

to Hauraki, two to Turanga, one to Omaio, and three to Maraenui, and Torere was forsaken for many years—not a single person remained living on the land.” So that, according to Apanui, for some time antecedent to the occupation of 1835 there was not a single person living there and could not have had any acquaintance with the land. “B. Te Whanau-Apanui caused Ngaitai to migrate from Turanga after the fighting by Te Aitanga-a-Mahaki, Te Whanau-Apanui, and also Ngaitai, against Te Whakatohea, and Te Whanau-Apanui placed them on Maraenui, and afterwards returned them to their own land at Torere. C. Subsequently a chief of Ngaitai died, and Te Whanau-Apanui went to the tangi and to visit Ngaitai at Torere, and while they were there they heard a word expressed by Te Whakatohea proposing to attack and slaughter Ngaitai in revenge for their having suffered defeat at Turanga. D. Because of this report Whakatane and Rangipaturiri, who were chiefs of Te Whanau-Apanui, proposed to take Ngaitai to the southern side of Tunapahore to live, so that they might be close to Te Whanau-Apanui to protect and assist Ngaitai, and Ngaitai were taken at that time and located at that place, and Te Waaka Patutoro was placed in the position of their chief. E. They had not been living there for long when they began to interfere with the cultivations of Te Whanau-Apanui, and through this evil work on the part of Ngaitai they were told by Te Whanau-Apanui to return to Torere, and Ngaitai replied to them in this wise: that they ‘refused to move, as they were the anchor of a man-of-war’ (an epigram). F. As the result of this evil work of Ngaitai a fight arose between these peoples in the year 1856, and subsequently peace was made by Hakaraia, and Ngaitai returned to Torere, and Te Whanau-Apanui remained in occupation of this land.” To summarize that, the Committee will see that on the petitioners’ own statements, which I am adopting for my present argument, between 1835 and 1858 these people, the Ngaitai, were in occupation of that southern part of Tunapahore—that is to say, they were in occupation of the very land which has been awarded to them, and therefore, if it be the fact that the land was in their occupation they must have known of the pas. These people did know of the pas. The explanation is that what took place in 1858 was that Hakaraia directed that both sides should depart wholly from Tunapahore. Ngaitai went in accordance with the terms of the truce, and Apanui would not go. So that since 1858, admittedly, Ngaitai have been obeying the terms of Hakaraia’s judgment, and the result of it is that they were not in the same position as people living on the land to point out the locality of the pas. The matter came before the Court where these pas were brought into question, in 1895, nearly forty years afterwards, and the Court took it from the people who had not been on the block for thirty-three years, and, according to the Court, must have known the pas if they had been in occupation of this land, and then they were asked to come into competition with people who had been there all the time. It has been proved that they were in occupation, and it is said that they should have known if they did not know, after a lapse of forty years, specific details in connection with those pas. Now, if you go to 11E, you will see that the petitioners say, “The hearing of Takaputahi Block took place before Judge Scannell in the year 1895, and, even though Tunapahore, Kapuarangi, and Takaputahi are three separate lands, they are all one land. That is why so much has been said about these lands actually resting on the occupation and workings of Tunapahore.” So that it is not my learned friend Mr. Skerrett, but these gentlemen, who say that if you find the decision affecting one of these blocks it will affect them all. Then, if you look at 11G you will find that there is only one place of burial of the Ngaitai: “G. As to the burial-places of the dead, there is only one burial-place of Ngaitai which is admitted by us in the southern partition—i.e., Whiroariki alone.” That refers to us. If you attach any weight to the burial-place, it says that they were there dating from the actual time when they were placed there by Te Whanau-Apanui. The Appellate Court gave Takaputahi wholly to Ngaitai. Judge Scannell had given the whole of Tunapahore to Apanui.

*Mr. Skerrett:* But they emphatically confirm Judge Scannell’s judgment in connection with Tunapahore.

*Mr. Bell:* My friend is still evading the fact of his own admission, that the three blocks are one.

*Mr. Skerrett:* Not at all.

*Mr. Bell:* Well, it seems so to me. I will leave the petition now, and take Judge Mair’s judgment. To my astonishment, my learned friend Mr. Skerrett stated that that judgment was in his favour. He referred to Judge Mair as an able Judge, and took the credit of his judgment. The judgment was to the same effect as that of the present Commission which is now being attacked. Judge Mair’s judgment is given in the printed petition for rehearing by Whanau-Apanui, immediately after the judgment of Takaputahi, and was the earlier judgment of 1885. Judge Scannell’s judgments were in 1895, and the Appellate Court’s judgment in 1898. I should like to read a great deal of it, but I do not wish to take up the time of the Committee. Judge Mair, in the second paragraph, says, “If then there is so much difficulty in ascertaining the truth about circumstances occurring only twenty-five years ago, and in which persons now in the Court are said to have taken a prominent part, how much more difficult must it be to estimate the value of evidence relating to events dating back many generations! On the question of ancient boundaries of this land we are not clear. It would appear that Tunapahore, or Motatau, as some call it, was at one period in possession of a tribe called Ngaariki, and the strong point in the claims both of Ngaitai and Te Whanau-Apanui is the conquest of that people, while Ngaariki, though admitting there was fighting amongst themselves, deny that they were conquered and that they lost their land. The Court does not think it necessary to seek further back for the title to this land, nor to inquire from whence Ngaariki came, nor how they acquired possession. That they did hold possession of it is evident from the number of old walled pas, which both sides state belong to Ngaariki.” I want to emphasize that, because that appears throughout. These old pas were not the pas of either the Apanui or Ngaitai—they were pas built by Ngaariki, which