

To Mr. Ormsby he said :—

The lagoon may have got blocked by action of sea and rivers. This would last for months.

137. It will be noticed that the late Mr. Hill's evidence couples the Whanganui-o-Rotu with the other lagoons as far north as Whakaki and assigns the same characteristics to each. If this is so, then the Whanganui-o-Rotu at some time or one time was not an arm of the sea.

138. Paragraphs 6 and 7 draw further reference to markings on chart No. 1 which indicate the presence of tidal waters. As already stated, this chart is of conditions in 1865, which conditions are fully described in the report which enclosed the chart.

139. Paragraph 8 (the concluding one) contains extracts from official correspondence which is printed in full in this report. One extract is misquoted—unintentionally no doubt—but the mistake, if not noticed, would strengthen the Crown's case at the expense of the Natives'. A determination of what was meant by the Ahuriri Harbour settles any point raised in this paragraph.

140. We can now return to the case for the Harbour Board, paragraph 1 (b), (c), (d), (e), and (f). I can allow no value whatever to be placed on this personal discourse by Mr. Prentice. He has not given the whole story; he was not in a position where he could have been prompted to give it all, and he was not subject to cross-examination. It is not in the ends of justice that statements of a partisan should be accorded the weight of evidence. It is perhaps a little ludicrous that he should describe the fruits of the garden of Tawhao five hundred years ago by quoting from the 1919 petition of Mohi te Atahikoia and 47 others. He did this because it suited his purpose, not because it agreed with Maori history and tradition, and notwithstanding the fact that Waha Pango, when under cross-examination by Mr. Prentice before the 1920 Commission, gave a perfectly normal explanation of this passage in this 1919 petition.

141. As regards paragraph 1 (g), this point has already been dealt with. So far as paragraph (h) is concerned, the Court was informed that the drying-up of the lagoon disclosed the remains of certain eel-weirs, so that there must have been some eels there. (The evidence of Paora Kauwhata in Napier M.B. 19, at page 414, also makes reference to eels in the Whanga and to eel-weirs—

When the water was low or become dry in the inner Harbour people began to live on eels.)

142. Paragraph 1 (j): The proceedings and judgment of the 1916 Native Land Court are set out fully herein. I can find no reference in these proceedings nor in the grounds of appeal against the decision which bears out Mr. Prentice's statement that one of the grounds for dismissal of the Natives' application was that the area constituted tidal waters.

143. Paragraph 1 (k): I think that the dignity of the Harbour Board suffers when its case becomes an attack upon the *bona fides* of the Native petitioners. As has been seen, the Natives have been claiming this lagoon for a great number of years before the 1st August, 1929—the date of Judge Acheson's Omapere Lake judgment. Furthermore, the *petitioners* under the petition now before the Court *do not* claim that Whanganui-o-Rotu was formerly an inland *fresh-water* lake. They say, in paragraph 3 of the petition, that—

According to the Maori elders this lagoon was formerly an inland lake, having no natural outlet, and an opening was artificially made by the Maoris and from time to time kept clear, in order to release flood waters and to save cultivations and food crops on the banks.

There is nothing here about a fresh-water lake. The Court has no hesitation in saying that paragraph 3 of the petition as a whole is more accurate a statement of the case than is that of the Harbour Board.

144. Paragraphs 2, 3, 4, and 5 of the Harbour Board's case require no comment.