

In the second part of paragraph 3 the Native Land Court appears to have fallen into a misapprehension. It says, after referring to the copy grant, that "An original list of owners, however, in the handwriting of the Clerk to the Court gives the name clearly as 'Kaho.' This list must have been written not later than 1887—probably considerably before that." Later on, in reply to a memorandum from the Chief Judge of 1st August, 1922 (on file 402), the Judge says on the 5th August, 1922 (memorandum also on file 402), "The Clerk who wrote out the original lists made his K's very like R's, and the Court is strongly of the opinion that in copying out the name for the Crown grant and recommendation the name was altered from 'Kaho' to 'Raho.'"

It is manifest that any list of names written in 1887, or at any time subsequent to the 11th January, 1882, could not possibly be the original list from which the names for the recommendation and grant were copied. We do not know what Clerk to the Court is referred to. There is a list on the order file for Okahu in the Native Land Court here (N.P. 87), purporting to be a list of owners of Okahu, and giving the name of No. 8 as Te Kaho. This list, however, manifestly was written *after* the issue of the Crown grant, because it sets out the date of the grant and the Land Transfer volume and folio in which it is recorded. We can find no other list to which the Judge might be referring. If this is the one, it is clearly valueless for the purpose of this inquiry. It is a mere abstract of the grant for the Court purposes, and incorrect as to this particular name, which is clearly set out in the grant as "Raho." The only *original* list we can discover is that attached to the recommendation for the grant. This list is initialled by Sir W. Fox, and the name is written very clearly "Raho." There is no resemblance between K and R in this list.

Paragraph 4 of the Native Land Court report refers to a succession order for Te Kaho (deceased) dated 6th December, 1887. This order is one of the material features in the case, and it will be necessary to discuss it at some length. The order was made on the evidence of Rangiwhehu, father of Te Raho, who gave evidence that the deceased died in 1886, and was the daughter of Rangiwhehu's wife, Motuhanga—that is to say, Rangiwhehu's stepdaughter. On the 28th October, 1910, as stated in the report, Chief Judge Jackson Palmer wrote across the above order, "As the deceased is still alive, this order is a nullity." The report proceeds: "Apparently the Chief Judge was under the impression that the name should have been 'Te Raho,' who was still alive in 1910. There is nothing on record to show on what evidence the Chief Judge arrived at this conclusion."

But though there is on record no evidence in the strict sense of the word, there is on record the material in which the Chief Judge founded his minute. This is on the correspondence file of Okahu N.P. 87. It consists of memoranda from Mr. T. W. Fisher, then Under-Secretary for Native Affairs, and previously Reserves Agent at New Plymouth for a number of years, whose knowledge of the Natives of the district was very extensive. The first memorandum (undated) was received in Wanganui Native Land Court Office on the 27th September, 1910, and states that Raho "had all along and was still drawing the rents." Mr. Mackay, the Registrar, replied by telegram that in copy of grant name appears as "Raho," amended to "Kaho." We have already referred to this copy.

Mr. Fisher, in a further memorandum to the Registrar, dated 6th October, 1910, says: "I also notice on the copy of grant on your file the name the present trouble is over—'Raho'—has been altered to 'Kaho.' The first name, 'Raho,' is the correct one, and is shown in the Crown grant, and that person is still alive, so that the order made by Judge Wilson on the 6th December, 1887, is a nullity."

The Registrar referred the matter to the Chief Judge by memorandum dated 18th October, 1910. This memorandum is noted as received by the Chief Judge on the 27th October, 1910, and on the next day, 28th, he minuted the order as already stated, obviously considering himself justified in so doing on the information given by a man of such recognized knowledge as Mr. Fisher. It may be pointed out that Chief Judge Palmer does not cancel the order, but records his opinion that it is a nullity. It was still open for any person to test that opinion in Court, but no one did. We agree that the order in question was a nullity, but not for the same reasons as Chief Judge Palmer.

Before discussing further this succession order it will perhaps be well to refer to a letter on the Native Department's file, 1922/402, dated 29th September, 1922, from Mr. Barnes, District Public Trustee at Hawera, to the Registrar, Wellington. Mr. Barnes's letter, which appears to have been written without access to records, is clearly erroneous. He says he *remembers* that Te Kaho drew rents. That is a manifest impossibility, as Te Kaho admittedly died in 1879. As already pointed out, Mr. Fisher stated in 1910 that Te Raho drew them, and the petitioners do not dispute that Te Raho drew the Okahu rents to the day of his death.

To revert to the succession order of the 6th December, 1887: The Native Land Court was obviously greatly influenced by the evidence given in the Native Land Court by Rangiwhehu, and states that it seems clear that he gave false evidence. We, however, are not convinced of that, mainly because of facts brought out before us that were not before the Native Land Court so far as the minutes show. It is to be borne in mind that Rangiwhehu was the father of Te Raho. The Native Land Court says that even if Rangiwhehu thought "Kaho" was a mistake for "Raho" his evidence would still be false. It certainly would, but we can conceive no plausible motive for Rangiwhehu committing perjury in order to deprive his own child of its interest.

Before us Mr. Currie stated that his instructions were that Motuhanga, wife of Rangiwhehu, had a child Kahu, and that Rangiwhehu must have confused the names. He stated that petitioners had admitted the existence of Kahu. Mr. Sim, who was apparently taken by surprise, did not feel himself able to admit this. As petitioners had been permitted to call evidence as to a point they wanted cleared up, we permitted Mr. Currie to call Motuhanga herself to give evidence only as to the names of her children. Though apparently not a person of much intelligence, or at all events of knowledge of past happenings in regard to these lands, she satisfied us that she correctly gave the names of her children. They were—by her first husband (Toi), Kahutomokia (f.), Ngahinu (f.); and by Rangiwhehu, six children, including Te Raho. She was not cross-examined. Natives notoriously abbreviate personal names, and this girl would doubtless be usually known as "Kahu."

According to Tonga Awhikau, one of the petitioner's witnesses who has been already referred to, the Natives had difficulty in ascertaining the names of the grantees. If Rangiwhehu's evidence