

1907.  
NEW ZEALAND.

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# NORTH OF AUCKLAND SURPLUS LANDS

(REPORT OF R. M. HOUSTON, M.P., A COMMISSIONER APPOINTED TO INQUIRE INTO THE QUESTION OF).

*Laid on the Table of both Houses of the General Assembly.*

## REPORT.

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MAY IT PLEASE YOUR EXCELLENCY.

As the Commissioner appointed by Your Excellency, under the provisions of "The Commissioners Act, 1903," and its amendments, to inquire into and report upon the "surplus lands" as defined in your said Commission dated the 28th day of March, 1907, I have the honour the present the following report:—

I opened the inquiry on the 10th day of May, 1907, and took evidence from time to time until the 20th day of May, 1907.

From the result of my investigations I am of opinion—

- (1.) That in some of the lands mentioned in the schedule to Your Excellency's Commission there are portions of "surplus lands" undisposed of by the Crown;
- (2.) That there are landless Natives residing in the locality of such "surplus lands"; and
- (3.) That, without prejudice to the Crown's legal right to such "surplus lands," it would be an act of grace on the part of the Crown to confer portions of such lands on—
  - (a.) The landless Natives; or
  - (b.) On those who but for the alleged sales would have been the owners, according to Maori custom, of such lands; or
  - (c.) On both.

I have therefore to recommend, for Your Excellency's favourable consideration, that legislation in respect of such "surplus lands" may be introduced with a view to providing that the Governor in Council may set aside any portion or portions of such lands for the Natives aforesaid, and may direct the Native Land Court to inquire and report as to what landless Natives, or what alleged owners according to Maori custom, or both, should be admitted to ownership in the said lands, as to the relative interests each of such Natives should receive, and as to the restrictions, if any, that should be placed on the title. Such legislation should provide that, on receipt of such report, the same should be considered by the Governor in Council, who may confirm the same with or without amendment, and may then forward the same to the Chief Judge of the Native Land Court, who shall thereupon issue an order of the Native Land Court vesting such lands in such persons as aforesaid.

In regard to the Tangonge Swamp (the Rev. Mr. Matthews's Old Land Claim No. 7), which was, on the 21st December, 1898, gazetted a kauri-gum reserve, I find that the land was given back to the Native owners by Mr. Matthews, and was not included in his claim before the Commissioners. It, therefore, did not become "surplus land," and was, and should still be, Native land vested in the Native owners.

I also have the honour to append a copy of the minutes of evidence taken.

Your Excellency's Commission is returned herewith.

I have the honour to be

Your Excellency's most obedient servant,

Wellington, 22nd July, 1907.

ROBT. M. HOUSTON.

## MINUTES OF EVIDENCE.

(ROBERT M. HOUSTON, Commissioner.)

KAITAIA, 10th MAY, 1907.

*Timoti Puhipi* (sworn) states: I will first say that I am glad Providence has preserved me to give evidence to-day. I will now refer to the land itself, Tangonge. The land was returned by the Rev. J. Matthews to my father. Mr. Matthews went with me and we saw the boundaries, and they are still extant. The boundaries were located by a raised bank which is now to be seen; it is 6 ft. or 8 ft. high. It reaches to the hill here [Pukemiro]. That was the boundary of the land returned by Mr. Matthews to my parent. The land was originally sold by my parent to Mr. Matthews. A portion of Mr. Puckey's land was returned to us, and our people are now living on it. These were the Church people, Messrs. Matthews and Puckey. Mr. Matthews suggested to me that we should have the boundaries defined, for fear we might have trouble with the Government. When the gum was discovered in the lake I laid claim to the royalty. I was told by the Europeans that the land belonged to the Government, and that I had no right to expect royalty from them. My son went to Auckland and found from the plans that the Government had taken it. It was then I sent a petition to Parliament, and that petition was signed by the Rev. Mr. Matthews. The Government replied that the land had been taken by the Commissioner. We sent a second petition, which was also signed by Mr. Matthews. He said his name could not be questioned. When Mr. Houston became member of Parliament I asked him what had been done with this petition which had been signed by Mr. Matthews. Mr. Houston said he thought the land would be returned to us. My father sold this land to Mr. Matthews. There was a Commission set up to inquire as to what was the area allowed. The Commission was set up to inquire what lands were sold. Mr. Puckey and Mr. Matthews told the Commissioners that they had returned these lands to my parent. I do not know what the area was. It included a portion of Lake Tangonge. In Pukepoto Block there is a portion of the lake. I do not know the extent and area of land—there is about 1,000 acres. I cannot say what is its area outside the lake. There was both dry land and swamp returned by Mr. Matthews. When Mr. Matthews returned from Mangonui he said that these lines had better be defined. Mr. Matthews said this land had been returned to the petitioners. I would ask the Commissioner to view the land; it is close by.

(The Commissioner here adjourned to view the land, and was accompanied by Mr. R. H. Matthews and the Natives.)

*Riapo Puhipi* (sworn) states: The land referred to by Timoti is the land. It was sold by my grandfather, Puhipi, to Mr. Matthews, and this land has not been disposed of since. There were other lands sold by my grandfather to Mr. Matthews, and some land sold by him to Mr. Puckey. I do not know when the land was returned by Mr. Matthews, but my grandfather told me of it. In 1895 the gum was taken from the land. There were certain arrangements made with my father about digging the gum. It was then we were told that the land belonged to the Government. It was then we came to the Rev. J. Matthews. My father said to Mr. Matthews, "This land has not been returned to my father." Mr. Matthews said he would not obstruct. Mr. Matthews told us that the land was returned and the land belonged to my father. Mr. Matthews suggested we should send a petition, and that he would sign it. It was then that Herepete Rapihana [Herbert Robson] went to Auckland. He brought down the plans. It was the first time we were aware that the Government claimed that 1,000 acres. There are 1,000 acres, and that petition is for that 1,000 acres. My father has told me that there were two other lands returned to my grandfather. Both these lands were returned at the same time. The land returned by Mr. Puckey is now in our possession. I cannot think that, if this land returned by Mr. Puckey was right, the return made by Mr. Matthews was void. If Mr. Matthews had not intended to return this land, why should he have signed the petition? Mr. Davis told me that he remembered the transaction, and I do not know any reason why the Government should claim it.

*Herbert Robson* (Herepete Rapihana), (sworn) states: I will speak of the portion that I know of. The evidence given by Timoti Puhipi has been handed down to us, down to the time when the gum was discovered in the swamp. We always understood the land belonged to us. It was when we were about to make arrangements for the gum that we found it would not be complete. Then we came to see Mr. Matthews about the boundary-line. I heard from Mr. Matthews that he had returned this land. I agree with Leopold (Riapo) as to what he says. Mr. Matthews said, "Send a petition away during my lifetime." We did so, and the petition was signed by us and by him. The lake is not included in the 1,000 acres. The petition includes the land up to the lake (up to the bank of the lake).

*Motuopao Island.*

*Rewiri Hongi* (sworn) states: When our elders sold a piece of land at Muriwhenua they arranged to leave out a portion of the land purchased, which was the land in question. It was because there were sacred spots there. They made an application before the sale of Muriwhenua

to have this investigated. It was gazetted to be heard at Mangonui, the same time as Muriwhenua Block. When the matter came before the Court the Government said that the island belonged to them. Ever since that we have petitioned the Government to return to us this land. The reason for the petition was because they knew they had not sold to the Government. From the time the Natives were represented in Parliament they asked that the matter should be dealt with, and in the absence of elders (by death) I took up the matter. The replies from the Government were that the land belonged to the Government, and it is in my time that I have asked for an inquiry. I made the petition because I was assured by my elders that the island had never been sold. Our elders told us that the island had been set aside as a sacred spot. I put this before the Commissioner now, and ask, how did the Government acquire this island? There is no denying the fact that if my elders stated what was true it will be for the Government to prove the opposite. We claim it, and unless the Government can show how they got it I repeat we claim it as ours. If the Commissioner says the land was taken by some law of the Government, we still claim it as ours by right, and we will substantiate the right. There are only a few elders alive at present, but there is one of the elders in Court here who knows of the history of the sale. He can state this land was never sold by our elders, and I ask the Commissioner to hear him and any others I may find to assist me. I produce a memo. from the Chief Surveyor stating that our title to this land is extinguished, as the land was taken as a lighthouse reserve by *Gazette* on the 6th March, 1875. If that memo. shows how the Government got possession of this island, then I object. In conclusion, I would ask the Commissioner if the Government took possession of this island for their own benefit.

The Commission adjourned until 10 a.m. the following day.

KAITIAIA, 11TH MAY, 1907.

*Rewiri Hongi* further states: I told the Commissioner yesterday that there was a person here who had been present at the sale of Muriwhenua. He was one of those who assisted the surveyors in locating the boundaries. In sending the petition to the Government we do not wish it to be understood that we want the land back, but that the Government should recognise that the land is ours, and we ask for some compensation in recognition of our ownership—I will say £300. If the Commissioner agrees to our request, we ask further that certain portions be set aside as sacred, or that we shall be allowed to exhume and to remove the bones of our dead. We ask that, if the Government insist on their claim, we should be allowed an opportunity to combat it—if the Government have taken possession of this island and set up a claim to it, that we should have an opportunity to rebut their claim. We are quite sure that there was nothing left undone when the lands were disposed of. If the Government have any documentary evidence to show, then we will be glad to be allowed to examine it.

*Mehana te Rau* (sworn) states: I give evidence in corroboration of what the previous witness has stated. At the time the survey of Muriwhenua was made I was living at Kapowairua. Ngatitemoroki [Hapu] came up to be present at the locating of the boundary-line. Rewiri, with us, met them at Motuwi, when a meeting was held for the purpose of pacifying the people and arranging the boundaries. We agreed on the matter and in the morning the survey was commenced. The whole party slept at Pitokuku. Rewiri said then that as we were taking this line he would not allow the island to be included. Hamihana asked that the island should be included. This was objected to by Rewiri, who said he would not allow his sacred places to be interfered with. Hamihana then said, "Are you going to obstruct us?" Rewiri replied, "No, I do not wish to obstruct you, but I wish to observe my sacred spots." Hamihana then consented to leave the island out of the purchase. It was from that arrangement we understood the island still belongs to the Natives. When the lighthouse was erected it was at the time when Hone Mohi was a member of Parliament, and a petition was sent in then. We received a reply from Hone Mohi asking us what we wanted for the island, and subsequently he said the matter was in dispute. He said the reason why the matter was disputed was because there were so many petitions from all parts. I have always thought the land belonged to us.

*Hare Raharuhi* (sworn) states: I will first offer up a prayer to God thanking him for having moved the Government to have this Commissioner appointed. I will now refer to the petition as sent in by our elders. After their death we continued to petition for this island. As the Government would not reply to our petition, we visited Auckland to find out the position. We found at the Native Land Court Office that there was nothing to show that the Government owned this land. We concluded that the island certainly belonged to us. The island was not sold when Muriwhenua was sold to Mr. Samuel Yates. I support the evidence of the last witness that this was set apart as a *wahi tapu*. I will say with Rewiri that the Government should grant us £300. I do not think that we are asking too much. The Government have had the use of it for at least twenty-eight years.

*Wairama Maihi* (sworn) states: I will first refer to the original survey of the land. It was about two years before I went to school. Maihi (my father) went to point out the boundary-lines with Ngatitemoroki [Hapu] about 1865 or 1866, and I heard from Hamihana and a number of our elders that this island had been left out of the sale. I heard the dispute was so serious that they carried guns, and they were prepared to battle over it. That is why the meetings were called, as mentioned by Mehana. It was by mutual consent that the island was left out. It was on that arrangement that this line was allowed to be taken for Muriwhenua. I heard it was Mr. Campbell who surveyed the block. Ngatitemoroki and our elders all participated in the sale of Muriwhenua. The sale of Muriwhenua was made to Mr. S. Yates and to Mr. Jones. Subsequently I heard from

my elders that they had petitioned to have this land investigated. I cannot doubt what has been said, that the island belongs to the Maoris, and we cannot understand who has possession of the island. I would respectfully ask the Commissioner whether the island was bought or not. We want some documentary evidence to show that the Government bought this island. If the Government can show the documents, then we ask for an opportunity of contradicting. We only ask that, if the Government claim it as their right, we should be allowed some compensation, and I think our demand of £300 is only a fair one.

RUSSELL, 17TH MAY, 1907.

*Puketotara Block.*

*Hone Rameka* (sworn) states: I will give evidence. This land was sold by Kerei Mangonui and others to Kemp. At that time our elders were living on this land. Mr. Kemp did not go on to the land to show the boundaries, the boundaries of Puketotara and other blocks adjoining. It was afterward that we heard that Kerei Mangonui had extended the boundaries of Puketotara. Then there was a dispute between Mr. Kemp and Kerei Mangonui. Mr. Kemp said that if there was anything to be given back he would return it, and Mr. Kemp went with Wi Hau and others and located the boundaries of the land that was to be returned. It was then that Mr. Fairburn was asked to make a survey. On the survey being complete an application was sent to the Native Land Court, and Judge Maning investigated the matter. I will not say whether it was at Haruru or Waimate. There was some trouble then because of the land overlapping Shepherd's land. Again we applied to the Native Land Court. Judge Munro heard the case at Ohaeawai. The same dispute cropped up—that is, the overlapping. Subsequently an application to the Native Land Court was heard at Waimate, but when Mr. Puckey was about to give his decision a wire came from Auckland saying that the land belonged to the Government. We then subscribed some money to send Hone Peti to Wellington. When the land was returned by Mr. Kemp his son leased the gum rights, and subsequently they were leased by Mr. John Black, of Kerikeri. It was only when the Government cut the land into sections that our elders ceased to live on the land. We have a number of fruit-trees growing there. If the Commissioner will allow it, we wish to put in a letter from Mr. Kemp.

*Kapowai Block.*

*Kerema Hori* (sworn) states: It is about Kapowai I would speak. Ever since I had breath this land has been known to be ours. The land spoken of by the previous witness [see below] was sold to Cook. During the lifetime of my father I heard that this land belonged to us, and it was only after his death we found that the Government had taken it. Our permanent buildings and our cultivations were on this land, and our sacred spots. The most sacred spots were on this land. We petitioned the Government because we do not know of any sale of this land to any person. Our elders, the first petitioners, are dead, and we come here to give this evidence in support of their petition. I do not think I have anything else to say. I only repeat that our sacred spots are there, and that we are living adjacent.

*Henare Keepa* (sworn) states: This land is at Waikare. We do not understand how the land was taken. This land is still owned by us, and is still unadjudicated. We did not survey it, but I think that there are about 3,000 acres. It was during the lifetime of our elders that certain portions of this land were sold, and we know what portions were sold. The first piece sold was to Mr. Cook. The piece was sold for the price of a ship. The next piece was sold to Mr. Greenaway. I was present at both sales. Mr. Greenaway gave one cask of tobacco and two double-barrelled guns. The name of his land was Ohua. The name of Cook's portion was Pahiko. There was another portion sold (8 acres) to "Benehawea" [sic]. We the survivors do not know of any other portions of this land sold to any one. During my lifetime we gave 800 acres to the Stephensons through Judge Maning, and there was no objection made by the Government to this gift of ours to our people. There was a sale to the Government by us of Opa (the land we gave to the Stephensons was called Manukau). After that Taikapukapu was sold to J. Cook without any objection by the Government. I say that this land should not be possessed by the Government without any compensation to us.

*Opua.*

*Riri Maihi Kawiti* (sworn) states: I have only a few words to say. About thirty years ago the Government took possession of this land. According to what I heard, the land that was given to the Church Mission was bounded from Te Awahapa to Paihia. The land on this side was occupied by some of us at Tuakainga—that is, by Wiki te Ohu, who is one of our people, and by Toheriri, also of us. The place I speak of is close to the sea-shore and was used by our people when they were on fishing expeditions. There is another place, called Maraetae, a living-place of ours; also a place which is called Waipuna, near the Opua Wharf, along the railway-line. There is a place called Ongarumai, an important place where our people lived—they lived there long—after the gift had been made of the other portion. I can only speak approximately, but it was about ten years after the fight at Ruapekapeka. We say the line started at Te Awahapa, thence to Ongarumai. Our only doubt is whether the Government or the mission people took this land, because when the gift was made to the mission my grandfather, Kawiti, was at Kaipara. When he returned he made an objection to the people who gave the land. His objection was "that the boundary should have been at Te Awahapa." He said then that he would not object to the boundary being at Te Awahapa, but he would not allow them to extend it further. It is by this we

know that this land was not given. If it can be shown that Kawiti did give it, then we are wrong. From that time and after the battle at Ruapekapeka we have always had possession. The animus by Maihi was due to the taking of that portion by the mission people, and he died in enmity to them. During all that time his animus was owing to their having taken that other portion. We have always believed that the land belonged to us. We do not know how the Government took it. It is clear that the land is ours from the facts that we lived there and died whilst in possession. There was about 600 acres; I should say from a view that there is about 300 acres.

*Hoterene Kawiti* (sworn) states: I will say this land Opuā belonged to us. Our people who lived on this land were Uriwhakareia and Rapana. It was only after the railway-line was laid they ceased living there. We heard that the land was taken by the Church people, and Maihi Brown asked the Native Minister, Mr. Sheehan, to give him back that land. The reply made by Mr. Sheehan, as far as I heard, was that the Government had spent a lot of money over the block at Opuā. Mr. Sheehan proposed to Maihi that a portion should be returned. Maihi replied, "No." Both Mr. Sheehan and Maihi are dead, but we have upheld the petition ever since. We presented our petition through Hone Heke; his reply was that a Commission would be set up to inquire into the matter, and now the Commissioner has come to inquire into this matter. I state that this land was never taken by the Church people. The boundary of the land given to the Church people was from Te Awahapa to Waihihi. The portion the Church people were given was from Te Awahapa to Paihia (near Waitangi); the balance of the land from Te Awahapa to Opuā was Maori land. Our elders strove to get this land back, and on their death we have taken up this matter, and we ask how the Government have taken this land. The petitions of my elders are recorded before Parliament. I ask the Commissioner how the Government became possessed of this land—how it was handed over by the Church people. This land was not sold like other lands, for hoop-iron. Paihia only was given by the Natives. The mission people have no claim to this land; this land belonged to the Natives, and it is only lately that they have left it.

*Te Atimana Wharerau* (sworn) states: I will speak of Opuā, and I will say that it is Maori land. This land was not sold: from Te Ahuatia to Tuakainga, Te Maraeate to Waipuna, on to Opuā, Ongarumai, Te Werawera Rotopouri. Those are the names on the boundary of the Maori land. At Whangae Creek—that is where the line goes. That land is Maori land. These are the boundaries of the Maori land. From Tohuatua to Te Hiwi and Te Paki, that was the land that was given to the mission. This land was not sold to the Europeans; the only land sold was to the mission, and it was bought for hoop-iron. The names given by me are the real boundaries. The only portion we know was from Te Ahuatia to Opuā, and Te Opuā side was not given. Our elder Maihi Kawiti always contested the title. When he died the matter was left over. I can only repeat it is Maori land. Whether it was taken by the Government through lies being told to them, or merely confiscated, we do not know. Maihi applied to the Government, but received no reply. They would not return this land, notwithstanding he contended with the Government for a long time. I cannot give the area.

OMAPEPE, 20th May, 1907.

Waimamaku, No. 2.

*Iehu Moetara* (sworn) states: Before giving evidence I may say I am glad the Government has appointed you to make this inquiry. I can only speak as a young man, and my elders are dead. I would ask who are the petitioners. I am sorry that owing to the short notice I was unable to produce Wiki te Paa: if he had been here he would have put the matter more plainly before the Commissioner, because he was included with our elders in the petition when they took the matter in hand. The boundaries of this land were first made externally, and subsequently a portion was cut off and set aside as a flax lease. The portion that we claim contains our sacred places; it is there our people are buried, and the Government must know that we would never have consented to sell our sacred spots, because during the time of our elders it was a most important matter with them, and they certainly have withheld such spots from sale, and we say that the boundaries which we now claim embrace the places where our dead are buried. I do not say that the whole of this land is sacred; the area was [is] a reserve, and there was sufficient land inside the reserve to support those sacred spots. There were some portions of this land reserve that was used by our elders for cultivations, and the Government have already consented, during the time of our elders, to return 50 acres for our *wahi tapu*. On the Commission coming here to make this inquiry, we ask that the Government shall recognise our right to our sacred spots, because we know that our elders would not have sold them. We ask that the land should be returned to us, as there must have been some mistake. Our sacred places have not been sold, and we want them reserved, and that they should not be occupied by Europeans. As to the portion already sold by the Government, we ask that the Government might give us in return some land containing kauri-trees, as it is kauri-trees we are wanting in some accessible places, where we can make use of the trees for fencing and building. Either that or let the compensation be in money. Having given this evidence, I ask that the Commissioner support our case. I would prefer to leave the price in the hands of the Government.

*Wiremu Ngakuru* (sworn) states: I only heard of this hearing this morning. I am a nephew of one of the petitioners. I say there must be some mistake, as there was only one sale; that sale was made by Ngakuru Pana, Heta te Haara, Hone Mohi, and Waipapa Mihaka. I do not wish to prolong my evidence, I only wish to show that these were they who sold these lands. I will refer to the matter mentioned by the previous witness, as to the portion reserved. Mr. Wilson made the survey both for the reserve and the external boundaries of the block. The flax lease was

surveyed prior to that, and the Natives quite understood what they were selling; it was outside of that. It was only subsequently they found out they had fixed the portion that was sold, and the plans are not extant. This plan now before the Commissioner has only just been produced, because in 1888 (the year of Te Uriroiroi fight) my elder [*i.e.*, father] went to Whangarei. It was then he saw a man named Tiwe, who had worked with Wilson. Mr. Wilson said he would produce the plan. Subsequently Wilson said he was going to Auckland, and if my father gave him £20 he would send a plan. He was paid the money, but never sent the plan. It is well known that money was subscribed to send them [*i.e.*, elders] to Auckland. After that Wiki te Paa went to Auckland, and the Maoris exerted themselves over this matter. It was just prior to the death of Wilson that Ngakuru Pana went to Whangarei again, and Wilson said he was ashamed he should have had to go, and he would only charge 10s. This was paid. Again Ngakuru went to Auckland to consult a lawyer. He paid W. Swanson £1, and £1 to the lawyer, with no result. We have always occupied the land, and taken the kauri off it to build our houses with. It was only when the land was cut up into sections by the Government that we understood it was claimed by the Government. When J. Baber came to make the survey Ngakuru caused trouble and wished to stop the survey, and it was only because the young people did not wish to take extreme measures that there was no serious trouble; and when the relics were brought from our sacred place by Morell, Ngakuru would have assaulted him, but the young people again stopped it for the sake of peace. I again assert there was a mistake. I do not know the area.

*Mr. Charles Bryers* (sworn) states: I produce this plan—the original plan made by Mr. Wilson—and also some papers relating to the land. In looking up this matter I asked the Minister what he would do for my clients. He said that we had better name a price for compensation, and I said I could not name a price, as I was merely acting as an agent. I put in this plan, and ask that the Commissioner will take great care of it.

*Approximate Cost of Paper.*—Preparation, not given; printing (1,300 copies), £3 10s.

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