

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