

I quite concur with Judge Browne that the petitioners should be afforded an opportunity of having their true rights determined. But I find myself in some difficulty as to the exact recommendation I should make. What Judge Browne refers to as a "partition" is not really such. It was a "division" of the original block, as surveyed, into eight separate blocks, upon investigation of title, and the distinction is material in the present case from the fact that no list of owners for the original Whakanekeneke Block was ever handed in to or passed by the Court. A separate list for each of the eight parcels was handed in and passed. The petitioners expressly disclaim any desire to interfere with or modify the orders in respect of any of the parcels except Whakanekeneke proper and Whakanekeneke No. 3. The latter, however, is in the middle of the other small parcels. You will observe that Judge Mair characterizes the partition or division as "unsatisfactory and unscientific." I do not myself see on what grounds. Each parcel is carefully defined, and there should be no difficulty in giving effect to the orders by survey. I think probably the best course would be not to interfere in any way with Whakanekeneke Nos. 1 to 7 inclusive, and to declare by legislation that Whakanekeneke proper is held by the persons named in the existing order with relative interests undefined, leaving it to the Court when fixing the interests to take into account the fact that certain members of Hohaia Patuone's family had received an award of Whakanekeneke No. 3. If thought advisable, an express direction to do so could be given.

As an alternative, the persons named in the whole eight parcels could be declared to be the owners of the Whakanekeneke Block, as it originally came before the Court, with their relative interests undefined. This is practically Judge Browne's recommendation. It obviously opens up a much wider field of litigation than my first proposal, which is the reason I prefer to suggest the latter.

I direct your attention to the fact that Whakanekeneke proper was partitioned by the Court on the 9th April, 1910, into parcels A, B, C, D.

I have, &c ,

CHAS. E. MACCORMICK, Judge.

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