

89. There is a greater difference, however, between Mr. Mackay's evidence and the following extract from his report on the Land Purchases of the Middle Island (G.-6 of 1874—Waipounamu Purchase—para. (11)), which reads as follows:—

Besides the Island of Rangitoto and the block of 40,000 acres excepted from sale at West Whanganui, a block of 7,000 acres [*sic*] (17,000 acres) was also excluded at Whakapuaka. Wiremu Katene te Manu and the section of the Ngatitama residing there objected to the sale of the Waipounamu Block by the Ngatitama and their relatives in the North Island, and declined to give up any portion of the land held by them at Whakapuaka within the boundary determined on in 1845 between the Natives and the New Zealand Company's agent, the River Whangamoā forming the Eastern Boundary, it being no more than sufficient for their own subsistence. Neither would they agree to receive any of the purchase-money; and, as the land in their possession was not of greater extent than they really required, it was not deemed prudent to urge a settlement of this particular question upon them. It was however, arranged that, should they ultimately consent to surrender to the Government any portion of the aforesaid block, a sum of £100 should be paid them as their proportion of the purchase-money. No change, however, has ever taken place in their view of the matter, and the land remains with them as before.

90. A special payment of £2,000 was made on the 13th December, 1854 (Mackay's Compendium, Vol. I, page 311), and Wahapiro te Paremata, being in all probability then dead, his share was taken by his eldest son, Tipene Paremata, who lived much of his life upon the Whakapuaka Block, died there, and was buried there. He was in fact "a relative of Wahapiro residing on the land," and as a further fact we have Whakapuaka reserved to the section of Ngatitama living there. Manifestly then the sale by Wahapiro as a Ngatitama required no repudiation by Wi Katene to preserve the substance of the reservation made by the former, or to emphasize the sanctity of the promise by the Queen to reserve to occupiers the land they occupied.

91. This receipt by Tipene Paremata is claimed by the respondents in these present proceedings to prove that Tipene Paremata gave up all his interests in the Whakapuaka Block, because the receipt mentions Whakapuaka by name. There are two objections to the soundness of this contention:—

(1) The word Whakapuaka refers to a district as do Wairau, Hoiere, Taitapu, and Arahura; the other names used to describe with Whakapuaka a territory which comprised the north end of the South Island above a line from about Cape Campbell to the mouth of the Arahura River; and

(2) The receipt contains the following proviso: "This land we will fully give up and make over to the Europeans when the homesteads for us and our children are laid out."

92. A further quotation from Donald McLean's report of the 7th April, 1856, gives his reason for the necessity of dealing with Ngatitama as such, and should answer a good deal of the assertion of the witness that Wahapiro sold Whakapuaka over the heads of the occupiers:—

10. (Page 301.) The conflicting claim of different tribes residing on both shores of Cook Strait to the unpurchased lands in the Nelson Province occasioned considerable difficulty. For instance, the Ngatitama Tribe at Porirua (with whom the first treaty was concluded) had unquestionably, as the earliest invaders, a prior right to the disposal of the district. This they never had relinquished; although after the conquest their leading chiefs partitioned out to the subordinate branches of their own tribe, as well as to the Ngatiawa, a few of whom took part with them in the conquest, the lands which they now occupy in the Nelson Province.

11. The latter parties did not assume to themselves a power of sale except over the lands they actually occupied; yet some of them, when not confronted with the leading Ngatitama chiefs, professed to have independent and exclusive rights, while the majority, and even the parties making such assertions when closely examined, always acknowledged that the general right of alienation vested in the Ngatitama chiefs of the Northern Island. In fact, their relative rights, through intermarriage, the declining influence of the chiefs, and other causes, had become so entangled that, without the concurrence both of these occupants and of the remnants of the conquered Rangitane and Ngaitahu tribes, no valid title could have been secured.

In other words it was necessary before a valid title could be secured to any given piece of land to buy (1) from the Ngatitama chiefs, of whom Wahapiro was one, and (2) from the occupiers, if any were actually in possession.

93. As further proof—if such were needed—of the incorrectness of the contention that Wahapiro by the deed of 1853, or his son Tipene Paremata by the receipt of 13th December, 1854, disposed of the rights of the people resident upon the block, the following letter dated 15th December, 1854, from Donald McLean to the Hon. Colonial Secretary is quoted, with a suggestion that particular attention should be given to the passage in italics in clause (d). It is obvious also that no person could have had a clearer conception of the position created by this deed and receipt than Donald McLean had on the 15th December, 1854.

Land Commissioner's Office, Wellington, 15th December, 1854.

SIR,—

(a) In reference to the arrangement concluded with the Ngatitama Natives, previous to the departure of His Excellency Sir G. Grey in August, 1853, by which they undertook to dispose of their claims by right of conquest, and to settle those of other tribes living on the spot, to the whole of the districts in the northern and western portions of the Middle Island in consideration of the sum of five thousand pounds, of which two thousand was paid at the time, and the balance of three thousand pounds was to be paid in six annual instalments of five hundred pounds each; and on which arrangement I reported fully to the Civil Secretary at the time: