

fits this point, Ngahuinga, exactly, both because of the totara post and because of the statement that the Taupo Track ran over it. There is no doubt in my mind that when Tutaki referred to Ngaherenga, he had in mind the point Ngahuinga, and this is borne out by the fact that when he acted as guide for Mr. Ward the theodolite was set up on the top of Ngahuinga and directed by Tutaki himself to the source of the Paruho Stream. At the hearing before Judge Browne, Mr. Ward recited in detail exactly what was done to get the Ngahuinga-Paruho line, which was fixed by Tutaki himself. I remark again that at the hearing before Judge Browne no question was raised by the Native owners as to the correctness of Ngahuinga as the starting-point, and the whole argument, as mentioned by Judge Browne, centred upon the question of the place of the source of the Paruho Stream. For the foregoing reasons, my conclusion is that there was confusion in the mind of the Native owners as to the two points mentioned, and it is noticeable that it was not until after the death of Tutaki and the other elders that the matter was raised by petition. Evidence was given before me at Te Kuiti as to the two points, but in all these cases I think the original record of the hearing is a far better record of the truth of these matters than evidence offered many years after, when the elders who gave the evidence originally have passed away.

Another matter that struck me at the hearing was that the plan produced by the Native owners showing their claim was prepared by a surveyor, Mr. Carroll, of Te Kuiti, showing the two points, Ngaherenga and Ngahuinga. In this plan a further point is introduced, called Pikiariki. By adopting this point, a further substantial area is included in the claim, so that the claim is not now limited to an area of land included within lines drawn from Ngahuinga to Ngaherenga and thence to the source of the Paruho Stream. I enclose a sketch [*not printed*] showing the land claimed before me, which also serves to show what would have been claimed had Ngaherenga been taken as the starting-point and the line run direct to the Paruho Stream. I can find nothing that justifies in any way the introduction of the new point, Pikiariki, and the introduction of that point does not in any way correspond with the boundaries laid down by Tutaki or the written description furnished by Pepene Eketone. To my mind, the introduction of this new point discredits the petitioners' claim.

I may say, in conclusion, I am satisfied that at no stage did the elders of the Native owners, who gave the boundaries, consider that the point they now describe as Ngaherenga was the true starting-point of the boundary-line, but that all available evidence indicated Ngahuinga as the true starting-point, and that Mr. Ward's Plan 7478 followed the boundaries laid down by the owners themselves.

For the foregoing reasons, I am clearly of opinion that the claim made by the petitioners has not been substantiated and that it has no real foundation. For that reason, I recommend that no alterations be made to the boundary of Maraeroa C.

[L.S.]

E. M. BEECHEY, Judge.

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