

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