

*Appeal No. 159.*—By Mehaka Tokopounamu and others. This is a claim for the inclusion of the names of ten persons, but no evidence was given before this Commission in support of the claim that their names be included.

The case in regard to the disputed overlapping boundaries of Tarapounamu-Matawhero, Hikurangi-Horomanga, and Te Whaiti-nui-a-Toi Blocks has already been dealt with by us in our recommendations in regard to the Hikurangi-Horomanga Block, and the disputed overlapping boundaries of Otairi, Maraetahia, and Te Whaiti-nui-a-Toi Blocks have also been dealt with by us in our recommendations in regard to the Maraetahia and Otairi Blocks. There is, therefore, no object in repeating ourselves here in regard to the said disputed boundaries.

We will now proceed to deal with the several cases before us in regard to the Te Whaiti Block, dealing first of all with the case of Himiona Tikitu on behalf of the Ngamaihi Hapu. We cannot see any ground whatsoever to justify this claim. From Himiona Tikitu's own evidence it is plain that the ancestral right alleged by him was extinguished by conquest, and in regard to occupation he himself states that none of the persons in his list of names have ever occupied the land, with the single exception of himself alone. We do not, however, look upon his personal occupation as having been occupation under right to the land. Towards the conclusion of his case, however, Himiona withdrew all the persons in his list of names excepting himself, and thus reduced his case to a personal claim for himself only.

We are of opinion that Himiona Tikitu's occupation was not occupation under right to the land. We therefore recommend that his name be struck out of the land and his case dismissed.

In regard to the case of Mehaka Tokopounamu on behalf of the ten persons submitted by him for inclusion, all these names were objected to before this Commission, and no evidence whatever was given before us in support of their claim for inclusion. We are therefore unable to do otherwise than recommend that this case be dismissed.

In regard to the case of Hori Wharerangi on behalf of the ancestor Marakoko and his descendants, there are a very large number of the descendants of the ancestor Marakoko contained in the Ngati Whare, Ngati Manawa, Tuhoe, and Warahoe Tribes. Hori Wharerangi alone sets up the claim under this ancestor, and claims a large portion of the block within the boundaries given by him under that claim. This claim, however, was dealt with when the list of names of Ngati Marakoko Hapu was submitted to the previous Commission, under the alleged right of the ancestor Marakoko, and their names were disallowed by that Commission.

Even though there are presumably a large number of descendants of Marakoko amongst Ngati Whare, Ngati Manawa, Warahoe, and Tuhoe Tribes, yet not one of these persons was called as a witness in support of this claim under Marakoko.

In reference to the boundary of Marakoko's land alleged by Hori Wharerangi, this is entirely denied by the majority of the witnesses in the other cases for this block. We are, however, of opinion from the evidence that Marakoko had an interest within Te Whaiti Block, seeing that he was a descendant of Wharepakau, the ancestor admitted by all the contesting cases as the owner of this land, and he was also a descendant of Tangiharuru. We do not, however, believe the boundary alleged by Hori Wharerangi; there is no clear account given of this boundary having been laid down by Marakoko in conjunction with other ancestors owning the lands immediately outside it, and we are of opinion that only the proper descendants of Marakoko who have permanently occupied this land are entitled to be included in the order as owners. We are further of opinion that the persons in Hori Wharerangi's list of names have not permanently occupied this land, with the exception of the persons of Tuhoe, Ngati Whare, or Warahoe Hapus which this list contains, and their names are also contained in other lists of names to which we will subsequently refer.

We recommend that the whole of the list of persons submitted by Hori Wharerangi be dismissed.

We will now deal with the case of the Tuhoe Tribe and its hapus. We have considered the evidence given before us, together with the evidence advanced before the previous Commission, and the evidence given by Tutakangahau during the hearing of the Whirinaki case by the Native Land Court, and the award given by the said Court, and we have no hesitation in stating that, in our opinion, Tuhoe have no right whatever to any part of the Te Whaiti Block, and they have no occupation upon the land.

A very great deal of evidence was given in regard to the alleged conquests by Tuhoe over Ngati Manawa and Ngati Pukeko, but it is perfectly clear that these "conquests" (so called) were merely avengings of former defeats, and did not in any way affect the ownership of the land. The principal witnesses in the Tuhoe case, however, assert that these conquests over Ngati Pukeko established their "mana" upon the land, but they did not subdivide the land, nor did they occupy pas or kaingas upon it, subsequently to the conquest over Ngati Pukeko, whereas it is admitted by the witnesses in all the contesting cases that Ngati Whare and Ngati Manawa lived upon the land after the conquest by Tuhoe over Ngati Pukeko, and, furthermore, that they were the occupants of this land prior to that conquest. The Tuhoe hapus do not attempt to deny their occupation from former times down to the present day—that is to say, until the time when Tuhoe set up a claim to this land.

We have been unable to discover that any persons of pure Tuhoe descent only have ever permanently occupied the land at any time down to the present day, the only persons of that tribe whom it is clear did occupy being persons of Tuhoe who are partly of Ngati Whare descent, and they are therefore Ngati Whare also. In regard to Paitini Tapeka, the principal witness in support of the Tuhoe case, there is no clear evidence that he permanently occupied the land.

With reference to the large whare which was erected at Te Murumurunga as a church in the year 1884 by all the hapus of Tuhoe, that is no evidence of occupation on the part of Tuhoe, for it is the case that very many whares of this description have been from time to time erected in