

and Ihaia Tamaikahakina, a portion of the Patutahi Block known as Tapatoho (or Tapatohotoho), on the following grounds: (1.) That, as a descendant of Wharepirau, he and the persons named are sole claimants of the above-named block. (2.) He alleges that land was given over by Rapata Whakapuhia to the Government for a special purpose. (3.) That the purpose for which the land was given has never been carried out. (4.) That petitioner, in August, 1869, protested against his individual rights being prejudiced by deed of cession 1868. (5.) He prays for relief. The petitioner gives evidence himself, and produces three other witnesses in support of his petition. Mr. Locke appears on behalf of the Crown, and gives evidence, and hands in several documents and two maps in evidence. The documents and maps referred to are the following: (1.) Attested copy of deed of cession, printed under the authority of the Government (accepted by petitioner). (2.) Notification by the Governor of acceptance of land ceded, and declaration of extinguishment of Native titles. (3.) Commission appointing Judges Rogan and Monro Commissioners to inquire into titles. (4.) Original minutes of proceedings of Commissioners' Court, from the 29th June to the 10th August, 1869. (5.) Sketch-plan produced before Commissioners' Court in 1869, prepared by Mr. Bousfield. (6.) Plan of actual survey, also by Mr. Bousfield. (7.) Papers and correspondence relating to Mr. Harris's claim.

From the evidence adduced by petitioner, there is no question that he, with the other Natives mentioned, have established an ancestral claim to that portion of land adjoining the Patutahi Block and included in the survey thereof, called Tapotoho, containing 735 acres, and not 522 acres and 20 perches, as stated in the petition. There is no doubt also in my mind that all the petitioners, excepting two, have signed the deed of cession of the 18th December, 1868; the two who have not signed being Edward Francis Harris and Rutene te Eke.

If the deed of cession is to be made to apply to this case, five out of the seven claimants are by their own act ousted, leaving two to be dealt with. Supposing the original claimants had equal shares (share and share alike), 521 acres would fall to the Crown and 214 to the two persons who did not sign the deed of cession.

It will be observed, by perusal of the evidence attached, that all the witnesses in support of the petition have mixed up two entirely separate transactions—namely, the execution of the deed of cession of 1868 and the subsequent arrangement made between the Crown Agent and the Natives, which arrangement was ratified before the Commissioners on the 30th June, 1869.

Mr. Locke, in his evidence, states that the Crown Agent found that it was practically impossible "to pick out the portions (of land) belonging to the Hauhaus from the vast piece of land ceded;" he therefore, after a great deal of discussion, came to an arrangement with Mr. Graham, the Native agent, to accept a portion of the ceded block in liquidation of all Government claims. The latter arrangement, as far as the Government was concerned, practically set aside the deed of cession altogether.

As this is a question of great importance in dealing with the subject submitted to me, I will quote fully from the minutes of the Commissioners' Court what actually did take place on the 30th June, 1869. "Mr. Atkinson stated in Court that he had succeeded in effecting an arrangement with Mr. Graham, who appeared on behalf of the tribes Aitanga-a-Mahaki and Rongowhakaata, by which a certain proportion of the ceded block should be given up absolutely to the Crown, in consideration of which he was willing to waive all claims over the remainder of the block." "Mr. Graham then stated that he appeared on behalf of the above-named tribes, and his statement was confirmed by the Natives present, and he then announced his acquiescence on their behalf with the terms stated by Mr. Atkinson." "Mr. Graham then stated that the three blocks following comprised the land over which the above-stated agreement was to extend, viz., Te Muhunga, Patutahi, and Te Arai." "In reference to the first block, it was agreed that the block should contain 5,000 acres, subject to the subsequent determination of boundaries on survey. . . . " "Patutahi is situated on the west bank of the Waipawa River, a block as yet unsurveyed, but the boundaries have been agreed upon and were here stated by Mr. Graham and pointed out on the map produced. A reserve of probably about ten acres at Patutahi, on account of his 'urupas,' was asked for by Tamihana Ruatapu, the same to be made a public cemetery reserve. . . . " "The acreage is estimated at 57,000 acres." "Te Arai Block, adjoining Patutahi Block on the western side, is also as yet unsurveyed, but the boundaries were stated and pointed out by Mr. Graham." . . . "Acreage estimated at 735 acres."

I should mention here that the last-named block is identical with Tapatoho, the subject of this petition. I would here observe that the two tribes, Te Aitanga-a-Mahaki and Rongowhakaata, are the two great tribes of the Poverty Bay District. The petitioner is a member of the latter tribe.

The next question is, did this arrangement affect and was it binding on the individual members of the tribe whether present or absent? I hold that it did, and was binding. All individual interests were merged in the great question affecting the whole tribe. This is quite in accordance with Maori custom and is agreeable to our own axioms of political economy; and, although the petitioner was absent, and was therefore not a consenting party, still the act of the tribe was binding upon him. The land referred to in the petition was given up absolutely to the Crown. I am of opinion that, in all questions of this kind, where an agreement is deliberately entered into with Natives, whether as individuals or tribes, and solemnly ratified before a Court of judicature; such agreements should be absolutely binding, and should not be departed from on any pretext whatever.

From what I have stated above, it will be almost needless for me to add that I cannot recommend the prayer of the petition to favourable consideration.

Before closing this report I desire to draw your Excellency's attention to the fact that one of the maps handed in in evidence in this case—the map produced before the Commission of 1869, and bearing the signature of one of the Commissioners—has been altered by erasing partially the figures indicating the acreage, and other figures substituted so as to accord with the actual survey afterwards made. I think this is a very wrong proceeding, by whomsoever authorized. No document