

more or less. The petition was referred to Mr. Justice Sim's Commission for inquiry, and we think it desirable to repeat verbatim the report of that Commission. It is as follows :—

The petitioners in this petition pray "to have returned to them their island, Motukaraka, containing four acres, more or less." This island was purchased from the Maori owners by Thomas McDonnell in 1831, and a grant was issued to him under the Land Claims Settlements Acts on the 4th December, 1860, and the Native title has accordingly been extinguished. The petitioners, however, varied their claim at the hearing of their petition, and claimed the return of the Motukaraka Block on the mainland, amounting to 2,560 acres, or compensation in lieu thereof. Evidence showed that McDonnell purchased the Motukaraka Block from the Maori owners in 1831. In 1844 the purchase was inquired into by Commissioners Godfrey and Richmond. In a note on the report by the Commissioners it is stated that the Native owners admitted the payment they received and the alienation of the land described in the report. The Commissioners then recommended a grant of 2,560 acres to Thomas McDonnell within the boundaries of the report—that is, from Tokotoroa, in the Narrows, to the rocks in the Te Tapuwae Creek—as the balance of the area claimed by McDonnell was disputed by the Maoris. The boundaries mentioned in the report approximately coincide with the boundaries of the Motukaraka Block, the subject of this petition. A grant was issued to McDonnell for 2,560 acres at Motukaraka, the boundaries of which were as reported by Commissioners Godfrey and Richmond. After the passing of the Land Claims Act, 1856, this grant apparently was called in and a survey directed to be made for the purpose of issuing a new grant with a more accurate description of the land. Owing to the Taranaki war, it was thought best not to proceed with the survey of Motukaraka, and an exchange was made with McDonnell by which the Crown granted McDonnell land at Whangarei and took a conveyance endorsed on the original grant from McDonnell. Mr. John Curnin in 1885 reported upon the block, and recommended the Crown proceeding with the occupation of the land acquired from McDonnell. It appears that events long after the sale of the Motukaraka Block created the impression with the Maoris that the sale was not valid, but there is no good reason for disputing the finding of Commissioner Richmond in 1844 that the Maoris then acknowledged the sale of the block as defined later in the grant.

(ii) The finding of Mr. Justice Sim's Commission is really sufficient to dispose of the claim in the petition, but the same result arises from a consideration of the question of surplus lands on the principles we have applied in dealing with the whole topic. From no point of view can it be said that there is any surplus in this case to which the Maoris have a claim in equity and good conscience.

23. As previously stated, during the sittings that we held in Kaikohe and Auckland Mr. Cooney admitted frankly that the Maori petitioners in the various petitions to which we have referred could not succeed in obtaining the relief claimed by them in their petitions upon the grounds alleged in the petitions, and that the real and only valid ground upon which relief could be claimed is that there was an area of surplus land involved in the case of each petition, and that in each case the real and only question is whether the original Maori vendors of the land had a claim in equity and good conscience to the surplus. That was and is our own view, and in none of the petitions are we able to make any recommendation ; any portions of any of the lands referred to in the petitions which we find to be surplus lands in which the Maori vendors would have had a claim in equity and good conscience should for the reasons stated later be included *in globo* together with all other lands which may be found to be in the same category.

24. While on the subject of special cases, we may say that we have had various communications from Maoris in regard to their claims to surplus lands where there have been no petitions to Parliament. We do not think it necessary to make any reference to any of these communications. It is sufficient to say that in every case in which there appears to be any land coming within the description of surplus lands, whether or not it has been the subject of petition to Parliament or communication to us, we have considered the question whether the original vendors would have had a right in equity and good conscience to the return of the land.

25. There is one specific point which we think we should mention here. During our inquiry the Maoris made a request that any burial-grounds or sacred places that may exist on any of the "surplus lands" still in the possession of the Crown (in particular they mentioned Taemaro, Whakaangi, Opua, and Manawaora) should be