

35. This passage is translated in Turton's *Book of Deeds* and in the translation attached to the original deed, as follows :

. . . (To Opotamanui) thence to Waiohinganga to Whanganui-o-Rotu thence to our reserve at Te Niho . . .

The translation made by this Court's translators, Messrs. Grace and Katene, is as follows :—

(The boundary goes to Opotamanui) thence to Wai-o-Hinganga river where it continues down the Wai-o-Hinganga river until it reaches the Whanganui-o-Rotu thence to the place reserved for us at Te Niho.

36. The following is a more literal translation :—

The boundary proceeds within the waters of the Esk river until it emerges upon the Whanganui-o-Rotu continuing on (from there) to . . . Te Niho.

37. In 1920 the Natives placed before the Commission a description of boundaries that had been supplied them, which read as follows :—

. . . Ki Opotamanui ; ka rere atu ki Waiohinganga ki Whanganui-o-Rotu ; ka rere atu . . .

In other words, they were asked to work upon a retranslation into Maori of the original incorrect translation of the deed.

38. It appears, therefore, that this incorrect translation has been responsible for much of the past trouble, as well as for the extravagant claims made by the Crown representatives down to date that the whole of the Whanganui-o-Rotu is included in the territory passed by the deed, because the Whanganui-o-Rotu is a point in the boundary. The Natives at all times have claimed to the contrary that they did not sell the Whanga and that it was excluded from the deed. They were not at any time able to seize upon the proof of their contentions, but at all times stressed their inability to realize that the deed should have effected a directly opposite result from what was their intentions and the arrangement made by Makarini (Sir Donald McLean). It appears quite plain that the Natives were correct and that the Crown representatives have been wrong, for there is no doubt that the word "Whanganui-o-Rotu" is used, and used only to denote the point in the Esk River from which the boundary swings to Te Niho. It is not a point in the boundary-line ; it really marks the terminating-point of a section of the boundary-line.

39. So much for the legal position. We can now go into the correspondence and reports with the idea of ascertaining what justification the Lands Department representatives had for submitting that it was the intention of the parties that the Whanganui-o-Rotu should pass by the deed.

40. In the prepared case for the Crown the following passage occurs :—

To strengthen the argument that all parties intended and knew that the Native rights (if any) in Whanganui-o-Rotu had been ceded to the Crown the Court is referred to the report of Mr. Park to the Chief Commissioner, Mr. Donald McLean, dated 7th June, 1851, appearing on page 313 C No. 1 Appendix to Journals 1862 in which at page 314 he says speaking of the Ahuriri Block "the most valuable part of this Block is the Harbour, consisting of a large sheet of water or lagoon about five miles long by two wide . . . and on the Coast defended from the seas by a shingly spit ; the depth of the water nowhere exceeding nine feet. At the mouth of the lagoon is the Harbour proper, being several channels cut into the sea with a depth of from 2 to 2½ fathoms at low water ; there is no bar and it is perfectly safe and easy of access at present for vessels of from 40 to 100 tons."

Further in a report by the Chief Commissioner to the Colonial Secretary dated 9th July 1851 and reported at page 311 C No. 1 the following appears : "The Ahuriri Block of 300,000 acres, including the Harbour, was valued by Mr. Park, the Surveyor, and myself at £1,500."

Your Honour is also referred to the letter of the Commissioner to the Colonial Secretary of the 29th December commencing at page 315 C No. 1.

41. To begin with, I cannot follow the necessity for adding "(if any)" after Native rights in the second line. There is no doubt whatever that the Natives considered they had full rights of ownership of the Whanganui-o-Rotu when they met Mr. McLean to