

117. The next matter of inquiry which hinged upon the history of the Whakapuaka and adjoining country was the ascertainment by the Court of the persons entitled to the benefits of the reserves made by the New Zealand Company out of the area of 151,000 acres awarded by Mr. Commissioner Spain in 1844. The question came before the Native Land Court consisting of Alexander Mackay, Judge (late Native Reserves Commissioner), Tamati Tautuhi, Assessor, and A. H. Mackay, Clerk at Nelson, on the 7th November, 1892.

118. The judgment of the Court reads as follows (the underlining is as recorded in the minute-book):—

New Zealand Company's Tenth's situate in the City of Nelson and the Suburban Districts of Moutere and Motueka.

The Court gave judgment in this case.

The investigation of the beneficial interest of the persons entitled to the usufruct of these lands having been referred to the Court by the Public Trustee under the terms of clause 16 of the Native Reserves Act, which provides that on doubts arising as to the persons beneficially interested in any lands administered by the Public Trustee it shall be competent for him to refer the matter to the Native Land Court:

The application of the Public Trustee to investigate the beneficial interest of the persons entitled to participate in the rental accruing on these lands came before the Court on the 7th inst., when five sets of claimants preferred a right to the land from various causes.

These lands were originally set apart in pursuance with the terms of an agreement made between the Imperial Government and the New Zealand Company that a tenth of the land should be set apart and held in trust for the Native vendors.

The deed pertaining to the Nelson Settlement is dated the 8th November, 1839, and contains a stipulation on the part of the company that a portion of the land ceded by the Natives suitable and necessary for the proper maintenance for the chiefs, their tribes, and families will be reserved on their behalf by the company and held in trust by them for the benefit of the said chiefs and their tribes' families for ever, and the quantity to be set apart for that purpose was fixed by the prospectus of the Nelson Settlement to be one-tenth of the town, suburban, and rural lands.

In pursuance with this agreement certain reservations were made in the Town of Nelson and the suburban districts of Moutere and Motueka, and the object of the inquiry was to ascertain the names of the persons beneficially entitled to participate in the fund accruing from these lands, and for this purpose it was necessary to carry back the inquiry to the date the land comprised in the original Nelson Settlement was acquired by the company.

The total area of land comprised in the Nelson Settlement under Mr. Commissioner Spain's award is 151,000 acres situate in the undermentioned districts, viz:—

	Acres.
Nelson	11,000
Waimea	38,000
Moutere	15,000
Motueka	42,000
Massacre Bay	45,000
	151,000

The other deeds bearing on the sale of the land comprised within the Nelson Settlement were four deeds of release signed by the resident Natives, three of which were executed on 14th August, 1844, and the other on the 23rd May, 1846.

Of the five claims set up—

(a) The first was made by Tupoki Herewine Ngapiko on behalf of the Ngatirarua, for whom Mr. Pitt appeared as counsel. This claim was based on—

- (1) Conquest:
- (2) Occupation:
- (3) The sale of the land to the New Zealand Company:
- (4) The participation in the goods distributed and the money paid to the resident Natives in the years 1841 and 1844.

(b) The second claim was made by Ihaka Tekateka on behalf of the Ngatikoata and Ngatitaoa and a section of the Ngatitama and Ngatiawa. This claim was based on—

- (1) Conquest:
- (2) The gift by a former owner called Tutepourangi of all the country including the Island of Rangitoto from the Croixelles to Separation Point (Te Mataau):
- (3) Occupation:
- (4) The sale to the New Zealand Company and consequent participation in the payments made.