

On the 14th February, 1923, the Native Land Court, under section 11 of the Maori Land Claims Adjustment and Laws Amendment Act, 1907, found the owners beneficially entitled to be those shown in the partition order of the 22nd October, 1894. In so deciding Judge Brown states, "The whole question turned on the identity of the ancestor to whom the land was awarded by the partition Court. There were two mentioned—namely, Kapiti and Tutekapiti. From the former six of the owners have descended, and from the latter the whole of them."

This decision was appealed against, and was affirmed by the Appellate Court, which in its decision states, "The Court below decided that Tutekapiti and Kapiti were the same person. We are not prepared to rule on that question."

In the present proceedings Mr. H. E. McGregor appeared on behalf of the petitioners, and stated that "the whole case practically hangs on the question of identity, and his case must stand or fall accordingly as this is decided." In supporting the petition he relied mainly on Napier Minute-book No. 8, which was missing when Judge Browne dealt with the block in 1923. In that book Tutekapiti is shown as the child of Haumakoe and the parent of Hinewaenga, and Kapiti is shown as the child of Rauru and the parent of Rakau.

Mr. Mitchell, who appeared for the respondents, pointed out that both of these statements might be correct and easily reconciled. It was quite conceivable that Haumakoe and Rauru were the parents of the ancestor.

After a careful scrutiny of the evidence taken by the various Courts I am of opinion that it is overwhelming in favour of the contention that Tutekapiti was the same person as Kapiti.

I may quote the following references:—

Wairoa Minute-book 8/122—Te Pania Reweti: "Kapiti, father of Hinewhainga, laid down a boundary." The Napier Minute-book previously referred to and relied upon by Mr. McGregor gives the *whakapapa* thus:—

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Haumakoe
|
Tutekapiti
|
Hinewaenga.

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Surely this clearly indicates that Kapiti and Tutekapiti were one and the same. Te Pania Reweti was the principal witness in 1894, when the ancestor Kapiti was established.

Same minute-book and page; same witness: "Kapiti was father of Hinewaenga."

Same minute-book, page 120; same witness: "The ancestors Tutekapiti and Kapiti are one and the same."

I therefore have to report that in my opinion the petitioners have failed to establish their case and are not entitled to relief.

A copy of Judge Browne's minutes taken in 1920 is attached to your file N 1927/282, which is returned herewith. A copy of my own minutes is attached hereto.

Petition No. 222 of 1927, by the same parties, was not the subject of a reference to the Court, but it has no more merits than the earlier one, and should, in my opinion, be similarly dealt with.

W. H. BOWLER, Commissioner.

The Chief Judge, Native Land Court, Wellington.

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