

1951
NEW ZEALAND

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

*Laid on the Table of the House of Representatives by Command of His
Excellency*

*Royal Commission to Inquire Into and Report Upon Claims Preferred
by Certain Maori Claimants Concerning the Mohaka Block*

GEORGE THE SIXTH by the Grace of God, of Great Britain, Northern
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 subjects, HUBERT MAXWELL CHRISTIE, of Wellington,
Company Director, and RICHARD ORMSBY, of Te Kuiti,
Farmer: GREETING:

And whereas by a certain deed bearing date the 5th day of
December, 1851, certain Maoris whose names were thereto subscribed,
did thereby, in consideration of the payment of the sum therein
mentioned, sell and entirely give up to Her Majesty the Queen the
land known as the Mohaka Block, the boundaries of which were set
forth in the said deed and delineated on a map thereunto attached:

And whereas the sale of the said Mohaka Block to the Crown had been impugned by certain Maoris claiming to be descended from persons entitled to interests in the said block, upon the grounds, amongst others, that the great majority of the persons who subscribed their names to, or made their marks upon, the said deed had no proprietary rights whatsoever to the said block; that those who were entitled to sell their interests and did so sell their interests in the said block were not the only owners thereof and had no power or authority to cede the interests of the owners therein; that the deed of cession was not properly executed; and that the purchase price paid by the Crown for the said block was inadequate:

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,
Hubert Maxwell Christie, and
Richard Ormsby

to be a Commission:

In respect of the Mohaka Block aforesaid, to inquire and report—

(i) Whether, due regard being had to the method generally employed in the conduct of transactions with the Maoris for the cession of land to the Crown at the time when the said Mohaka Block was acquired by the Crown, any injustice has been or would be done to the former Maori owners of the said Block or their descendants or representatives, or any of them, in asserting or maintaining the Crown's title to the said Mohaka Block, or any of such portions thereof as are now Crown lands;

(ii) If it be reported that any injustice has been done or would be done as aforesaid, then to recommend whether the former Maori owners of the said Mohaka Block or their descendants or representatives or any of them should have any portion of the said Mohaka Block returned to them, or whether compensation in money or money's worth should now be granted to such former owners or their descendants or representatives, or any of them;

(iii) If it be reported that compensation should be so granted, then to recommend what the extent of such compensation should be:

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 thirtieth day of June, one thousand nine hundred and fifty, 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 sixth day of December, in the year of our Lord one thousand nine hundred and forty-nine, and in the thirteenth 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, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

Appointment of Another Member of the Royal Commission Constituted to Inquire Into and Report Upon Claims Preferred by Certain Maori Claimants Concerning the Mohaka Block

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

To Our Trusty and Well-beloved DOUGLAS JAMES DALGLISH, of Wellington, a Deputy Judge of the Court of Arbitration, HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS by Our Warrant of date the 6th day of December, 1949, issued under the authority of the Letters Patent of His late Majesty dated the 11th day of May, 1917, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, the late Sir Michael Myers, and you the said Hubert Maxwell Christie, and Richard Ormsby were appointed a Commission to inquire into and report upon certain claims preferred by certain Maoris:

And whereas the said Sir Michael Myers died after the members of the Commission had entered upon their labours but before they had made any report thereof, and it is desirable to appoint another member and a new Chairman of the said Commission :

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

Douglas James Dalglish,
Hubert Maxwell Christie, and
Richard Ormsby,

to be the Commissioners and members of the said Commission for the purposes and with the powers and subject to the directions specified in the said Warrant:

And We do hereby appoint you, the said

Douglas James Dalglish,

to be Chairman of the said Commission:

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

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 26th day of April, in the year of our Lord 1950, and in the 14th 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—

E. B. CORBETT, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

Extending Period Within Which the Royal Commission Constituted to Inquire Into and Report Upon Claims Preferred by Certain Maori Claimants Concerning the Mohaka Block Shall Report

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

To Our Trusty and Well-beloved DOUGLAS JAMES DALGLISH, of Wellington, a Deputy Judge of the Court of Arbitration, HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS by Our Warrant of date the 6th day of December, 1949, issued under the authority of the Letters Patent of His late Majesty dated the 11th day of May, 1917, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, the late Sir Michael Myers, and you the said Hubert Maxwell Christie, and Richard Ormsby, were appointed a Commission to inquire into and report upon certain claims preferred by certain Maoris:

And whereas the said Sir Michael Myers died after the members of the Commission had entered upon their labours but before they had made any report thereof, and it was desirable to appoint another member of the said Commission:

And whereas by Our Warrant of date the 4th May, 1950, you the said Douglas James Dalglish, Hubert Maxwell Christie, and Richard Ormsby, were appointed to be the Commissioners and members of the said Commission for the purposes and with the powers and subject to the directions specified in Our said Warrant first hereinbefore mentioned:

And whereas by virtue of Our Warrant first hereinbefore mentioned you are required to report not later than the 30th day of June, 1950, 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 said matters should be extended as hereinafter provided:

Now, therefore, We do hereby extend until the 31st day of December, 1950, the time within which you are so required to report in respect of the said matters:

And We do hereby confirm the said Warrants 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 28th day of June, in the year of our Lord, one thousand nine hundred and fifty, and in the fourteenth 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—

E. B. CORBETT, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

Extending Period Within Which the Royal Commission Constituted to Inquire Into and Report Upon Claims Preferred by Certain Maori Claimants Concerning the Mohaka Block Shall Report

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

To Our Trusty and Well-beloved DOUGLAS JAMES DALGLISH, of Wellington, a Deputy Judge of the Court of Arbitration, HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS by Our Warrant of date the sixth day of December, one thousand nine hundred and forty-nine, 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 Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, the late Sir Michael Myers and you the said Hubert Maxwell Christie, and Richard Ormsby, were appointed a Commission to inquire into and report upon certain claims preferred by certain Maoris:

And whereas the said Sir Michael Myers died after the members of the Commission had entered upon their labours but before they had made any report thereof, and it was desirable to appoint another member of the said Commission:

And whereas by Our Warrant of date the fourth day of May, one thousand nine hundred and fifty, you the said Douglas James Dalglish, Hubert Maxwell Christie, and Richard Ormsby, were appointed to be the Commissioners and members of the said Commission for the purposes and with the powers and subject to the directions specified in Our said Warrant first hereinbefore mentioned:

And whereas by virtue of Our Warrant first hereinbefore mentioned you were required to report not later than the thirtieth day of June, one thousand nine hundred and fifty, your findings and opinions on the matters thereby referred to you:

And whereas by Our further Warrant of date the twenty-eighth day of June, one thousand nine hundred and fifty, the time within which you were so required to report was extended until the thirty-first day of December, one thousand nine hundred and fifty:

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided:

Now, therefore, We do hereby extend until the thirty-first day of July, one thousand nine hundred and fifty-one, the time within which you are so required to report in respect of the said matters:

And We do hereby confirm the said Warrants 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 sixth day of December, in the year of our Lord, one thousand nine hundred and fifty, and in the fourteenth 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—

E. B. CORBETT, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

To His Excellency the Governor-General,
Lieutenant-General The Right Honourable Lord Freyberg, V.C., G.C.M.G.,
K.C.B., K.B.E., D.S.O.

MAY IT PLEASE YOUR EXCELLENCY,—

1. We have the honour now to make the third report as the result of our inquiries into the four matters specified in Your Excellency's Commission of 5th December, 1949, as confirmed in your Warrant of 26th April, 1950, appointing the present members of this Commission. This report relates to a block of land formerly known as the Mohaka Block, which contains approximately 86,000 acres and comprises land situated between the Waikare River and the Mohaka River in Northern Hawke's Bay.
2. The Commission sat at Wairoa to hear representations in respect of this matter on 9th April, 1951, and on the following day. Mr. D. J. Riddiford appeared for the claimants (members of the Ngati Pahauwera). Mr. J. G. Nolan appeared for the Crown.
3. By a deed dated the 5th day of December, 1851, certain Maoris, whose names were thereto subscribed, did thereby, in consideration of the payment of the sum therein mentioned, sell and entirely give up to Her Majesty the Queen the land known as the Mohaka Block, the boundaries of which were set forth in the deed and delineated on a map attached thereto. The price stated in the deed was £800, of which £200 was paid at the time of the signing of the deed. On the estimated acreage of 85,000 acres this price represented approximately 2½d. per acre. A copy of the deed appears in Volume II of Turton's Maori Deeds of Land Purchases—North Island—at page 492.
4. The deed has been impugned by members of the Ngati Pahauwera on various grounds.
5. This Commission has been appointed to inquire and report whether, due regard being had to the method generally employed in the conduct of transactions with the Maoris for the cession of land to the Crown at the time when the said Mohaka Block was acquired by the Crown, any injustice has been or would be done to the former Maori owners of the said block or their descendants or representatives, or any of them, in asserting or maintaining the Crown's title to the said Mohaka Block, or any of such portions thereof as are now Crown lands. If it be reported that any injustice has been done or would be done, then this Commission is to make recommendations as to the steps to be adopted to compensate the former owners of the land or their descendants or representatives.
6. The Mohaka Block was purchased by Mr. (later Sir) Donald McLean on behalf of the Crown. The deed of 5th December, 1851, which is executed by some 296 Maoris, states that it "is a paper of the full consent of us the Chiefs and all the people of Mohaka and Waikare and of other places now assembled at this meeting on behalf of ourselves our relations and our descendants who shall be born after us to entirely give up our land to Victoria the Queen of England and to all the Kings and Queens Her successors for ever." The land is described in the deed, and the deed states that the consideration is an agreement on the part of the Queen of England to pay the sum of £800. Of this sum it is acknowledged that £200 has on the day of the execution of the deed been paid to the Maoris by Donald McLean, Esquire, and provision is made for the payment of the balance by instalments. The deed provides for a reserve of approximately 100 acres at Te Heru-o-tureia, and states that "the cattle of the Europeans may graze upon it if it is not fenced. There are no other portions reserved for us."

7. Although the transaction took place in 1851, it does not appear to have been questioned by the Ngati Pahauwera people until 1891.

8. In 1891 a petition (No. 469) was presented to Parliament claiming that Donald McLean, who had negotiated the transaction had promised to return certain lands to the Maoris, and that such promise had not been carried out. The petition asked that this promise be given effect to, and the Native Affairs Committee reported that the petition should be referred to the Government and "if the promises were made, as stated therein, steps should be taken to keep faith with the Natives." So far as can be ascertained nothing further came of this petition. It was claimed that in the same year Paora Rerepu, a Chief of the Ngati Pahauwera who was concerned in the transaction in 1851, and other Maoris signed a petition alleging that the sale of the Mohaka Block was wrongful because the proper owners were not known to the law and the purchase-price promised was not £800 but £8,000. There is, however, no record that any such petition was ever presented to Parliament.

9. In 1901 two further petitions were considered by the Native Affairs Committee of the House of Representatives. Petition No. 644 of 1900 claimed that there was a balance of purchase-money still due, and the Committee reported that it had no recommendation to make (paper I-3 of 1901, page 16). The second petition (No. 645 of 1900) asked that certain persons might be included in the ownership of the 100-acre reserve mentioned in the deed. The Committee recommended that the petition be referred to the Government for inquiry (paper I-3 of 1901, page 16). No further action was taken in respect of this last-mentioned petition.

10. In 1926 a further petition was placed before the House of Representatives. This petition raised the question of the inadequacy of the purchase-price of £800 for the 86,000 acres sold. It also referred to the fact that the deed of 1851 was executed by seventeen minors. This petition was considered by a Royal Commission in 1927, and the report of that Royal Commission on the Mohaka Block may be found in parliamentary paper G-7 of 1928, at page 28, paragraph 90. In the report it is stated that the petitioners acknowledged the validity of the deed of conveyance and claimed inadequacy of purchase-money. The report stated that there was no trace of any other petition having been presented to Parliament, and that it appeared from the files that this was the first claim of its kind made regarding the Mohaka Block. The report of the Commission then proceeded as follows:—

It is not possible after such a long delay to arrive at any satisfactory conclusion as to the adequacy or otherwise of the purchase-price. Apparently the Maoris at the time were satisfied. Seeing that it was bush and scrub land, in a very warlike district, with no access, it was probably not worth more than what was paid for it. The petitioners have not made out, we think, any case for relief.

11. In 1946 a further petition was presented to Parliament (Petition No. 40/1946). This petition has led to the matter being referred to this Commission. The 1946 petition makes the following claims:—

(a) The Mohaka Block referred to in the deed of purchase of 5th December, 1851, was the ancestral and customary land of the Ngati Pahauwera tribe.

(b) Of the 297 Maori names attached to the deed, 227 belonged to persons who had no ancestral or customary rights to the land whatsoever.

(c) The names of a large number of persons of the Ngati Pahauwera tribe who were living on the land in 1851 do not appear on the deed of sale and the rights of these non-sellers did not pass by the deed.

(d) The price of £800 was inadequate.

(e) The deed was not signed at Mohaka.

The petition of 1946 also pointed to the following matters which the petitioners considered created suspicion concerning the transaction. These matters were as follows:—

(f) The deed was executed by a number of infants.

(g) Paora Rerepu, an acknowledged chief of the Ngati Pahauwera, did not sign the document but is shown as having made his mark thereon. (In 1855 he signed his own name to a receipt for £300.)

(h) Persons from outside Mohaka witnessed the deed when local Europeans were available as witnesses. The petitioners alleged that if the local Europeans had been asked to witness the document they would have questioned the execution of the document by outsiders who were not entitled to any interest in the land.

12. At the hearing before us in Wairoa the main attack on the transaction was made on the grounds of inadequacy of the consideration, but most of the other matters traversed in the 1946 petition were brought forward and we have given careful consideration to all of them.

13. In 1851 Mr. Donald McLean was the Government Land Commissioner and was entrusted with the acquisition of land for the Crown in Hawke's Bay. In November and December, 1851, he concluded the purchase of three blocks of land—namely, Waipukurau, Ahuriri, and Mohaka. The negotiations as to the Mohaka Block commenced in January, of that year. Mr. McLean in his journals (the originals of which are in the Turnbull Library) has the following recorded under 7th January, 1851:—

Te Hapuku and Paora, the Chief of Mohaka, arrived in a whale-boat from the Mohaka. Paora seems anxious that I should visit his place and has had a long conversation with me, respecting his land, and his people residing on the river, whom he estimates at 100 men.

The journals record that Mr. McLean went to Mohaka on 28th January, 1851, and that the Natives collected there and offered in several set speeches to sell Mohaka if it were worth accepting. On 5th March, 1851, Mr. McLean was again at Mohaka. His journals contain the following entry under 5th March, 1851:—

In the morning came on to Paora and Potutu's Pah, where we breakfasted. Potutu insisted on my spending the day there, that he might assemble the Natives, to sell his land. It being desirable to have the Mohaka, I agreed to remain; then, in the evening, the natives present fully agreed to sell their claim to the other side of Mohaka, on to Waitaha, retaining the north side on to Waituna, at my suggestion, for themselves; which will be a good river boundary. . . . I agreed to purchase the Mohaka.

Mr. McLean's journals also record that on 17th March, 1851, he told Paora Rerepu that Mohaka would be surveyed after Mr. Park (surveyor) returned.

14. On 7th June, 1851, Robert Park, surveyor, wrote a letter reporting to Mr. McLean on "three blocks of land lately agreed to be purchased by you from the Natives of Ahuriri and others." The three blocks reported on were the Waipukurau Block, the Ahuriri Block, and the Mohaka Block. This letter is recorded in parliamentary paper C-1 of 1862 at pages 313, 314. It is clear from this report that the Waipukurau Block was regarded by Mr. Park as being the best, and that the Mohaka Block was regarded as being better country than the Ahuriri Block.

15. On 4th November, 1851, the Waipukurau Block, containing 279,000 acres, was purchased at a price equal to 4-13d. per acre, provision being made for reserves of an area of approximately 4,379 acres. On 17th November, 1851, the Ahuriri Block, containing 265,000 acres, was purchased at a price equal to 1-35d. per acre, provision being made for reserves of an area of approximately 1,500 acres. On 5th December, 1851, the Mohaka Block, containing approximately 85,000 acres, was purchased at a price equal to 2-25d. per

acre, provision being made for a reserve of 100 acres. Mr. McLean's journals record that he arrived at Mohaka on Wednesday, 3rd December, 1851, and the entry for that day concludes with the statement that "the natives are collecting from several places." On 4th December the entry in the journals concludes with the statement that "the Natives are gathering in considerable numbers, from the interior of the Mohaka." The entry under 5th December, 1851, the date of the deed of sale of the Mohaka Block is as follows:—

The deed was handed to the teacher, Honi, last evening to be read publicly to the natives, after prayers; the map having been handed round by Paora Rerepu, and the boundaries fully explained to them yesterday. I also spoke to them about the cession of their land, the payments of it, and reasons for extending it over so many years, and the advantages to them of such a system. This having been done yesterday, I called the Chiefs together to-day, and asked them how they wished the money divided. They all agreed to have £100 for Waikari, and £100 for Mohaka. The Waikari Hapus, 20 in number, were handed in by Te Poihipi, and 197 Hapus of Mohaka by Paora Rerepu.

I told the Chiefs that giving equal portions of £2, each Hapu, would amount to £199; leaving £1 of the £200 over; or that the Waikari people would have £5 each Hapu by dividing £100 among them; which was agreed to; and Paora agreed to divide £100 among his tribe of Mohaka, as far as it goes.

The deed was signed; its contents explained fully, and afterwards the £200 paid over to the Natives.

Very heavy rain. The Natives dispersed. Some dissatisfaction, some quite happy, and on the whole matters are concluded as well as could be expected.

16. There were no other substantial purchases in the Hawke's Bay district for just over two years, the next purchase being the purchase of the Tautane Block on 3rd January, 1854. From that date until 18th July, 1859, when the Porangahau Block of 60,000 acres was purchased, some twelve large blocks of land were purchased for the Crown in the Hawke's Bay district. The prices ranged from 24d. per acre down to 1-2d. per acre, and in eight of the twelve cases no provision was made for any reserve.

17. In 1855 the final instalment of the £800 purchase-price for the Mohaka Block was paid. A receipt dated 4th April, 1855, is endorsed upon the original document signed on 5th December, 1851. This receipt which is executed by some fifty Maoris, including Paora Rerepu, acknowledges the receipt of the sum of £300 paid by Mr. McLean "for our lands at Mohaka at Waikare and inland the names of the boundaries whereof are written on the other side of this paper as written and assented to by us at our general meeting at Mohaka on the fifth 5 day of December on the receipt by us of £200 in the year 1851. Three hundred pounds £300 was received by us in the month of January in the year 1853. Three hundred pounds £300 being the final instalment we have this day received and on the receipt of these monies and the fulfilment of all the conditions and the final surrender of this land to the Europeans we have hereunto subscribed our names and marks in the presence of this assembly." This document was witnessed by James Anderson, settler, Waikare, and Adolf Friedrich Henrici, ship carpenter, Mohaka. Mr. McLean's journals show that he was at Mohaka on 4th April, 1855, for the purpose of paying the £300 over to the Maoris, and under 5th April, 1855, states that on that day he left Mohaka for Waikare accompanied by Mr. Anderson.

18. The 100-acre reserve at Te Heru-o-tureia, set aside under the deed of 5th December, 1851, was acquired by the Crown as a separate transaction. It appears from the receipt for the purchase-price of £100 paid for this reserve that it was never fancied and that trouble had arisen about wandering stock. The receipt says that the sale was in order to put an end to disputes respecting the stock of the Europeans running on the place. The receipt for the £100 is dated 5th July, 1859. It is to be noted that this receipt refers to the reserve

Te Heru-o-tureia as "all the portion reserved by us formerly at the time of the sale of Mohaka and Waikare" and says "We will never go back upon this place it was the only place reserved for us formerly out of this sale."

19. The attack on the inadequacy of the price paid for the Mohaka Block rested upon the following three points:—

(a) The price of £800 was inadequate having regard to the prices being paid for land at that time.

(b) No reserves were made in accordance with the practice of the time nor was there any reservation of what were known as "fifths" or "tenths."

(c) The price promised was £8,000, not £800.

20. To endeavour a century later to determine what should have been the proper price paid for a large block of Maori land having regard to the prices of the day is to undertake an impossible task. We feel, however, that consideration of the transactions taking place at about that time will indicate whether there is anything extraordinary about the Mohaka purchase in relation to the price fixed in the deed. We have already stated that the prices paid for the other two blocks purchased in Hawke's Bay at approximately the same time amounted to 4-13d. per acre and 1-35d. per acre respectively. It is also clear from the report of Mr. Park on all three blocks that, in his opinion, the price of 2-25d. per acre for the Mohaka Block, standing as it does between the higher price paid for the Waipukurau Block and the lower price paid for the Ahuriri Block, would probably represent the relative worth of the Mohaka and when compared with the land in the other two blocks. A comparison with the prices paid for other large blocks of land purchased by the Crown in the Hawke's Bay district in the following seven or eight years, having regard to the relative worth of the lands purchased, does not indicate that 2-25d. per acre was an unduly low price to pay for the Mohaka Block.

21. The failure to set aside any substantial reserve for the Maoris from the Mohaka Block was stressed by Mr. Riddiford. He submitted, in effect, that in view of the difficulty of assessing the real value of the land at that time it was usual to reserve an area for the Maoris so that they would receive the benefit of the increment in value arising from the settlement of the land by the Europeans and the introduction of European methods of cultivation, &c. There was also a practice which was carried out in some other purchases to which we were referred of paying to the Maoris, in addition to the fixed sum agreed upon at the time of the purchase, a percentage of the price received on the resale of the land to the Europeans. Failure to provide specific reserves for the Maoris or, in the alternative, to provide for payment of what were known as "fifths" or "tenths" depending on the percentage provided for, was claimed by Mr. Riddiford to be evidence of failure to provide adequate consideration to the Maoris. He referred to the principles laid down at the commencement of the operations of the New Zealand Company in this connection. In our view these statements of principle, in relation to the New Zealand Company, have no bearing on the matter which we are called upon to consider. It is clear that there was no general rule or practice adopted in Hawke's Bay as to the setting aside of reserves. In eight cases in the first fifteen large purchases before August, 1859, there was no provision for reserves of any kind nor was there any provision for payment of "fifths" or "tenths," and in several other cases the areas of reserves were very small by comparison with the area purchased. Nevertheless, we have considered what reasons might have led Mr. McLean not to make provision for reserves in the case of the purchase of the Mohaka Block. We think the reason is clear. The Mohaka

Block comprised land to the south of the Mohaka River. The vendors, the Ngati Pahauwera, resided to a substantial extent on the northern side of the river and had a considerable area of land to the north of the river. The reference in Mr. McLean's journals under 5th March, 1851, which we have already quoted, indicates that the Mohaka Maoris were retaining land on the north side of the river as far as Waituna. That being so it is clear that if any increment to the value occurred because of European settlement in the district, it would accrue to the lands on the north side of the river as well as to the lands on the south side of the river, and the benefit thereof would be derived by the Maoris. It is clear, also, that substantial areas were left to the Maoris upon which they could live and have their cultivations.

22. The claim that £8,000 was promised as the price and not £800 was referred to by witnesses before us as having been handed down to them by members of the tribe who were concerned in the sale, and something was sought to be made of the fact that the older generation in the tribe used the word "tautini" for "thousand." It was also stated that Paora Rerepu himself had in 1891 signed a petition claiming that the price was £8,000 though, as already mentioned by us, there is no evidence that any such petition was presented to Parliament. An examination of this claim from two points of view establishes that it is not justified. In the first place, if the amount promised was £8,000, it would represent a price of 22½d. per acre, and we find that in all the purchases of large blocks in the Hawke's Bay district between 1851 and July, 1859, there is only one purchase at more than 15d. per acre. That land was the Matau-a-Maui (Cape Kidnappers) Block of 30,000 acres, sold for 24d. per acre with a small reserve. One other block of 5,000 acres was sold at a price representing 14½d. per acre without any provision for reserves. Both these blocks contain some very good land, which at the time they were purchased would be available for immediate settlement by reason of the fact that they had large areas without any bush on them and had easy access. Two other blocks were purchased at 12d. per acre, but the rest of the land was purchased at 9d. per acre or less. The Porangahau Block of 60,000 acres was purchased in July, 1859, at a price equal to 1-2d. per acre, with a reserve being provided of only 1,300 acres, which was granted to four specified Maoris. From this point of view, therefore, the claim that £8,000 was promised appears to be quite unjustified. In the second place, the claim can also be examined by reference to the various documents completed at the time and to the journals of Mr. McLean. We were invited to regard Mr. McLean's journals with considerable suspicion on the basis that it is possible that he was writing the journal entries in order to justify and substantiate transactions entered into by him. We do not accept this view. The entries in his journals so far as we have examined them in respect of the Mohaka Block all fit in with what is contained in other contemporary documents. If we treated the journals as worthless, we would still have the formal documents witnessed by a number of persons who, if the documents were not correct, must have consented to put their signatures to a formal document with knowledge that they were taking part in a fraudulent transaction. The original deed states the amount as being £800, and the endorsed receipt for the last payment also shows that the amount is £800. If £8,000 had been promised it is reasonable to assume that something would have been said or done about it before 1891. Certainly, it would be likely to be mentioned when the final receipt was completed in 1855, but we find that that receipt acknowledges that the amount paid is the final instalment, and it shows the total payments to be £800. Mr. McLean's journals indicate that the Waikare Maoris were not very satisfied with the division of the money between the

Waikare and Mohaka Maoris, but no complaint was made that the agreed price had not been paid. The entry dated 6th April, 1855, shows that there was some murmuring by the Waikare Maoris about the small "utu" they received for their land, and the entry then proceeds:—

I read the deed of sale over to them, told them that the price was fixed upon with their own full concurrence, at a public meeting at Mohaka, that no objection was then, or subsequently made. If an objection had been made in the first instance, a remedy could easily be obtained, as I would not purchase the land unless they were satisfied with the price. The division of the money among themselves, which caused the discontent, had no reference to any act of mine; and if the Waikare Natives thought the Mohaka people had too much, they should tell them so, and not complain to me, after matters were finally closed. Now the land was the Europeans', as everything had been fulfilled in accordance with the first treaty; and this was not the time for being dissatisfied. If the payment was considered small by them, they had Europeans coming among them to give their produce increased value, and I trusted they would treat them with kindness and attention.

Te Teira Paea, the young Chief of Tongoio, replied—"Yes, all you have said is quite correct. You have fulfilled your promise. The land is yours. I am not going to take it back again, or murmur against any of your proceedings. My only ill-feeling is towards the Mohaka Natives, for not giving us a larger share of the payment, but we ourselves agreed that they should receive what they have taken."

Tohu Tohu followed in the same strain.

23. Other points raised in the petition of 1946 were discussed before us. These included what was stated to be the objectionable feature that a number of minors had signed the document as sellers. An examination of other documents signed about the same time in respect of Crown purchases of Maori lands indicates that signature of the deeds by minors was a common practice. We were referred to purchases of other blocks in the Hawke's Bay area where the list of signatories contained minors. These included the Waipukurau Block and the Ahuriri Block, purchased in November, 1851, and we were also referred to a case where a similar practice appears to have been followed outside Hawke's Bay. That there is nothing sinister or fraudulent in the signature of the document by minors is obvious from the fact that the document itself discloses which of the signatories were minors. We think it likely that the parents of the children might have asked that the children be permitted to sign. Whatever the reason, it appears to us to have no bearing on the validity of the deed.

24. It was also suggested that the document was flooded with the signatures of persons who were not in effect owners in the block. In the year 1851 there were no records of tribal ownership. At that time, and for some years afterwards, any person dealing with Maori land by way of purchase or otherwise was entirely in the hands of the chiefs. They were the only persons so far as a purchaser was concerned who could know which of the Maoris in any locality were interested in a particular piece of land. There was no effort made to compile records of tribal ownership until after the first statute on that subject was passed in 1862. Mr. Donald McLean, therefore, necessarily had to deal through the chief in acquiring land for the Crown. Mr. McLean followed in the case of the Mohaka Block the usual and, we consider, the proper method of acquiring the land. We do not consider that the presence of signatures of persons who may not have had any interest in the land can affect the validity of the transaction as between the Ngati Pahauwera people and the Crown, for it is clear that the Ngati Pahauwera people through their chiefs and at public meetings held some months before the document was signed as well as at the time of the signing of the document concurred in the sale.

25. We do not consider that it was necessary for all the members of the Ngati Pahauwera to sign the deed. The transaction was concurred in by the chiefs and by the people at meetings. In view of the state of the country in

1851, and having regard to the practice then current in respect of the purchase of Maori land, we are satisfied that all proper steps were taken and that the Crown acquired the title to the whole of the Mohaka Block. One of the witnesses who gave evidence before us suggested that the document was "hawked around" the country and that signatures were obtained in numerous places. This evidence was introduced with a view to furthering the claims in relation to the signature of the document by persons alleged to be non-owners. We have found no evidence in any of the documents to support the suggestion that the document was hawked around. In fact Mr. McLean's journals are clear on the point, but even without those journals we have the fact that a formal document was executed and signed by some nine persons as "witnesses to the receipts of this money and to these signatures." The names of the various witnesses were considered by us. The reasons for the presence of the majority of those witnesses at Mohaka on 5th December, 1851, appears from Mr. McLean's journals. For instance, two of the witnesses arrived at Mohaka on 4th December with some specimens of sand which they wanted Mr. McLean to have analysed by a chemist in Wellington in the hope that the sand contained gold. Another witness was a clerk who accompanied Mr. McLean to Mohaka.

26. Having given most careful consideration to the submissions made on behalf of the Maori claimants we have come to the definite conclusion that they have failed to establish their claim, and as the result of our inquiry we find that no injustice has been or would be done to the former Maori owners of the Mohaka Block or their descendants or representatives or any of them in asserting or maintaining the Crown's title to that block or to such portions thereof as are now Crown lands. We have therefore to report accordingly, and to say that the case does not call for any recommendation in favour of the Maoris claiming to be interested in the Mohaka Block.

We have the honour to be,

Your Excellency's humble and obedient servants,

D. J. DALGLISH, Chairman.

H. M. CHRISTIE, Member.

R. ORMSBY, Member.

Wellington, 17th July, 1951.