

mittee was appointed for the purpose in the year 1890, but being unable to complete the investigation, in consequence of lack of time, the Royal Commission was constituted, which is now in session.

From the foregoing history of the case, it will be discerned that the main grievances of the Natives against the Government of New Zealand are two, viz. :—

1. That, in consequence of the selfish and wholly unjustifiable pressure of certain European settlers, the Government, by which may be termed a fraud upon the Legislature, has deprived them of the fishery-rights solemnly guaranteed by the Treaty of Waitangi.

2. That the Government of New Zealand has wrongfully seized and sold a large area of land in and around the margin of the Wairarapa Lakes which the Native owners never ceded to the Crown.

We deal first with claim No. 1: The evidence adduced before the Commission shows that it is contended—(a.) That the pressure brought to bear upon the Government to legislate in violation of Native rights—was pressure by a few settlers living round the lake for protection against the periodical flooding of certain swampy lands (from time immemorial liable to be periodically submerged), which had been included in sales to them by the Crown. In this pressure the settlers were by no means unanimous, as several do still acknowledge the Native rights. (b.) That such pressure for legislative interference was wholly unjustifiable, as the inconvenience suffered by the settlers from annual overflow of the lake was one of which they were aware when the lands were purchased—in other words, liability to annual overflow was one of the natural incidents of the land. (c.) That the grievance of the settlers (if any) was such as in common justice, and in conformity with the safeguards provided by the Standing Orders of Parliament against legislative oppression, should have been redressed by a private or local Bill the several stages of which would have afforded opportunity to the Native owners to be heard in support of their rights, and to obtain compensation. (d.) That such grievance of the settlers was in no sense a grievance affecting the public meriting redress in a public statute.

We therefore conclude from the foregoing that the evidence supports the first part of claim No. 1—viz, that the pressure of the settlers was unjustifiable, except, of course, on the basis of full compensation and that the Government of New Zealand, by the manner in which it afforded protection to the settlers by passing section 18 of “The Public Works Act 1882 Amendment Act 1889,” perpetrated a violation of vested rights which we respectfully submit would not have been attempted had the interests of Europeans alone been involved.

The fishing-rights which are the subject of the alleged unjust infringement have been already described. The principal captures of eels, as has been pointed out, can only be effected during the season when the lake is closed, and after it has continued closed for a considerable period, as when the lake is rising some varieties of eels ascend the streams and drains in search, as is supposed, of fresh feeding-grounds, whilst when the lake is at its highest—usually in the month of May—vast multitudes of fish collect at the sandspit which bars the outlet of the lake to the sea.

We submit that the evidence adduced before the Commission absolutely establishes the fishing-rights, which includes and depends upon the rights to the natural closing and consequent overflow or rising of the waters of the lake.

As will be seen from the foregoing historical summary, the rights to maintain the natural closed period of the lake against interference is established by the following proofs which we will now consider at length :—

(a.) Deeds of cession of the Wairarapa lands bordering the lake: Three of these, namely, those ceding Turakirae, Tauherenikau, and Kahutara—have been produced by the Crown—the other, ceding the block known as Turanganui, has not been produced, and is said to have been lost. These deeds show that the lakes themselves were never ceded to the Crown. The boundaries of several cessions are very vague, as is indeed the case with all similar descriptions when lands were purchased before survey; but the Natives contend that the boundary of the cession expressed as “by or along the waters of Wairarapa” means by or along the waters of Wairarapa when the lake was at its lowest, according to the boundary now maintained by the Crown. In one of the deeds of cession—that of the Turakirae Block—there occurs a reservation of fishing-rights to the Natives in all streams, swamps, and lagoons, “until the same are drained by the Europeans,” and this particular deed of cession declares that the lands are ceded, together with all lakes, swamps &c.; but it is submitted that these expressions refer to certain ponds and streams within the boundary of the block, and not connected with the lake, and that the reservation only serves to show how important the Natives considered their fisheries, even when of comparatively limited extent, and so to support the contention that no sales would have been effected at all unless ample guarantees had been given for the preservation of what was considered at the time the only productive part of their property.

#### THE EVIDENCE OF J. P. RUSSELL, Esq., J.P.

The evidence of this gentleman, strongly supporting the claims of the Natives, is relied upon as of the utmost importance. Mr. Russell was clerk or secretary to Sir D. McLean (then Mr. McLean, and Land Purchase Commissioner to the New Zealand Government) at the time of the sales, and wrote out the deeds of cession. He was present at the signing of two of them—namely, those of Turakirae and Turanganui Blocks. He is entirely above suspicion of interests, and is a man of reputation and independent position. He has a property in the neighbourhood of the lake, upon which he resides. His evidence was unshaken by any circumstance or other testimony. The more important parts of his evidence given before the Commission are transcribed as follows: “There was a difficulty in getting Natives to sell on account of eel-fishing. They feared the opening of the lake would prevent fishing. The Natives would not sell for a long time on account of interference with their fishing, which would take place. Mr. McLean promised that the lake would not be opened till after fishing. I heard him promise this. On that understanding the Natives signed. I went to see Mr. McLean about the opening of the lake by white people. I was afraid of trouble between Natives and pakehas and went to see Mr. McLean. He (Mr. McLean) said ‘That cannot be allowed; you know my promise.’ He asked, ‘What do the white people complain of?’ I said, ‘The waters cover their land.’