

## PURCHASE OF WAIRARAPA LANDS BY THE CROWN.

From a very early period the Crown made endeavours to acquire from the Native owners the valuable lands lying in the vicinity of the lakes. The Natives, however, as we are told by credible witnesses, refused to treat for the sale of these lands, fearing interference with their fishery.

About the year 1853 Captain Smith made a flying survey of the lakes; and subsequently the late Sir D. McLean, then Land Purchase Commissioner for the New Zealand Government, succeeded, in the years 1853 and 1854, in inducing the Native chiefs, or some of them, to execute deeds of cession to the Crown of four blocks of land respectively known as Turakirae (west side of lake), Tauherenikau,\* Turanganui (east side of lake), and Kahutara. These blocks are roughly delineated on the plan herewith, to which we crave leave to refer. They comprise, as will be seen on reference to the plan, all the lands contiguous to the lake, except certain reserves (of which more hereafter), and the sandspit at the mouth of the lower one, which has never been ceded to the Crown.

The copies of three of these deeds of cession—viz., Turakirae, Tauherenikau, and Kahutara—have been produced from Turton's "book of deeds," together with a receipt for final payment for Turanganui, which sets out the alleged boundaries; but the original deeds have not been produced, and, in the case of the Turanganui Block (the most important), the deed is stated to have been lost, and no copy is in existence. We have to remark upon these deeds that they do not in themselves throw much light upon the present inquiry so far as it attempts to establish with accuracy the question of the lake boundaries. So far back as 1853 accurate surveys were not attempted by Government, and the deeds of cession at that time generally contained but rough descriptions of boundary traced by sight from one physical feature of the country to another. The deeds which we are considering are no exception to the general rule of those times. There the boundaries on the lake side of the various blocks are described by such terms as these: "Running from point to point by or along the waters of the Wairarapa Lake." But, as surveys were not made until a later date, no attempt was made to locate the margin of the lake, and there are no plans upon the deeds. All that these deeds establish, therefore, is that the lakes and the sandspit at the mouth of the lake were not ceded to the Crown, and therefore, by virtue of the obligations undertaken in the Treaty of Waitangi, remain vested in the Native owners. Certain points connected with the deeds will be again referred to when we come to consider the merits of the claims made by the petitioners, merely remarking here that in the absence of accurate definition of boundaries the testimony of witnesses present at the sale, and especially of disinterested witnesses, must have great weight in establishing the intentions of the parties.

## SUBSEQUENT PURCHASES.

Since the date of the purchases to which we have just referred the Crown has purchased two pieces of land which were comprised within the area now claimed as having been acquired on the occasion of the first purchase of the Turanganui Block known as Puata and Kumenga. These were not reserved out of the land first sold. They were purchased from persons who had signed the first deed of cession. They are situated within the area now claimed by the Natives as below high-water mark, as will be shown on reference to plan. The Crown also purchased from two Natives reserves expressed to be set apart for the whole people in the Turakirae deed of cession.

It does not appear from the evidence that the tribe was consulted as to these sales, or participated in the profits; and the Natives who signed the deeds do not appear to have had any exclusive right to the lands sold by them, and participated in the first sale. It would certainly appear from the evidence that a fraud upon the tribe was perpetrated by the Natives who sold, and accepted by the Crown. According to a course of business which was in early days but of too frequent occurrence, and which has led to numberless disputes—namely, that deeds of cession were taken without proper inquiry into tribal rights from any individual or individuals amongst the Natives unscrupulous enough to take money for what did not belong to him or them, and supposed to be of sufficient influence to protect the purchaser in the acquisition of what was really stolen property.

## THE EARTHQUAKE.

A great earthquake occurred in 1855, which raised portions of the area of the lake previously under water—For example, the lands above described as Puata and Kumenga, which, as already stated, were subsequently purchased by Government, together with other spots now claimed by Government as within the area of the original purchases. The occurrence of the earthquake in matter of history, and traces of its effects are not confined to the lands which form the subject of this inquiry.

## DISPOSAL OF LANDS.

Soon after 1854 the lands around the lakes were surveyed, cut up, and sold to Europeans by the Crown through the Provincial Government. The sales comprising areas which are annually flooded when the lake is closed; which last, the Native petitioners allege, were never ceded to the Crown. The area thus disposed of, and of which the cession is disputed, is roughly estimated at 27,692 acres. The land within the disputed area is at present swampy, and, except where, as is alleged, the earthquake raised it, under present conditions capable of carrying only coarse swamp grass, and under water during the periodical closings of the lake. If the lake were artificially kept open, and the land in question drained, it might become of considerable value.

## HISTORY OF THE PRESENT DIFFICULTY.

For some years after the settlement of the lands around the lakes the settlers appear to have submitted without demur to the Native rights. The Wairarapa Lake allowed to close and open in

\* The Tauherenikau Block does not abut on the lake. The Owanga Block is the one meant.