

both parties admit were the original possessors. And Judge Mair says that both parties agreed to that before him. And who conquered Ngaariki? Referring then to the claims by conquest, he says, "The important points are, (1) Were Ngaariki really conquered, and driven away to other places? (2) If they were so conquered, what tribe conquered them and took possession of their land? We will take first the case of Te Whanau-Apanui: Their witnesses state that Apanui Ringamutu was the ancestor to whom the land belonged, and that his people, the descendants of Turirangi, were then known as Ngaariki; that a few generations after Apanui's time quarrels arose amongst them, not about the land, but in consequence of wrongs perpetrated by one family or hapu upon another family, and that the result was that one hapu, under the chief Te Whakaihi, was driven away, and another, under Te Tohi te Ururangi followed; that the land of these two sections was confiscated, the name Ngaariki blotted out, and that of Te Whanau-Apanui substituted. Very little is told of the subsequent history of Te Whakaihi, but Tohi returned to Maraenui on the occasion of the tattooing of his grand-daughter, made peace with the tribe, and was treated as a person of distinction, after which he returned to Whakatane. Te Whanau-Apanui state further that they have held possession of the block ever since. Ngaitai's witnesses state that they (Ngaitai) had been in occupation of the land for many generations when a people called Ngaariki-Rotoawa came to them as refugees from Turanga, were taken under the protection of Ngaitai and placed at Tunapahore; but after a time troubles arose between them and many were killed, and the rest were driven away by Ngaitai, who then reoccupied Tunapahore, and have continued to do so ever since, except when they had to leave their country for fear of Ngapuhi. Now, the two accounts of the exodus of Ngaariki are very different, but Ngaitai's appears to us to be the most probable, inasmuch as Ngaariki were quite a distinct people from Ngaitai, whereas Te Whanau-Apanui say that Ngaariki, whom they expelled, were their own flesh and blood." I do not know whether that is good Maori law, but it is good common-sense that Judge Mair relies on there. Here he says these two people agree that the Ngaariki were turned out, but Apanui say that they turned them out, and Ngaitai say that they turned them out, and Judge Mair says that he does not believe the Te Whanau-Apanui. "We now come to the question of occupation," he says at the foot of the page. "Te Whanau-Apanui, especially that section called Te Whanau-a-te-Harawaka, are closely connected with Ngaitai, and it is evident that for some generations at least both tribes have been living on the land. Whether or not one was living there under the mana of the other we cannot tell, but Ngaitai appear to have occupied the west end of the block and the Whanau-Apanui the other part. As far as we can judge, no boundary was ever defined between them." That is what he found then. His evidence is "for some generations at least." He does not begin it in 1833. He says, "Both tribes have been living on the land. Whether or not one was living there under the mana of the other we cannot tell, but Ngaitai appear to have occupied the west end of the block, and the Whanau-Apanui the other part." Then he disposes of Ngaariki, and he says, "Taking all these circumstances into consideration, we have arrived at the conclusion that the only just settlement of this question is by a division of the land." That is what practically each Court except Judge Scannell's has arrived at. He goes on to say, "We therefore award all that portion of the block lying to the westward of a line running from the mouth of Waiomuri Stream across to the southern boundary of the block, as shown on the map, to Wiremu Kingi and his fellow-claimants of Ngaitai, and the remainder of the block to Apanui." Then he adds, "It is after very careful weighing of the evidence and with the most sincere desire to do justice to all parties that we have arrived at this judgment, and we earnestly hope that both sides will accept this as a fair settlement of the question that has cost them much trouble and bloodshed in the past, and has defied all attempts in the direction of a peaceful solution." He compliments both parties on their friendly conduct. This is very important, because Mr. Skerrett said that the boundary fixed by Judge Mair is only a small portion. I should inform the Committee—this is the only point that I have not in the judgment, but I think probably my learned friend's clients will admit it—that this Hawai was the division fixed by the two halves. Judge Mair's division is this [shown on plan produced], dividing the west block into two halves. Instead of following the river, Judge Mair took a line, and left one strip to Apanui. In contradiction to my learned friend, who states that Judge Mair's judgment is in his favour, I desire to state that his judgment is identical with the report of the Commission. That division of Tunapahore by Judge Mair was not agreed to by Apanui, and they applied for a rehearing, but their application was dismissed, and in the year 1895 Parliament thought it right to grant a rehearing of this block Tunapahore. It was granted by a special Act—I do not know what the Act is generally called now, but it was what is understood as a "washing-up" Act—and the Act recites that the parties were not present through some mistake, and so the case was not properly heard. So Tunapahore came up for a rehearing, and in the meantime, in 1895, Judge Scannell had dealt with the other two blocks by his judgments. He awarded both of those blocks, Kapuarangi and Takaputahi, to the Apanui; so that in 1898 the Appellate Court, by force of the Act which had granted the right of appeal in Tunapahore and the right of appeal which actually existed in these two blocks, had in review the whole case in connection with these three blocks. I submit that it is very important, in considering Judge Scannell's judgments, to note that the assessor did not agree—there was dissent. If you will oblige me by referring to the judgment of Takaputahi, on the second page of the petition, at the top, you will see that he says, "The Takaputahi Block is very broken forest country, probably never permanently occupied, or, if so, at such a remote period that all traces of such permanent occupation have long since been effaced, and the Court felt that in weighing and considering the evidence as to present ownership, that given as to other contiguous occupied land and the facts ascertained in connection with those lands are the only 'cause'" [I presume that is a misprint for "means"] "of deciding the present ownership. Before proceeding further I must mention that the assessor, Mr. Edwards, and myself differ as to the conclusions to be arrived at from the