

The reason why the Ngatiraukawa would not accept the boundary at Mahoenui which Kemp proposed was owing to their claiming a boundary much further to the northward—viz., from Te Uimairangi, on the coast, thence to Tau-a-te-ruru, near the Horowhenua Lake, and from thence to the Tararua Range, which only left about one-third of the block for the Muaupoko.

Before the Native Appellate Court on the 5th May, 1897, Meiha Keepa, in opening his case in respect of the rights of the parties claiming a proprietary right in No. 11, stated, *inter alia*, "I have also occupied the land, and have been as brave as my ancestors, in that I have rescued part of the land. My claim from chieftainship and conquest is shown by my having extended the boundaries of the land from Hokio to Waiwiri by my exertions in the Native Land Court."

The dispute, which started in 1869, about the ownership of the Horowhenua Block, between the Ngatiraukawa and the Muaupoko, was referred to the arbitration of a number of tribes in 1870. The members of the tribes chosen for that purpose assembled at Horowhenua and awarded the Muaupoko a block of land of about half the area of that finally allotted by the Native Land Court in 1873. This award would have been accepted by the Muaupoko, but Kemp refused to abide by the decision, and afterwards shifted the boundary southward to Mahoenui, and ultimately to Waiwiri, the southern boundary of the Horowhenua Block finally fixed by the Court in 1873.

The meeting of the tribes was convened during Kemp's absence on the East Coast by Kawana Hunia, who had previously caused a large house, called "Kupe," after the ancestor of Muaupoko, to be erected for their reception. The boundary fixed by the meeting was at Hokio, but this was not agreed to by Ngatiraukawa, as they claimed a boundary further northward, at a place called Tau-a-te-ruru, the boundary said to have been fixed between Te Whatanui and Taveke about the time the peace was made, when Te Whatanui promised his protection to Muaupoko.

The Ngatiraukawa, although not satisfied with the boundary fixed by the Committee, decided to leave the question to be decided by Pomare, one of the lineal descendants of Te Whatanui. He fixed the boundary to the south of Kupe, a short distance to the southward of Tau-a-te-ruru; but the Muaupoko objected to this position, and Kemp afterwards, as previously stated, shifted it to Waiwiri, the present southern boundary of the Horowhenua Block. This action was the means of about doubling the area of the Horowhenua Block.

The Court is aware that Wirihana Hunia prefers a similar claim on behalf of his late father, Kawana Hunia—that he was the means of aiding the recovery of part of the Horowhenua Block by contesting the Ngatiraukawa claim to the land; but that claim will be considered later on, when dealing with No. 11. Without in any way detracting from the importance of the assistance rendered by others in the matter, it cannot be gainsaid but that Kemp was mainly instrumental in regaining a very large proportion of the Horowhenua Block for the Muaupoko. No one had the personal influence or could command the same amount of assistance as he could amongst the tribes who were willing to aid the Muaupoko, if necessary, in regaining their land. He found the remnant of the tribe in a very unsatisfactory position. As a people they had been conquered by Te Rauparaha and his allies, and afterwards succoured by Te Whatanui, but had never regained their independence as a tribe. Kemp, by his energy and determination, re-established his people, and, considering all the circumstances, he is entitled to very great consideration for the incalculable benefit he has gained for the Muaupoko in recovering for them so large a portion of their original tribal estate (fully 25,000 acres), as well as enabling them to regain their tribal status.

It has been stated that one reason why it was deemed necessary to cause an inquiry to be held into the matters relating to the Horowhenua Block was that a great injustice had been done to the Natives; but, whoever may have been injured by anything that has been done, it is certainly not the Muaupoko.

The Native Appellate Court, having submitted certain questions to the Supreme Court, is bound by the decision of that Court in terms of section 92 of "The Native Land Court Act, 1894," and will now proceed to make its findings, subject thereto so far as may be necessary; but before doing so it is advisable to make further comments on certain matters in connection with the case.

The term "alternative section" so frequently used by Mr. A. McDonald is a misnomer. There was no alternative section made, in the proper acceptation of the term. What really happened was this: A section of land comprising 1,200 acres was set apart for the descendants of Te Whatanui, and ordered in favour of Major Kemp on the 25th November, 1886. This section was objected to by Aohau Nicholson on the same day, and subsequently documentary evidence was received by Mr. Lewis, the Under-Secretary for Native Affairs, who was assisting Major Kemp, in which it was stipulated that the 1,200 acres should be located near Lake Horowhenua. The purpose being fulfilled, and the section accepted by the descendants of Te Whatanui, who were present at the Court, the section of 1,200 acres at Ohau was vacated, No. 9 having been substituted in lieu of it. It will be seen, therefore, that an alternative section was not laid off as stated, but that one section was substituted for another; and if the Court did not create an alternative section the numerous statements subsequently made by irresponsible persons that in their opinion it was one, are of no avail.

The following evidence is pertinent to the case now under consideration:—

Mr. Alexander McDonald, on being examined by Mr. Travers before the Waste Lands Committee of the House of Representatives on the 13th December, 1887, relative to the petition of the Wellington and Manawatu Railway Company, gave the following evidence relative to the subdivision of the Horowhenua Block in 1886 (*vide* Parliamentary Paper I.—5A, Session 2, 1887): "Do you know the Horowhenua Block?—Yes. Did you take any part in the passing of those blocks through the Native Land Court?—I had something to do with the subdivision. With what view was that subdivision of the Horowhenua Block carried out?—I understood it was subdivided for the purpose of making it possible to sell. The people were precluded from selling previous to subdivision; and it was probably also to enable them to get their titles and deal with the land. Then the subdivision was to enable them partly to sell and partly to individualise their titles?"