

Para. 72 (b).

Para. 85 *et seq.*

out the contention that he was wrong in 1883 when he suggested that the land had been left by the Government or Natives entirely in Wi Katene's hands.

223. In para. (12) the declarant goes rather far in attributing to William Fox an imperfect knowledge of the identity of the "Chief of Whakapuaka" in 1845, and makes his offence worse by suggesting that there is anything in the declaration under review that shows that William Fox made a mistake in assuming that a certain person was "Chief of Whakapuaka." If William Fox was wrong, then Major Richmond (Superintendent of the Southern Division of New Zealand) and Mr. Forsaith (Government Interpreter) also must have been in error when they recognized Paremata as the Chief of Whakapuaka and settled (permanently and for good) the disputed boundary with him.

224. Para. (13) has already been dealt with. (See paras. 178, 179, and 180 of this report.)

225. Para. (14) overlooks the old rule of Maori custom that "Mana rangatira" in a superior does not debar social inferiors from claiming an interest in land to which each have rights backed up by occupation. The deponent is wrong when he says that the Paremata family claimed an interest in Whakapuaka Block. They were not represented (except perhaps by Huria) at the 1883 hearing—the only occasion when this land has been before the Court.

226. Paras. (15), (16), (17), and (18) of the declaration are apparently designed to discredit the evidence of a John Tinline should he at any time come forward with a statement of his knowledge of the early history of this block. In actual fact, John Tinline felt the weight of Paremata's arm when Donald Sinclair interviewed Paremata over the Happy Valley dispute about a week before the Mackay family arrived in New Zealand. It is possible that John Tinline did not know the whole history of Whakapuaka, but it is unfair to suggest that he should know less of incidents that he participated in than the declarant, who was not even in the country when the incidents occurred.

227. Para. (19) is an apologia defence of paras. (15) to (18) as para. (20) is of the declaration as a whole. Para. (21) is a statement of opinion of a partisan.

228. Comparing as we now can the varying and contradicting statements contained in the "Cable Station draft," the evidence of 1883, the report of 1896, and the declaration of 1905, one feels that there is considerable justification for the remarks of Mr. Sim when in his address to this Court he said:—

I am amazed at the deadly persistency with which Alexander Mackay pursued these unfortunate people. Whenever and wherever they sought a way of relief they saw the massive figure of Alexander Mackay blocking the path. I am amazed at the tremendous efforts he made to establish Huria Matenga in the sole ownership of this land. I am amazed at his devotion to her cause and at the way he wrestled with the truth and sometimes overcame it. It is no wonder from his frequent appearances in this case the Maoris got the idea the decision against them was given by Judge Mackay. It was he certainly who killed every attempt they made to get a rehearing.

229. Mr. Sim was at pains to make it clear that while he must severely criticize the statements made by both James Mackay, jun., and Alexander Mackay, he was far from wishing to assail the high character which each of these gentlemen possessed. This Court is in full accord with the latter sentiment and would point out that no official or judicial act of the late Judge Mackay has been the subject of unfavourable comment at this inquiry.

230. From 1896 to 1934 petitions have been presented to Parliament praying for a reinvestigation of title to the Whakapuaka Block. In each case the petition was referred by the Native Affairs Committee to the departmental head for report. Taking them in the reverse order to which they were received these reports are to the following effect:—

(a) The report of 5th September, 1934, upon petition 123/1934 was purely a reference to previous reports upon petitions 262/1933, 361/1929, and 56/1928.

(b) The report of 27th December, 1933, upon petition 262/1933 was purely a reference to previous reports upon petitions 361/1929 and 56/1928.

(c) The report of 12th October, 1929, upon petition 361/1929 was purely a reference to a previous report upon petition 56/1928.

(d) The report of 31st August, 1928, upon petitions 56 and 57 of 1928 was a reference to the proceedings in regard to petitions 60/1896, 2/1897, 6/1898, and 8/1903 (L.C.).

It also draws particular attention to Judge Mackay's report of 1896 and to the fact that there was on file "long" declarations by James Mackay and Alexander Mackay. Attached to the report of the Under-Secretary is a report of the Registrar of the Native Land Court which, after quoting the judgment of the 1883 Native Land Court in full, adds as comment the following:—

It appears that even at this time the Court decided that although Wi Katene had considerable mana he had no actual right to be included.

In regard to William Fox's reports (Mackay's Compendium, folii 268-270) there is no doubt that Te Wahapiro (Paremata in these reports) took up a most aggressive attitude when his rights were questioned to a small valley of about four or five hundred acres on the sea-coast known as Whakapuaka. These reports also indicate that Paremata had sold the valley and received the "utu" from the Europeans.

The Whakapapa given in the petition may be compared with the Whakapapa recited by Hani Kamu in his evidence on the probate of Huria Matenga's will. (Wn, M.B. 16/326-7.)

An unfortunate lapse makes the comment of the Registrar a mis-statement of fact. The "Wi Katene" mentioned in the judgment was the deceased father of Huria Matenga and the person through whom she derived all her rights to the land. The "Wi Katene te Puoho" who signed the petition under review by the Registrar was a son of Heni Tipu, a grandson of Paremata Wahapiro, and a namesake of Wi Katene te Manu or Te Puoho. It is also rather unfortunate that the Registrar should interpret William Fox's report as stating that Paremata Wahapiro had sold the valley *on the sea-coast known as Whakapuaka*, as it makes it appear that Wahapiro sold his interest in the Whakapuaka Block itself. Actually, of course, the dispute was over land not on the sea-coast but within the boundaries of Spain's award, the northern boundary of which is the southern boundary of Whakapuaka Block.