had no interest in the land, or he was under the belief that the deed of gift was not valid, and that the partition order and succession order mentioned in (*c*) and (*d*) above were, as a consequence, of no effect.

(*h*.) Hakaraia te Whena died on the 4th April 1908.

(*i*.) On the 6th December, 1905, the Court, by partition order, vested 22 acres 2 roods 33·9 perches, called Manawatu-Kukutauaki 4B 2A, in Hakaraia te Whena. This order presumably was bad in law, because at that time Hakaraia was not possessed of any registered or registerable interest. The order was subsequently amended by substituting Hingaia's name for Hakaraia's, and Hingaia was also awarded an interest of 19 acres 2 roods 39 perches in 4B 2B.

(*j*.) On the 14th December, 1908, for the purpose, no doubt, of bridging the gap in the title, the Court made an order appointing Hakaraia te Whena and Mi Otonore as successors to Hingaia.

(*k*.) The orders referred to in (*i*) and (*j*) were undoubtedly applied for for the sole purpose of enabling the transfers by Hakaraia and Mi Otonore to Bevan and Drake respectively to be completed, for prior to the date of the orders Hakaraia te Whena died. Representations were made to the Court that these Natives had sold their interests, and on these representations the Court made the orders. It has since appeared at least doubtful whether Hakaraia was entitled to the half-share he was awarded, and Mi Otonore's right is even more problematical.

4. On the 20th April, 1903, Judge Mackay recommended the removal of the restrictions from the 42 acres 1 rood 32 perches. On the 6th February, 1907, the Hon. the Native Minister directed the gazetting of an Order in Council removing the restrictions. On the 8th February, 1907, Mr. Bevan was requested to forward the transfer for the purpose of having the minute of consent by the Governor in Council indorsed thereon. The transfer (undated) to Thomas Bevan, sen., was immediately sent. On the title being looked up it was ascertained that at that time Hakaraia had no interest in the land. The Order in Council removing the restrictions was never issued.

5. The transfer from Hakaraia is undated. The following are the dates on which the purchase-money was paid by Mr. Bevan to Hakaraia: On the 2nd December, 1902, £125; on the 9th May, 1903, £24 5s.; on the 19th May, 1903, £24 5s.: total, £173 10s. All these receipts recite that Mr. Thomas Bevan, sen., paid the money on account of Hannah Bevan.

6. From the above recital of the title, and by comparing the dates of payment of the purchase-money with the date of the recommendation for removal of restrictions, it is perfectly plain that when the whole of the purchase-money was paid to Hakaraia the latter had not even a registerable title, and, moreover, the land was subject to restrictions.

7. The Board is of opinion that it would be establishing a very dangerous precedent to legalize documents of alienation taken, as this one was, in defiance of restrictions, and at a time when the title of the vendor was non-existent.

8. If Mr. Bevan had unwittingly, as a layman, paid the purchase-money over to Hakaraia in ignorance of the true position of the title there would be more justification in his plea; but, as all the purchase-money was paid over in the presence of his solicitor, ignorance of the unnegotiable position of the title cannot be pleaded with any justification.

9. The only aspect of the matter which induces the Board to take a lenient view of Mr. Bevan's action in paying Hakaraia the purchase-money is the fact that in 1901 Judge Mackay made an order awarding a half-interest in the land to Hakaraia and a half-interest to Mi Otonore (see paragraphs (*f*) and (*g*)). This order, as pointed out above, had no legal effect; but, even if it had, Mr. Bevan was not justified in paying the purchase-money in defiance of the restrictions.

10. Hakaraia is now deceased, and Mr. Bevan has no recourse against his estate for a refund of the moneys erroneously paid to him. On this ground alone can we consider he is entitled to equitable treatment.

11. It is impossible now to ascertain whether the price paid for the land was a fair price at the time the transfer was signed, as the land was not then separately assessed. The land is now worth much more than it was then.

12. We are of opinion that Mr. Bevan's case will be equitably met by giving him a legal charge against Hakaraia's interest in the land for the amount he paid Hakaraia, and that an account be stated between him and the legal owners of the land, crediting Mr. Bevan with his payment to Hakaraia and interest thereon, and charging him rent for use and occupation of the land.

13. The Board takes the liberty of again emphasizing the grave danger of validating resurrected documents such as this one. To validate this transfer would have the effect of opening the flood-gates to scores of invalid deeds taken in defiance of statutory law, in a meagre hope that something would turn up some day to put the illegality right.

Given under the seal of the Ikaroa District Maori Land Board, this 1st day of September, 1911.

J. B. JACK, President.
E. NICHOLSON, Member.

The Hon. the Native Minister, Wellington.

*Approximate Cost of Paper.*—Preparation, not given; printing (1,400 copies), £1 15s.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1911.

*Price 3d.*]