

was very careful to point out that the proceedings might have a very much wider operation. Parliament, by its own Act, had already recognized that a further inquiry was called for, and for that reason the facts should be stated as fully as possible. It was not desirable to limit the proceedings in any way. The Court's function was to inquire and to report to a higher tribunal, which would take whatever action it deemed necessary.

The block contains 97 acres 3 roods 14 perches, and is situated near Wairoa, Hawke's Bay. The title was investigated by the Native Land Court in 1868. Tiopira Kaukau gave evidence, and submitted lists of owners for Hinewhaki East and Hinewhaki West. The boundary-line between the two blocks had been decided upon, and the Court ordered the issue of certificates of title in the case of both blocks. The relative interests were defined by the Court on the 4th June, 1917, after a hearing lasting several days. The block has since been partitioned into thirty-nine subdivisions, all of which have been surveyed. No attempt was made to attack the title until the last few years, when Parliament was petitioned.

The Court is required to report upon two petitions—(1) by Peta Tiakiwai and others, dated 19th October, 1924; (2) by Te Whare Puhaki and others, dated March, 1925.

Lists of names have been submitted of persons on whose behalf inclusion in the title is claimed. It is contended on behalf of the petitioners that in some cases one member of a family was admitted to ownership while another was left out. Descent from the ancestor set up at the original hearing has been proved, and in the case of these people an attempt has been made to establish a right by occupation. Some fifty-eight years have elapsed since the ownership was determined. Some evidence has been tendered, but little of it can be treated as being more than hearsay. The generation of to-day knows practically nothing of the state of affairs existing in 1868, and yet it is suggested that a mistake was then made in omitting certain names from the list submitted to the Court.

In one case the Court is asked to assume that Tiopira Kaukau, together with his daughter and sister, should have been included. It was he who prepared the list. He knew what right he and the other members of his family had. In his evidence in 1868 he said, "This piece of land belongs to me." He left his own name and the names of his daughter and sister out, and put his own name into the list for Hinewhaki East. It is surely presumptuous to suggest now, after the lapse of fifty-eight years, that he made a mistake in leaving these names out. The Court prefers to think that the omission was deliberate.

In some cases it is sought to include the names of people who were dead when the title was investigated, or, in the alternative, the names of their children.

After careful consideration of the statements made in respect of each of the claimants this Court is of opinion that the ownership was determined as the result of an arrangement with which the interested parties were in accord, and that no sufficient grounds have been shown for any alteration in the title.

It is to be noted that even to-day the submitted lists of persons claiming inclusion are not complete, some members of families being included, while their brothers and sisters were not. After the Court had brought this fact out it was explained that the omission was inadvertent. But, as one witness aptly put it, "Motors will not go without benzine." In other words, some people found money for the case and were put into the new lists; others did not and were left out. If the present claimants, or some of them, are now included, there is every probability that their relatives will take similar action, so that finality may be a long way off.

Right by occupation is claimed on behalf of some of the present claimants. There is no doubt but that some of them have occupied for a long period. The Apatari family has evidently done so. But it is necessary to attempt to visualize the position as it existed in 1868. Occupation after that date, even though proved, can confer no right to inclusion in the title. Some of the present claimants were very young children in 1868. It is doubtful, too, whether all of them were born before that year. The three or four years just prior to 1868 were notable for great unrest among the Natives of this district. The Hauhau trouble was just over. Many of them had sought sanctuary in the pas on this block. Some of the occupation was attributable to this fact. But intermittent or casual occupation of this nature cannot be conceded as conferring a title to land. It is particularly to be noted that the persons who were left out in 1868 seem to have raised no protest, nor have their children done so. It is left for the people of to-day—practically two generations later—to discover that a grievance exists.

The block has been subdivided into some thirty-nine subdivisions, and these have been surveyed at a cost of something over £500. Although this fact must not be allowed to prejudice the claimants' position in any way, it is practically certain that a great deal of the survey work will be rendered valueless if the ownership is altered. One small portion of the block is held by its owner under a Land Transfer title.

It is not considered necessary to deal with the various cases in detail. The Court has arrived at the conclusion that the matter was well threshed out in 1868, and that there is every reason to infer that the ownership was determined by the elders of the tribe, who were well aware as to the conditions then existing. It is necessary for the claimants to prove, apart from ancestry, that they had a right to be included in the title at the time of the investigation. In the opinion of this Court they have not succeeded in so doing, and it is recommended that no further action be taken in respect of the petitions.

Enclosed will be found a Land Transfer search of the title, two copies of the evidence taken and of the *whakapapas* and lists submitted, and also the Native Department's file, 1925/343.

As witness the hand of the Commissioner and the seal of the Court.

W. H. BOWLER, Commissioner.