

The grantees were Paora Hapimana Huriwaka, Hamuera Takurua, Te Poihipi Tukairangi, Maniapoto te Hina, Ihakara Kahuaao, and Popoki te Kurapae, who were the original grantees of Tauhara Middle.

10. Mr. Darby in his written statement—page 2, paragraphs 4 to end of page—refers to certain correspondence as follows:—

Memorandum of 24th April, 1877, from Mr. Hy. Mitchell to Hon. J. D. Ormond, with marginal note by Mr. R. J. Gill (Under-Secretary).

Memorandum of 21st March, 1878, from Mitchell to Under-Secretary.

Memorandum of 22nd February, 1879, from Gill to Native Minister.

Memorandum of 1st March, 1879, Gill to Mitchell, with memoranda thereon from Mitchell to Gill and to Hon. J. Sheehan.

These are in Mr. Darby's Appendix D 2, E, D 3, E 2.

He states (page 3) that the principle in these purchases appeared to be that landing reserves were apparently not treated as reserves for Natives alone, but for the public.

It is to be noted that all this correspondence was prior to the date of the confirmatory deed—viz., 19th April, 1879.

Note also that the statement in Mr. Darby's paragraph 5 that "Mr. Locke advised by wire that it was a public landing reserve" referred only to Parakiri and not to Wharewaka.

11. (a) The Tauhara Middle Block next came before the Native Land Court, 29th May, 1886, when Judge Scannell made orders for further subdivision, including the reserves at Patuiwi, Waipahihi, and Wharewaka.

(b) The validity of the orders affecting the reserves was questioned by Mr. P. Sheridan, of the Native Department, who wrote to Judge Scannell as follows:—

"In judgment on Tauhara Middle partition you include in order to Natives for 4A three reserves—viz., Waipahihi, Patuiwi, and Wharewaka—over which the Court had no jurisdiction, the Native title having already been extinguished by a conveyance to the Crown. Grants to the ten original owners were issued under the provisions of the fourth section of the Government Native Land Purchases Act, 1878, for Waipahihi and Patuiwi in 1881, and it was then decided not to grant Wharewaka, but simply to reserve it under the provisions of the Land Act."

On this memorandum there is a minute, dated the 22nd August, 1888, in Mr. Sheridan's handwriting in these terms:—

"Major Scannell took a note of this with a view of revising the judgment."

Judge Scannell's partition orders for the reserves were not drawn up and completed.

Judge Scannell's minutes are in Taupo Minute Book 6, pages 1 to 81.

Appendix F 1 and F 2 set out the parts of the evidence and judgment relevant to Wharewaka. App. F 1 and F 2.

12. An Order in Council was made on 18th May, 1899, under section 14 of the Native Land Court Act, 1894 (copy set out in Appendix G), conferring jurisdiction on the Court to determine the beneficial owners, if any, of, *inter alia*, Waipahihi and Patuiwi. App. G.

13. In 1905 applications pursuant to this Order in Council came before Judge Johnson at Taupo. He was in doubt as to the Court's jurisdiction regarding Waipahihi and Patuiwi, and in a memorandum (copy in Appendix H) to the Chief Judge he dealt fully with the position of these two reserves and also Wharewaka, and asked for directions. App. H.

It is clear that the Natives were then claiming Wharewaka.

14. In Appendix I 1 and I 2 will be found correspondence between Judge Johnston and Mr. Sheridan which relates to Wharewaka. Judge Johnson stated, *inter alia*:— App. I 1 and I 2.

"It is for the Native Land Purchase Department to show why Crown grants for those two proposed reserves—viz., Wharewaka and Parakiri—were not issued."

Mr. Sheridan's statement of 14th November, 1905 (I 2), that Wharewaka is a "public reserve" by the deed is incorrect, as the deed clearly calls it a "landing reserve".

It appears from this correspondence that the Native claimants were not at all satisfied with Mr. Sheridan's explanation.

15. The minutes of this inquiry are attached (Appendix J, page 12).

App. J.

16. The following on file N.D. 21/3/39 may be referred to:—

(1) Memorandum of 18th June, 1936, from Under-Secretary of Native Affairs to the Under-Secretary for Lands.

(2) Copy memorandum of 9th July, 1936, from Commissioner of Crown Lands to Under-Secretary for Lands.

(3) Report dated 5th August, 1936, from Under-Secretary, Native Affairs, to the Chairman, Native Affairs Committee.

CONCLUSIONS.

17. (a) At the present time the Crown has a legal title to Wharewaka Reserve by land transfer certificate of title.

(b) Mr. Darby (for the Crown) referred to section 115 of the Native Land Act, 1931, which deals with extinguishment of customary title by lapse of time.

(c) The question which arises is whether the Crown should, in respect of Wharewaka, have issued to the Native owners a Crown grant or other instrument of title pursuant to section 4 of the Government Native Land Purchases Act Amendment Act, 1878, or whether (as contended by the Crown at this inquiry) there was no intention to return Wharewaka to the Natives, but to treat it as a "public landing reserve".