

—they were a branch of us. We lived with them until quarrels arose, and we expelled them." The Ngaitai did not venture to say who the refugee tribe were. These are the two claims, and I venture to submit that I have conclusively established that they are both based on occupancy. I am going to give you the evidence of occupation, and I may ask any member of the Committee, sitting as a Judge, whether he would attach the slightest importance or value to the evidence of possession of the Ngaitai. I will read the evidence to you with little or no comment. This is Judge Scannell's judgment in 1895 upon the facts as to occupation—and I direct the Committee's careful attention to it: "From the evidence given, and its contradictory nature, it appeared to the Court to be absolutely necessary, in order to enable it to arrive at a decision satisfactory to itself, that an inspection of the Tunapahore Block should be made. It was admitted on all sides that this was the settled part of the common land, and each party claimed constant occupation of that block from the earliest times to the exclusion of the others, and each also claimed that all the marks of occupation on that part of the block belonged to them. At this inspection it was clearly seen that Ngaitai could never have occupied as they claimed. Within a comparatively small area there were found to be at least a dozen old pas of which they had no knowledge whatever. It would have been impossible for any tribe to have occupied the land as the Ngaitai claimed to have done from the earliest times, and remain in ignorance of such prominent and important marks of occupation. These pas are mostly close to the coast, and could not have been unknown to any living on the land for one or two generations, much more to one who had lived on it, as Ngaitai claimed to have done, during twenty-five generations—that is, from Torere-nui-a-rua's time down to 1858. All these pas, and others, together with other marks of occupation, were pointed out and named by Whanau-Apanui and Whanau-a-Harawaka. From the evidence given in the case, and the result of the inspection of Tunapahore, the Court is of opinion that the claim of Ngaitai to Kapuarangi, as part of their tribal estate, has not been sustained, and the claim is therefore dismissed." Now, if you once arrive at the conclusion that whoever was in occupation of this land was the rightful claimant, can any one doubt that the Ngaitai never had occupancy? Judge Scannell went on the land himself, and they could not point out those pas. Judge Scannell says that if they had lived there only a generation or two it would have been impossible for any tribe to have remained in ignorance of such prominent and important marks of occupation, let alone twenty generations. Now, it does not stop there. I am going to read a short passage from the Native Appellate Court's judgment in 1898: "The judgment in Kapuarangi was based largely upon the signs of occupation at Tunapahore, as pointed out by Whanau-Apanui and Ngaitai respectively to the Court when it went to inspect that land; and especially upon the fact that at least a dozen old pas on that land, pointed out by Whanau-Apanui, were entirely unknown to Ngaitai, although they assert a continuous occupation of that land for twenty-six generations. It was inconceivable to that Court, and is equally inconceivable to this Court, that a tribe in continuous occupation of land from ancient times should be ignorant of the sites of the pas that formerly stood upon it. Moreover, there is considerable discrepancy in the Ngaitai statements about these pas. One witness at the Tunapahore hearing knows of comparatively few, another knows of more; and at the hearing of Kapuarangi it was evident their knowledge of the pas had considerably improved from what it was during the hearing of Tunapahore, leading irresistibly to the conclusion that they had gained their extra knowledge either during the hearing of Tunapahore and of the Whanau-Apanui case in Kapuarangi, or that they had since made an inspection of the land. It also appeared from the Ngaitai evidence that considerably more than half of those pas had been built by Ngaariki, not by Ngaitai." You see the importance of this: "It also appeared from the Ngaitai evidence that considerably more than half of those pas had been built by Ngaariki, not by Ngaitai." That is conclusively in favour of our case, because our case is that the Ngaariki occupied this land for generations—that we are the Ngaariki, the descendants of Ngaariki. The case that my friend's clients must make is that the Ngaariki were only on the land for a generation. How is it that these pas are not Ngaitai pas, not Apanui pas, but Ngaariki pas? The judgment continues, "This brings us to the next point—viz., the alleged conquest over Ngaariki by Ngaitai, or by Whanau-Apanui. As Ngaitai admit—indeed, assert—that most of the pas on Tunapahore Block were built by Ngaariki, it is important to decide who these Ngaariki were. Ngaitai assert that they were a tribe of refugees from the Turanga district, that they came up the coast and were received by Ngaitai as visitors, and that they lived on Tunapahore for about one generation, and were then driven out by Ngaitai to the westward, when their association with Ngaitai ceased. Now, it is hardly credible that a party of refugees could in one generation build the greater part of the pas on this block, which are over forty in number. Again, Ngaitai speak of only one intermarriage between themselves and this party of refugees—viz., that between Patunga, a woman of Ngaitai, and Te Whakapakinga, of Ngaariki. The issue of this marriage was Whakaihu, and beyond this Ngaitai know nothing of the descendants of this party of refugees, whom they call Ngaariki-Rotoawa. Their advocate, Hone Patene, strove to show that the Ngaariki, now living at Whakatane, and who at the former hearing set up a claim to Tunapahore, are descendants of the Ngaariki-Rotoawa driven out by Ngaitai, but without success; for the Ngaariki witnesses set up lines of descent from ancestors connected with Whanau-Apanui, whereas Ngaitai generally deny that Ngaariki-Rotoawa had any connection with Whanau-Apanui. It is true that Ngaariki witnesses claimed descent from Whakapakinga and Patunga, but Whanau-Apanui say that Te Whakapakinga was descended from the ancestors through whom they claim, and give his line of descent, while Ngaitai do not know from whom he was descended. Under these circumstances the Court must conclude that Te Whakapakinga was descended from the Whanau-Apanui ancestors." I skip the next paragraph in the judgment, as relating to Wi Pere, and go on to the following one: "The Whanau-Apanui also say that Ngaariki formerly lived at Tunapahore, and that the Ngaariki who were driven westward were a section of their