

evidence as a whole, and that Mr. Edwards does not agree with me in the award about to be made." I do not know—possibly some members of the Committee may know—who Mr. Edwards was. Apparently he was a half-caste, and I suppose, by being appointed an assessor, he was a gentleman of some standing; but he ought to be, from his having been appointed assessor, a fair judge of such matters as Judge Scannell had to decide, which were not matters of law but matters of Native custom; and Mr. Edwards arrived at a directly contrary conclusion to that arrived at by Judge Scannell, and I conceive that must be of importance unless you are going to ignore an assessor altogether. He goes on, "Previous to the passing of the Native Land Court Act of 1894, if such a difference arose between the Judge and the assessor there was no option but to dismiss the case altogether, thus causing a waste of valuable time as well as of the money already paid in Court fees; but as by section 19 of the Native Land Court Act, 1894, the concurrence of the assessor in any order or judgment is not necessary to the validity thereof, the present judgment will stand valid until varied or reserved by the Appellate Court. Should the unsuccessful parties in the case choose to appeal, which no doubt they will, I have felt from the beginning and mentioned it in Court to all parties concerned when they pressed me to hear the case, that such a hearing would be merely to advance a step towards a final decision. I was aware, and said so, that whatever the decision was, even if the Judge and assessor agreed in that decision, the unsuccessful parties would appeal. It must be understood then that this judgment is not concurred in by the assessor. I will endeavour as briefly as possible to review the main facts put forward and relied on by each party in support of this claim." It is a pity that we have not Mr. Edwards's views, but all we know is that they were diametrically opposed to Judge Scannell's. I ask the Committee to refer to what he said at page (g) of the judgment: "The Court visited Tunapahore as well to test the knowledge of the proofs of occupation of the parties as to see those proofs for itself. Whilst no trace, or very slight traces, as I have said, remained of the cultivations mentioned by Ngaitai, there were over a dozen old walled pas of which they had no knowledge whatever as to name, locality, or history. These were not away in the forest, but for the most part on the coast or within easy distance of it—one especially was so close that travellers along the beach must pass within a few paces of it; it was on a slight rise now partly overgrown with trees, and hidden. The Ngaitai knew nothing of this—either its name, or how it came to be built, or who owned it, and never had any knowledge of it. It was the same with regard to four or five more along the steep ridge close to the beach between Hawaii and Tokaroa; only one of all these was known to Ngaitai; and that was on the most conspicuous part of the spur looking west. Ngaitai had stated that one of their principal burial-places had no pa within a considerable distance of it. Whanau-Apanui stated the contrary, that the place they called the burial-ground was really an ancient and unmistakable pa. On inspection, the place was found to be an old pa, with some of the protecting walls 20 ft. high. It was the same in all the other places inspected, where Ngaitai alleged no pas ever stood. Pas were found still standing—not modern-built pas, but pas of ancient construction, and such as could not fail to be known to any residents of the land. Of all marks of occupation I hold the most important to be the old pas standing on the land. These remain traceable for generations, long after every other vestige of occupation is effaced by time; their names, location, and history are commonly known to almost every man, woman, and even child of the tribe owning the land—certainly to the elders of the tribe; and where such a people as Ngaitai, who have their own tribal history at their finger-ends, show such gross ignorance of such a number of pas on a comparatively small space of land which they claimed to have owned and occupied exclusively and continuously for over twenty generations, I can only say that such a claim of ownership appears to me to be pure fabrication." Now, just examine that for a moment. What Judge Scannell says is that these pas were not concealed in the forest, but were on the beach—they were manifest to every one—"one especially was so close that travellers along the beach must pass within a few paces of it; it was on a slight rise now partly overgrown with trees, and hidden." I quite conceive that my friend must feel the force of what I am saying, but the point I am endeavouring to make is this: that here are pas that must have been known to the people who were there, because they were on the beach. Now, these people were there by the admission of all parties. How can you, then, attribute ignorance of things they must have known? What I say is that for forty years, by force of the truce, they had not been there, and the old pas which had been built by Ngaariki had passed from their memory. No doubt they would have some sort of tradition of pas which they had built themselves, but they would not know the old pas except from recent occupation of the land. But they did once occupy the land, and therefore the ignorance attributed to them cannot have the evidentiary weight attempted to be given to it by my learned friend. I do not think I need trouble the Committee with references to the judgment in the Kapuarangi. Again, however, Judge Scannell goes to Tunapahore for his evidence, and again he refers to the question of the pas, and he gave both blocks to the Apanui. Then comes the judgment of the Appellate Court. It is almost comic in its result, because after saying that the three blocks are one, and after going to Tunapahore for their evidence, they give the whole of Takaputahi to Ngaitai, reversing Judge Scannell's decision; they gave 9,000 acres of Kapuarangi to Ngaitai, again reversing Judge Scannell's decision; and they reversed Judge Mair's decision in Tunapahore. Now, if the three blocks were one, you ignore the survey boundaries. Suppose you wipe them out altogether, then the ordinary course of partition would be the course they adopted: they gave one end of the block to Ngaitai, and the other end of the block to Apanui; and that is what I apprehend they intended to do. At all events, they admit having gone to Tunapahore for evidence, and, finding this about the pas, they proceeded to give one block to Ngaitai and 9,000 acres to another, being influenced by the fact that they did not know anything about these old pas. They felt themselves that there must be a division, and they divided the land; that, as I have said, was the judgment. That being the position, it then became evident that the Native