

Upon the report of the 26th August, 1867, it is claimed that the Puketitiri Native Reserve must have been sold to the Crown, but no deed or document beyond that report has been submitted to us as evidence of such sale, and we are informed that none such can be found. It seems to have been the practice from 1856, when land was purchased from the Natives, to proclaim that the Native title thereto was extinguished, and to show in various returns what land had been so purchased from the Natives. We have searched diligently through the various *Gazettes*, but have not been able to find any entry which appears to refer to Puketitiri. Nor has it been explained to us why, when the adjoining land was cut up, a block of 508 acres was kept intact. It is so similar in area to the reserve, and so close to its approximate position, that probably it was retained owing to the warning of Mr. Cooper to the Provincial Council in 1867.

We have come to the conclusion that there has been no sale from the Natives to the Crown of the Puketitiri Reserve. The Crown in this case was a trustee for the Natives. Therefore, if the Crown purchased the land from the beneficiaries this should be proved beyond all doubt. It is probable that Mr. Cooper, having suggested the land should be purchased, was under the impression that this had been done. But, in addition to no deed of sale being produced, the Natives offered strong opposition to the proposed location and area of the reserve in 1860 and 1861, and are not likely to have lightly agreed to the proposal to sell. If they had so agreed the price must have been the subject of negotiation with the Natives and correspondence with the Department. There, too, would probably have been a difficulty in arranging who out of the three hundred signatories to the Ahuriri deed were capable of giving a good assurance of this comparatively small piece of land reserved for them all. In addition, the money payment must have appeared in the returns of money spent for Native-land purchase which were published from time to time, and were carefully scrutinized. At least it is surely reasonable to believe that some document recording or indicating the sale could have been discovered even if the deed of conveyance itself had been lost.

In our opinion there has always been a doubt in the minds of the authorities as to whether the land had really passed to the Crown, and that is why the 508 acres was originally kept intact. As it probably represents the reserve agreed to be made for the Natives, it should, if possible, be used for that purpose.

If Your Excellency's Advisers should, after a full consideration of the matter, come to a similar conclusion we would respectfully suggest that, in view of the various happenings, legislation should be passed to the effect that the land in question should be deemed to be set apart in full satisfaction of the claim of the Natives to 500 acres at Puketitiri, and the right to snare birds in the Puketitiri Bush mentioned in the deed of the 17th November, 1851; and that the Native Land Court be given jurisdiction, similar to that in the case of customary land, to ascertain the proper owners thereof.

WHANGANUI-O-ROTU.

This is a claim to the Inner Harbour at Napier. It is now vested, by statute and grant, in the Napier Harbour Board.

2 Turton,
p. 491.

By deed dated the 17th November, 1851, the Natives sold to the Government the land bordering on the harbour. The boundaries as shown in the deed skirt along the interior line of the harbour, but do not include it.

It was suggested before us that at the time of the sale to the Crown the harbour was a fresh-water lagoon which, through the forces of nature, occasionally broke into the sea. Whatever it may have been in earlier days, the suggestion that it was fresh water at the time of sale is, in our opinion, refuted by the report made by Mr. Robert Park on the 7th June, 1851, some months before the actual sale. He says: "The most valuable part, however, of the block is the harbour, consisting of a large sheet of water or lagoon about five miles long by two wide. . . . 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

1861, C.-1,
p. 314.