

documents will show that such words constituted a stock phrase and were placed in deeds of cession for the same purpose that such words as “lands tenements and hereditaments” were added to descriptions in other deeds—that is, for the purpose of making the deed speak for itself and show that there could not be in the mind of the vendor any doubt regarding the extent to which he was divesting himself of his interests.

90. We now come to the third contention of the Crown representatives, that the Whanganui-o-Rotu was at the date of the signing of the deed of cession on the 17th November, 1851, a lagoon or arm of the sea and, being subject to the rise and fall of the tide and being within territorial limits, was by common law the property of the Crown.

91. At the hearing Mr. Pfeiffer produced a plan (a copy of chart No. 1 that had been prepared for the Harbour Commission of 1865) that he certified to the best of his knowledge and belief as being a copy of a plan which was lost in the fire following the earthquake of 1931 and which represented a survey by Pelichet in the year 1851.

This copy of chart No. 1 is annexed to this report as Appendix B.

92. It tends to establish—if it does not definitely establish—that in 1865 there was a tidal influence in the Whanganui-o-Rotu and that the strength of the *ebb tide* at Ahuriri (using that word in its proper sense) was from 6 to 7 knots. It cannot, however, be taken as indicative of the conditions obtaining in 1851 as it can quite definitely be established that it was not a true copy of Pelichet's plan, but was a chart made by a Mr. Bousfield for the use of a Harbour Commission of 1865.

(NOTE.—The significance of some non-Maori place-names on this map can be explained as follows: Sir Charles James Napier conquered Scinde in 1843 at the battle of Meanee. There was another fight at Hyderabad, the capital of Scinde. Places designated by these names on chart No. 1 were not so named in 1851.)

93. The true history of chart No. 1 (Appendix B) is as follows:—

On the 13th September 1864 Commissioners were appointed—

to enquire into and report upon the best means of deepening and improving the Ahuriri Harbour.

In the *Hawke's Bay Government Gazette* of 17th October, 1864, tenders were called for the preparation of a chart of Napier Harbour and roadstead.

The tender of O. L. W. Bousfield, Surveyor, was accepted, and in the *Gazette* for 25th November, 1865, is published his report to the Commissioners. This report was also published in the *Hawke's Bay Herald* of 2nd December, 1865. It reads as follows:—

Woodthorpe, April 17, 1865.

SIR—

Herewith I have the honor to lay before you the charts, numbered as per margin,* of the Ahuriri Lake, and Roadstead, and of Hawke's Bay, made in conformity with the terms of the contract entered into by me with the Harbour Improvement Commission on the 24th December, 1864.

In laying before you the result of my survey I shall draw your attention to the present condition of the Ahuriri Harbour and Lake, and to such important changes affecting it as are now taking place, and to such as have occurred within the last ten or twelve years; and I shall, with a view to simplify the subject as much as possible, divide it into four parts, viz:—

1st. Ahuriri Lake.

2nd. The Entrance to Port Napier and the Roadstead.

3rd. The Rivers flowing into the Lake, and through the Ahuriri Plains, and—

4th. Hawke's Bay.

First, the Ahuriri Lake, illustrated by chart No. 1.

You will gather, from the soundings marked on the chart, that this sheet of water is nearly of a uniform depth, excepting only in places where it is influenced directly by the action of the tide, or by that of prevailing strong winds; the one forming channels, the other sand and mud banks. The greatest depth of water is from 7 feet to 9 feet 6 inches at high spring tides, with a soft, muddy bottom, nor am I able to discover that a greater or lesser depth was ever known to exist.

* Chart No. 1 of Ahuriri Lake. Scale, 20 chains.

Chart No. 2 of Port Napier and Roadstead. Scale, 10 chains.

Chart No. 3 of Hawke's Bay, showing Ahuriri plains, scale 1 inch to 1 mile.