Schedule includes all the blocks of land ceded by the deed of October 10, 1871, as the same are particularly delineated on the plan drawn in the margin of the deed.

151o. On July 13, 1893, the respondent, by public notice, offered a block of land called Kaiparoro, 20,000 acres in extent, and containing portions of Kaihinu No. 1 and Kaihinu No. 2, and part of an area of 5,184 acres, the title to which is in dispute in this action, for sale or selection "in terms of s. 137 of the Land Act, 1892," and he subsequently advertised the intended sale in the local newspapers. It is stated in the respondent's case in this appeal that a previous notification was made by the Governor pursuant to s. 136 of the Act of 1892, and published in the *Gazette*, declaring open for sale the block called Kaiparoro, but there is no mention of such document in the statement of claim or the defence, and it is not referred to in the judgment of the Court, nor does it appear to their Lordships to be material to the questions which they have to decide on this appeal.

The appellant thereupon commenced the present action. The allegations in the amended statement of claim are confused, and some of them are irrelevant, and the prayer certainly goes beyond any relief which, in the most favourable view of his case, he can be entitled to. He sets out the several documents the effect of which has been already stated. He does not in terms allege his title to block Mangatainoka, or that he and the other members of his tribe are enjoying the use and occupation of the lands in dispute, but he sets out the order relating to that block, and in paragraph 36 alleges that no licence has been granted to any other person to occupy the lands in dispute. Their Lordships think that for the present purpose they are not bound to scan the sufficiency of the allegations too closely, and they must assume that the appellant has alleged, or can by amendment allege, a sufficient title of occupancy in himself and the other members of his tribe to raise the questions in controversy on this appeal.

151p. The substance of the appellant's case appears to be that no proper or sufficient surveys of blocks Kaihinu No. 1, Kaihinu No. 2, or Mangatainoka, have ever been made, and that the respective boundaries between the last two blocks have never been ascertained, and that a certain triangular block of 5,184 acres and another piece of land are not parts of Kaihinu No. 2 (as claimed by the respondent), but parts of Mangatainoka, and that the Native title in those portions of the last-named block has never been extinguished by cession to the Crown or otherwise. By paragraph 36 of the statement of claim the appellant submits that the said triangular piece of land and the other piece of land still remain land owned by himself and other aboriginal Natives under their customs and usages, whether under the said order of the Native Land Court or otherwise. His prayer is—

1. For a declaration in the terms of his previous submission.
2. That the pieces of land form part of the Mangatainoka Block.
3. For a perpetual injunction to restrain the respondent from selling the two pieces of land, or from advertising the same for sale or disposal, as being the property of the Crown, and for further relief.

151q. Their Lordships observe that the order of the Land Court, not being completed by a certificate, does not confer any title on the appellant, but they think it is evidence of his title, and the Act does not appear to make the obtaining of the certificate a condition precedent to the assertion of a Native title. In fact, no certificates were issued in respect of blocks Kaihinu No. 1 and Kaihinu No. 2.