

After the lapse of more than fifty years it is, of course, impossible to get any very satisfactory evidence, but from the evidence and admissions I think the history of the matter is somewhat as follows :—

The deceased lived with William Swanson (the elder) as man and wife, and they had George Swanson, who is still living, well on in the “seventies.” Subsequently the deceased, either by Swanson or some other man, had the petitioner, who is not so old as stated in the petition, though over seventy. Her own evidence is that when she was born she was taken to Waikato and brought up by her mother’s people, and that she had always been with the “Kingites.” She went on to say, “I did not visit my mother again, but she came to see me now and again. I was not married then.”

I doubt the statement as to the mother’s visits. But witness stated, and it was not denied, that when she was grown up and shortly before her marriage George Swanson took her to see their mother at Turua, near Thames. The mother had left Swanson and was living with a Native called Rongopiri. Prior to this petitioner had never seen her brother George Swanson, and had to be told by others who he was. She states that she stayed some time with her mother, who consented to her marrying one Katipa. Petitioner then returned to Waikato, and obviously did not see her mother again for many years, if ever. At the time of petitioner’s visit to Turua, Ani Rongopiri (“Ani of Rarotonga”) was not born, because petitioner says, “I never saw Ani Rongopiri till she came back from Rarotonga. I heard she was adopted by a chief of Rarotonga and married another, Vaikai.” I knew Vaikai. He died in New Zealand about ten years ago, and his wife returned to Rarotonga and is now dead; had no issue. Petitioner continued that when Rongopiri died at Turua the deceased went to live at Devonport. She asserts that she paid her mother a short visit there and was invited to come again, but the mother died soon after. No one is in a position either to corroborate or contradict this. Copy of entry in the register of the death of the deceased was produced showing that she died on the 14th August, 1885, her age being given as eighty-five. She died at Devonport, and I think it is clear that she was living there when the deeds were executed in 1874. These deeds were prepared by Hesketh and Richmond, a firm of highest repute. They are certified to by a Trust Commissioner.

According to the petitioner, her mother lived by herself at Devonport. It is common ground that she did not live with Natives or on Native land. Though there is no evidence of it, I have no doubt she was maintained during her old age by the Swansons and placed by them at Devonport. There was no one else to look after her. If this were so, it would supply a motive for the settlement. The very slight intercourse which took place between the deceased and her daughters may have been a reason, though possibly not an adequate one, for their postponement to the Swanson collaterals. I need not enlarge on the inadequacy, and even eccentricity, of the reasons which sometimes guide settlers or testators.

The settlement was, no doubt, unfortunate for the petitioner. Though it did not dispose of the whole estate of the settlor, it did embrace what has turned out to be far the most valuable portion of it. If not settled, however, I do not doubt it would long since have been sold. Petitioner is not wholly landless, nor are her children, but apparently they derive little from such land as they have. Petitioner herself was shown to possess over 200 acres. She admitted having sold one interest for a considerable sum. But no doubt she and her family have had a hard struggle.

While having full sympathy for her, I do not see that I can make any recommendation under the circumstances.

The title to the settled lands is apparently not Land Transfer.

Morrinsville, 12th December, 1928.

THOS. MACCORMICK, Judge.

*Approximate Cost of Paper.*—Preparation, not given; printing (450 copies), £2.

By Authority: W. A. G. SKINNER, Government Printer, Wellington.—1929.

Price 3d.]