

- The land is not named in the deed and that no area is mentioned therein except on the plan annexed thereto and which erroneously gives an area of 120,000 acres.
- No reserves were provided by the deed, although it was customary (according to petitioners) to set aside for the Native owners 10 per cent. of the area purchased.
- The purchase price of 1s. 9d. per acre (for the area of 38,267 acres) was an inadequate figure at the time of sale.
- The deed is suspect, inasmuch as it contains alleged signatures of people who were children in 1865.

Two witnesses were called and gave evidence in support of the above claims.

The correctness of all these allegations was denied on behalf of the Crown, and the submissions in rebuttal shortly were that

- The separate *Gazette* notices regarding the extinguishment of the Native title have not the significance imputed—the 39th parallel being the boundary between the Provincial Districts of Auckland and Hawke's Bay—and that each province had its own system of administration of land and each worked independently of the other.
- The area affected by the deed was governed by the boundaries set out therein, and this area was afterwards found to be 38,267 acres instead of 120,000 acres as thought.
- It was not customary for the Crown to set aside as reserves 10 per cent. of the area purchased in the Hawke's Bay and Auckland Districts.
- The price paid, £3,300, was a reasonable sum and compares with other Crown purchases made about that time.
- It was not unusual to append the names of children to deeds of sale.

The main point at issue is whether or not the land to the north of the 39th parallel was knowingly sold to the Crown by the Native chiefs in 1865.

To get the atmosphere or a better understanding of the transactions that were in progress at the time for the purchase of land by the Crown at the north end of the Hawke's Bay it is necessary to again refer (see report on Petition 82/1936 *re* Mahia sale) to the narrative written for the *Hawke's Bay Herald* by Mr. Grindell, who accompanied Mr. McLean to those parts in 1864. The following is extracted as being pertinent to the issues now raised:—

“ We started in the early part of this day (24th October 1864) for Nuhaka and the Wairoa, on our return towards Napier. Ihaka and Tamihana Taruke, his father-in-law, with several other men of influence, accompanied us. Ihaka himself was greatly elated at the idea of escorting officers of the Queen to the Wairoa to purchase land in opposition to the policy of the King party. He seemed to look upon himself somewhat in the light of a victorious general marching at the head of his army to take possession of surrendered territory. About 1 o'clock p.m. we arrived at Nuhaka (about 12 miles from Te Mahia) and encamped there that night, so as to afford the Natives inclined to sell land at that place an opportunity of discussing the question. Matenga Tukareaho's house was the first residence we came to. This is the man who I have already noticed as having been the prime mover in the murder of Te Rataua, Ihaka's father. He received us very graciously, and declared that he was anxious to have Europeans settled in his neighbourhood—and in furtherance of that object, he and his people, he said, were prepared to sell some land to the Government. It was arranged that we should cross to the south side of the river, where the principal body of natives reside, and encamp there for the night whilst he went to summon those of his friends who were absent a short distance inland. Crossing the river we were received with shouts of—‘ Welcome! welcome the Queen's pakehas to Nuhaka!’ We found about 50 or 60 people assembled here awaiting our arrival. In an hour or two Te Matenga Tukareaho and his friends arrived, and the business of the day commenced forthwith. Te Matenga expressed himself strongly in favour of selling land. He is the resident chief of this place. He said his young men were desirous of declaring themselves on the side of the Government and were anxious that Europeans should come and settle amongst them, that, therefore, he had decided upon selling some land for that purpose. The Mahia, he said, was gone, and the Wairoa was to follow. there would then be Government land on both sides of them, and, whether they turned to right side or to the left, they would see the power and influence of the Queen. They were not disposed by holding out to place themselves in an isolated and singular position with respect to the tribes around them. The head, he said, being cut off, the body could not live—that is, the Mahia being sold, the rest would soon follow. Several others spoke but the tenor of their speeches was in favour of selling land. The only opponents of an immediate sale were the chiefs of our own party who accompanied us from the Mahia—Ihaka and his party. The people of Nuhaka are a section of Ihaka's people, and he himself is, consequently, the chief of paramount influence. So that, whilst adverse in the main to the sale of land in this locality, he was very naturally somewhat jealous of Te Matenga taking the matter entirely into his own hands and anxious to show his acquiescence was necessary before any purchase could be effected. The feeling was, no doubt, strengthened by the ancient feuds existing between the two parties, which originated in the murder of Te Rataua—Ihaka's father. In addressing the people he, Ihaka, said that there was no necessity for precipitating matters, that, in the meantime, Mr. McLean's destination was the Wairoa, and that if they were anxious to sell, the land would be sold in due time, but that at present he would withhold his assent. Although not directly acceding to their wishes, he appeared