

53. In Mr. McLean's letter of the 29th December, 1851, he refers to the desire of Tareha and others to reserve valuable lands "on both sides of the harbour." These lands were on the North Spit, South Spit, and Scinde Island, which lie on the sides of Ahuriri Harbour "proper." The same letter says that the Natives wished to reserve "the shell fish which abound in the Bay." This Bay was not the Whanganui-o-Rotu, neither was it the Ahuriri Harbour, it was Hawke's Bay. The last paragraph to this letter reports that—

Mr. Park has made considerable progress in laying off a town at the Ahuriri Harbour.

54. The conclusion one arrives at is that all parties understood the Ahuriri Harbour to be the Ahuriri opening and the cove immediately adjoining it. The limit of this harbour appears to have been the point where the old traffic bridge crossed from Napier to the Meanee spit side.

All the rest of the watered area to the northward, including the place where the present Westshore bridge now stands, was the Whanganui-o-Rotu or, as it is often called throughout the official correspondence quoted herein, the Ahuriri Lake or Whanganui Lake.

55. It would appear also that the summing-up of the Native Land Claims Commission of 1920 correctly sets out the position provided the reference therein to the harbour is confined in application to the Ahuriri Harbour, and not to the Whanganui-o-Rotu as a whole. While I think this conclusion is justified on the general grounds set out herein, I must again suggest that when Mr. McLean, in his letter of the 29th December, 1851, stated that he objected to all of the requests of the chiefs to have valuable lands reserved for them on both sides of the harbour he was speaking of the harbour that he had bought or arranged for, and he could have meant only the Ahuriri Harbour or Port Napier, because he did reserve Wharerangi, which is on one side of the Whanganui-o-Rotu, and Roro-o-Kuri, which is inside it. Both of these were big reserves and valuable reserves.

56. The Natives have in various ways attempted to establish their claim to the Whanganui-o-Rotu.

57. The following minutes represent their efforts on the 13th April, 1916, to establish title :—

Extract from Napier Minute Book No. 66, page 235, Hastings, 13th April, 1916

Present : M. Giffedder, Judge.

N. Winiata, Clerk & Intpt.

TE WHANGANUI O ROTU INVESTIGATION OF TITLE

Mr. Prentice for the Napier Harbour Board opposed.

Mr. A. L. D. Fraser for the Natives said he could not lead any evidence for the Natives as he had made a careful inquiry and came to the conclusion that the natives have no title. He produced plan 1226 Red and a copy of the agreement between the Crown and the Natives for the purchase of the land now in question.

Mr. Prentice said the area is 7,900 acres. It is not Native land or customary land but is vested in the Napier Harbour Board by a special Act of Parliament. See Act of September 1854. Land vested in Superintendent of Province. Land at Coast or below high water mark 1st. Grant No. 1249 vested in the Superintendent of Hawkes Bay—Napier Harbour Board Act 1874. Land reserved and set aside for Harbour Board. Harbour Board was constituted in 1875. Reserves under Harbour Act and Reserves Act see schedules—which describes the Whanganui-o-Rotu. In 1887 an amending Act was passed See Sec. 3 of Napier Harbour Board Act. This land is therefore vested in the Napier Harbour Board. It is not Native Land and the Court has no jurisdiction except the Government gave special jurisdiction under Sec. 25 of the Act of 1909. It is also beyond the province of the Court to question any title or grant issued before 1892. See Sec. 432 of the Act of 1909. (According to the agreement for the sale of Ahuriri Land made 17/11/1851 between Donald McLean, Land Commissioner on behalf of the Crown and Tareha Paora Torotoro, Karanamutu Nahu, and others.) The consideration was stated to be £1500 and the boundaries of the purchased land are set out.

Decision was given as follows. The area of land and water of which the Whanganui-o-Rotu is part was purchased from the Natives in 1851 for the sum of £1500 by the Crown. By subsequent Acts, Parliament empowered the Crown to vest land of this kind in Superintendents of Provinces and