

that they are the same people as the Ngaariki, who, he says, were there before the canoe. Then he sought to establish an exclusive ownership of the land in Apanui, and a continuous exclusive occupation. What my learned friend Mr. Skerrett avoided was reference to and any attempt to explain the fact—because this fact is admitted by the Apanui—that Ngaitai was from time to time in occupation with them of this very land. Now, there has been no reference whatever to that before the Committee, but it has been proved further by the judgment and from the admissions of the Apanuis themselves, so that, whatever may have been the occupation of the Apanui, it certainly was not exclusive of the Ngaitai. Then, my learned friend referred to certain evidence with regard to the old pas. I will deal with that in detail, but I want to show the Committee at the outset that it proves far too much. Of course, Mr. Skerrett was logical enough when he stated (a) Ngaitai never occupied that land at all, and (b) that he could prove that by their ignorance of certain old pas which were built by the Ngaarikis. But if it is admitted that the Ngaitai were in occupation of the land with Apanui—admitted, I mean, by Apanui—then, of course, the evidence of ignorance of the pas cannot prove that they were not in occupation when it is admitted that they were, so that he proves too much. The point I want to make now is that Mr. Skerrett depended upon exclusive occupation; but there are certainly admissions not only in the judgments, but in this very petition, that the Ngaitai were in joint occupation of these very lands for thirty years. Therefore if some of these persons must have known of the existence of these pas, then the argument falls to the ground. Then, finally, my learned friend Mr. Skerrett said he had the judgments of four separate Courts in his favour; and that to me is an astonishing argument, and I will endeavour, quite briefly, by reference to the judgments themselves, to show that there is no foundation whatever for Mr. Skerrett's contention on that point. I say that he has not those judgments in his favour. On the contrary, I claim the several judgments to have been in favour of the Ngaitai with the exception of two—of Judge Scannell's—which I will show the Committee were reversed by the Appellate Court itself, and not by the Commission. Now I come to the point upon which we are not at issue. Mr. Skerrett says that the three blocks—the Tunapahore, Kapuarangi, and Takaputahi—are practically all one, that the boundaries are surveyors' boundaries, and that the three blocks together constitute a block occupied by the people, whoever they may be, practically as one. That I do not dispute. It is so found, and I will refer to it in the petition and by the several Courts. It is admitted by all the parties before the Courts, and admitted by the Apanui before the Commission. And Mr. Skerrett relies on it, because he brings in the judgment of Judge Scannell as a judgment affecting the Apanui—rightly enough. One judgment is wholly reversed, and the other reversed as to part. If you take, then, this foundation, that the three blocks are practically a series—that the divisions are surveyors' divisions, and you are to treat Tunapahore, Kapuarangi, and Takaputahi practically as one—then you have the decision of Judge Mair, and the decision of the Appellate Court, before the Commission sat, that these blocks were held in common. Now, Ngaitai were equally entitled with the Apanui in the blocks which have a common derivative title. If you take the three blocks as one, then you find that the ascertainment of the block as one block in three divisions has been partly Ngaitai and partly Apanui. Now, the Committee is aware that the lands lying to the westward of Tunapahore—when I speak of Tunapahore I mean the collective three, although I have occasionally to refer to it in its individual character—indisputably belong to the Ngaitai who occupied it, and on the other side of these blocks the people who descended are entitled. Now, this individual block of Tunapahore is a piece of land on the coast—low-lying land which the Courts appear to say was the natural land the Natives would have settled on. The big blocks were only for hunting and catching birds, and the probability is apparent to every one that the occupation of this piece of low-lying land would have been naturally close. Remember that these people were fighting together until 1858—that is to say, on the Torere side the Ngaitai would have had their hapus in cultivation, and on the other side of Tunapahore the Apanui would have had their cultivations and homes. Now, I would remind the Committee that the only available materials are the judgments. The minute-books are not available. They are in Auckland. And I am unfortunate in not being able to bring the matter out in detail. But from the judgments I think enough can be arrived at to see that the Commission came to a just conclusion from the Native Land Court's decisions. Having said so much, I turn to the petition itself. If you will refer to paragraph 8 (d) of the petition, which I will read, you will find it is thus stated: "The many pas within the Tunapahore Block were, according to the Ngaitai statements, built by Ngaariki, and only very few pas were built by Ngaitai. Your petitioners say the same, except that the Ngaitai built no pas. Ngaitai say that these people only lived here a short time and then went away." So there is this admission by the petitioners, that these pas were built by Ngaariki, not by Apanui, and these are the pas with respect to which ignorance is alleged. In paragraph 9 it says, "Even though Ngaitai and Te Whanau-Apanui were many times combined when they were fighting with one another or fighting with other tribes." You see that is an emphasis of the fact that these two peoples were living in friendly amity on this common boundary. They were not peoples fighting one another, but were fighting with other tribes, and many times combined. "Ngaitai were originally a large and powerful tribe, but because of their continual defeats by Ngatiporou, Ngatimaru, Ngapuhi, Ngaiterangi, and Te Whakatohea, they became fewer in number, and powerless, and that condition of things having become so continuous right down to the close of their going to Turanga as the companions of Te Whanau-Apanui, they were afraid to remain living at their kaingas at Torere, and sought the Whanau-Apanui to protect them."

*Mr. Skerrett:* That is in 1835, remember.

*Mr. Bell:* That is so. But I wish to read passages of the petition which establish the fact that there was a joint occupation. They were living together and fighting on the boundary, and when they became weak they sought the Whanau-Apanui to protect them. "A. Ngaitai are a tribe who migrated at many times, so that Torere was abandoned. There was one migration