. Harvey has to say about it, its disappearance is not a matter of any importance. It appears that on the plan prepared by Mr. Harvey there were certain hilltops shown on the line which is now indicated in our sketch as BD, and certain Maoris, including one Rangi Te Rito, informed Mr. Harvey that two of the hilltops were Tikapu and Pukewhatu, and Mr. Harvey then wrote those names on the plan in approximately the places where they now appear on the line BD in our sketch (but, of course, that line was not drawn then—it was first drawn by Judge Carr at the inquiry before him in 1938). From that origin the present claim has developed, but it is interesting, and perhaps not without significance, that, although this happened in 1924 or 1925, no claim on the basis of the boundary-line being BD instead of BC was made until eleven or twelve years afterwards—*i.e.*, 1936.

12. In the petition presented in 1936 by Mr. Christy and others it was stated that—

- (i) At the time of the sale the land sold had not been surveyed, and in accordance with Native custom the boundaries of the land sold were indicated in the deed of sale by reference to natural features of the land, such as high hills, streams, capes, promontories, or bays. The land included within the said boundaries was known to the Native owners as Mahia Block; and
- (ii) The said natural features set out in the deed were pointed out shortly after the sale to the surveyors by some of the Chiefs and people who were owners of the land.

13. We were told when we sat in Wairoa that the first survey of the Mahia Block appeared to have been made by Burton in 1868. We doubt that very much. We have first the fact stated in the petition that shortly after the sale the boundaries were pointed out to the surveyors by some of the Chiefs and people who were the owners of the land

(that is to say, of the Mahia Block). We have then the fact that £500, being the balance of purchase-money not paid at the time of the execution of the deed, was to be paid when the survey of the land had been completed. Our research shows that on the 5th December, 1864, Mr. Locke wrote from Mahia to Mr. Donald McLean that the survey was going on. We also find, according to the record of the votes and proceedings of the Hawke's Bay Provincial Council, that in 1865 a return was made on the motion of Mr. Buchanan setting out that the Mahia Block, an area estimated at 16,000 acres, had been purchased, that the price in the deed was £2,000, that the payments in cash had been £2,379, that the total cost had been £2,639 6s. 11d., and that the cost of survey had been £80; and there was a footnote that "part of the Mahia has been laid out into town and suburban lands." There is also a letter from Mr. Locke to Mr. McLean on the 22nd April, 1865, saying that Ihaka Whaanga was at Wairoa, and adding: "He often mentions a small piece of land which he added to the Mahia Block at the inland side since the sale to make the block more square. I suppose he looks for something for it." Mr. Harvey, in his evidence, referred to a small piece of land which had been included in the survey but was not in the description of the land sold; and that tallies with what Mr. Locke says in his letter. The piece of land in question is obviously a triangular piece at the north-east end of the block created by taking the line through Kaiuku instead of a straight line from Pareihe to Mangaroa, and has no relation whatsoever to the present dispute. It would seem tolerably plain from all that we have said that Mr. Locke made a survey and plan of the Mahia Block in 1864-65. Mr. Pfeifer has some recollection of this plan, which must have been destroyed in the earthquake and fire.

14. Mr. Pfeifer speaks of a plan made by Burton of the Mahia Block in 1868. He may be right; but we should think it more probable, though in actual fact it may not be really material, that the data from which he prepared his plan for Mr. Justice Sim's Commission, which is for all practical purposes the same as the sketch appended to this report (except, of course, the line BD), was Locke's original plan of the Mahia Block in 1864-65 and Burton's plan of Tawapata in 1868.

15. It is common ground that Tawapata North Block and Mahia Block marched together and had a common boundary. It follows, therefore, that from no point of view can the disputed land be now claimed by the descendants of the owners of the Mahia Block. If, in fact, the Crown line was the correct line, then plainly the disputed area would have been part of the Mahia Block and was included in the sale. If, however, the line should have been what the Maoris now say is the correct line, then the area in dispute would have been a part, not of Mahia, but of Tawapata North, and in this latter case, if it were the fact that a wrong boundary-line had been pointed out by the owners of the Mahia Block, that would certainly not have been binding upon the owners of Tawapata.

16. We now come to the proceedings in respect of the Tawapata Block, and in this connection we have a copy (made by Mr. Pfeifer in 1927) of a plan of the whole of Tawapata Block made by Locke, and the plan bears upon it the statement: "Surveyed by S. Locke, 10 Feb., 1866." The plan also indicates that it has reference to an application of Tamati Matangihia and others to the Native Land Court. That application was really made in the first instance in September, 1866, by Matenga te Takawhenua for the investigation of the ownership of Tawapata—that is to say, the whole of Tawapata, both North and South—and in his application his boundaries were stated as: "Commencing at Taiporutu—thence by the sea to Maungatea, the boundary of the Government, and returning to Taiporutu." This application came before Judge Monro in the Native Land Court in February, 1867, and on that occasion Tamati Matangihia prosecuted the claim, as Matenga te Takawhenua had died in the meantime. At that sitting a certificate of title was ordered to be issued to Tawapata South, the

case being held over, on the suggestion of Ihaka Whaanga, as to the northern portion of the block. By the northern portion, it is quite plain that Ihaka Whaanga was referring to Tawapata North as shown on the plan, and not to what was suggested before Mr. Justice Sim's Commission, the area of 5,800 acres which was then in dispute. Whether or not Locke's plan was produced at the sitting of the Native Land Court is not clear, but there was evidence of another plan being placed before the Court—namely, a plan by Mr. Burton, who gave evidence: "I made the survey of the Tawapata and made the map produced . . . The land to the north of the Mangatea stream is the Mahia Block, Government land." It would appear clear, therefore, that Burton as well as Locke must have made a plan of the Tawapata Block, and that, too, must have been destroyed in February, 1931. This plan must have agreed practically with Locke's plan and shown the western boundary of Tawapata North and the eastern boundary of the Mahia Block substantially on the line as claimed by the Crown.

17. On the 19th September, 1868, Tawapata North Nos. 1 and 2 came before the Native Land Court, and on that occasion Mr. Burton said: "I surveyed the land shown on the map before the Court. The survey is correct and is in accordance with the rules. The lines are all cut on the ground except the East" [*sic*--west] "boundary, which is the boundary of the Govt. Block and is approved by the Government. It is sometime ago since I surveyed it. I don't know who pointed out the boundaries. A great many natives were present." It should be said that Ihaka Whaanga, who was one of the owners of the Mahia Block, was also one of the owners of Tawapata South and Tawapata North, and he and all the other Tawapata North owners were apparently present in Court when that evidence was given by Mr. Burton.

18. Incidentally, perhaps we should say that the name of the surveyor who gave evidence in February, 1867, is noted as Charles Burton, while the name noted on the 19th September, 1868, is George Burton. There would seem to be plainly an error here, as our research shows there was only one licensed surveyor by the name of Burton at that time—namely, Mr. George Burton, whose name was evidently wrongly noted as Charles at the earlier sitting of the Court.

19. The only other plan, or, rather, copy of a plan, because the original was destroyed in the earthquake and fire, is a plan of George Burton's made about 1871. That is a plan of the whole of Tawapata North, and its sole purpose seems to have been to show the dividing-line between Tawapata North No. 1 and Tawapata North No. 2, in respect of which titles, at the request of the Maori owners, had been ordered to issue by the Native Land Court. On this last mentioned plan the place-names appear as stated in the deed of sale from Maungaowhau down to the point C in the annexed sketch. It would seem, too, though this is not certain, that the place-names also appeared on the plan, whether of the Mahia Block or Tawapata, made by Burton in 1868.

20. It would appear, then, that the boundary-line was pointed out to the surveyors not only in 1864 by the Mahia owners, but also later to Burton by the Tawapata people. Even if this were the only fact, it would be very difficult to justify any doubt being thrown upon the correctness of the boundary-line as claimed by the Crown. But that is by no means the only fact. There is the fact that on both occasions before the Native Land Court it was made quite plain that the land to the north of the Mangatea Stream and to the west of Tawapata North had been acquired by the Government. There is also the fact that no question was ever raised until the lapse of seventy-two years, if we regard the petition of 1936 as making the first complaint, or sixty years if the petition of 1924 can be regarded as the commencement of the present controversy. Even that is not all: during the whole of the intervening period the area which is now in question was, to the knowledge of the Maoris, occupied by Europeans who had acquired the land from the Crown, and not only no claim but no objection was ever made

or raised by the old Maoris of the day or their immediate descendants, who must have known a great deal more of the place-names and of the boundaries than the members of the present generation.

21. The petition of Mr. Christy and his fellow-petitioners was referred, pursuant to section 16 of the Native Purposes Act, 1937, to the Native Land Court for inquiry, and in 1938 an inquiry was held by Judge Carr, who came to the conclusion that the claims of the petitioners were not justified and that the attack made by the petitioners upon the correctness of the boundary-line as claimed by the Crown had failed. The strength of the case made before Judge Carr was that the two hills, Tikapu and Pukewhatu, had been wrongly placed on the Crown's boundary-line, and the case for the petitioners involved the hypothesis that the sequence of place-names given by the Mahia owners in 1864 was wrong; but if there was one thing more than another that the old Maoris were very careful and particular about, it was the proper description and sequence of the physical features forming their boundaries. It was said before Judge Carr, and has been repeated in evidence before us, that Pukewhatu was a sighting-point for locating fishing-grounds.

22. Before Judge Carr another place-name was mentioned—namely, Waerenganui—but a good deal more has been said about it before this Commission than was said before Judge Carr. It is now said that Waerenganui, which means "a big clearing" (in this case perhaps from 8 acres to 10 acres) is very close to the line as now claimed by the Maoris, and that there is no big clearing on or near the Government line. Even so, there is an old clearing of about 5 acres on Tawapata North No. 2 not a great distance from the Government line at the point at which on the Government line Waerenganui is placed.

23. But there is one point in reference to the difference between the case as presented before Judge Carr and the case as presented before this Commission which may not be without importance. In the case as presented to us, Pakake-a-Mahere, which is said to be a bold whaleback-ridge, is shown to the south of Pukewhatu and not far from the Mangatea Stream. A great deal was made of this particular place. It was said to have been used in conjunction with Pukewhatu as a sighting-point for locating the fishing-grounds; but not a word was said about this before Judge Carr, and, indeed, Rangi Te Rito, who was called as a witness before Judge Carr and who was one of the very persons who had given Judge Harvey the information upon which he had written the names Pukewhatu and Tikapu on the plan in the East Coast Commissioner's office, said in cross-examination that he did not know Pakake-a-Mahere and had never heard of the place. More than that, not a word was said by any of the Maoris to Mr. Harvey in 1924 or thereabouts about either Pakake-a-Mahere or (as far as we can see) even Waerenganui. Nor, indeed, does the petition in 1936 refer to Waerenganui or Pakake-a-Mahere (important as they are now said to be) as wrongly located, but only Tikapu and Pukewhatu. And now, when we know exactly what the case for the claimants is, we find that it involves shifting first Tikapu from perhaps one and a half miles north of Whakaumu-a-Hika-Tupuni to a new line 25 chains south of Whakaumu, shifting Waerenganui and Pukewhatu approximately one and a half miles and two miles respectively to the westward, and shifting Pakake-a-Mahere from about a mile north of Whakaumu to about three miles to the southward of it.

24. There is one other point which perhaps we should have mentioned at an earlier stage. Although the claim made by the Tawapata South Maoris before Mr. Justice Sim's Commission was a different claim from that which is now made, it is perhaps not without significance that that claim seems to have involved the acceptance of the Government line as the correct boundary-line, the area of 5,800 acres then in question being the land between the Government line and the sea.

25. Even if the Maoris claim was entitled to succeed, the whole value of the subject-matter in dispute as at the time of the sale would be only about £550. Although the Mahia Block was estimated to contain 16,000 acres, it was shown on survey to contain only 14,600 acres. If the present claim succeeded, that area of 14,600 acres would have to be reduced again by 3,160 to 11,440. On the basis of the area being 11,440 acres, the price (at £2,000) would have been 3s. 6d. per acre, and 3,160 acres at 3s. 6d. per acre would be just over £550.

26. But, as the result of our inquiry, we find (following the form of the question as set out in the Commission) that it is not “reasonably established that the boundary of the Mahia Block as fixed by survey probably diverged from the boundary thereof as described or intended to be described in the deed of cession.” We have therefore to report accordingly and to say that the Maori claim fails; consequently, the case does not call for any recommendation.

We have the honour to be,

Your Excellency's humble and obedient Servants..

MICHAEL MYERS, Chairman.

A. M. SAMUEL, Member.

H. T. REEDY, Member.

Wellington, 22nd July, 1948.

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