

In opposition to the petition, Mr. W. H. Skinner, who was, until a few years ago, Chief Surveyor at New Plymouth, was called on behalf of the Harbour Board. He stated he was born in New Plymouth in 1857, and from 1872 was engaged on survey work. He was well acquainted with the Maoris, and Ngati te Whiti regarded him as their Kaumatua. He knew Moturoa well and had no recollection of any *tauranga waka* between Tutu and Hongihongi—although he admitted he might be wrong. The main *tauranga waka* was at Otaka, which was farther north, and which was used when the trading-station was established in 1828-29. The coast-line between Tutu and Hongihongi was, he said, originally a heavy mass of rocks and reefs which came right up to high-water mark. There was no interval between the then high-water mark and the present railway reserve, and between sixty and sixty-five years ago the present sites of the huts now standing there were covered over by the sea at half-tide. Conditions have altered, he stated, owing to the erection of the breakwater. The reefs and rocks have become covered with sand, and the huts upon which the petitioners reside are built on that sand. The huts were not there in 1880 or 1881, and he thought it would be about 1884 or 1885 before there was sufficient dry land upon which to erect a house.

Mr. C. S. Rennett, the Harbour Board's Secretary, stated he had been forty-six years with the Board, for thirty-two years of which he had been Secretary. He said that when he commenced his service with the Board in 1889 the land, the subject of the inquiry, was not to his knowledge occupied by Maoris. They came on to the land one by one and squatted there, and as they were doing no harm they were allowed to remain. Steps were being taken now to have the houses removed because the Board had contracted with the Crown to reclaim that part of the beach.

In addition, a Crown grant was produced to the Court dated 1883, showing that all the foreshore between high- and low-water marks had been granted to the New Plymouth Harbour Board. The Court was also referred to the New Plymouth Harbour Board Empowering Act, 1918, which vested in the Board the bed of the sea to the seaward side of the foreshore. A Land Transfer title to this area has been issued to the Board.

The solicitor for the petitioners stated he could not dispute the fact that the Native title to the area in question had been extinguished, and that the Natives had no legal right to be there.

The impression left on the Court's mind, after hearing the evidence was that the Harbour Board's witnesses in their statements had disclosed the true position of the matter. I enclose herewith a tracing showing that the high-water mark in 1885 came up to the boundary of the railway reserve, and that the approximate area of 2 acres in dispute between the Tutu and Hongihongi Streams was then on the seaward side of the then high-water mark. The Court has no reason to doubt Mr. Skinner's statement that the coast-line between Tutu and Hongihongi was a heavy mass of rocks and reefs which came right up to high-water mark. The construction of the breakwater has deviated the ocean currents, and has caused a large deposit of sand on the coast in the locality, so that there is, as stated by Mr. Skinner when I inspected the land with him and the Natives, a depth of about from 8 ft. to 10 ft. of sand above the original high-water mark on the part the subject of the inquiry. The Court is of opinion that it was subsequent to 1885 that the Natives first commenced to squat on this portion. No objection was then made by the Harbour Board, and gradually others arrived until the occupation assumed its present proportions. There is no reliable testimony of any *tauranga waka* on the area in question between the Tutu and Hongihongi Streams, and the evidence of any occupation there prior to 1885 the Court believes to be fictitious.

On the Court's inspection of the area the persons representing the petitioners claimed that a portion of the land on which the houses stood was shown clearly on a map in the Survey Office at New Plymouth as part of the Native village depicted on the sketch copied from Mr. F. A. Carrington's plan of the settlement of New Plymouth and handed into Court. A copy of the plan referred to was obtained from the Survey Office. It shows that all the Native houses are situated outside the original dry-land area which was by Proclamation taken for railway purposes in 1885.

In the Court's opinion the Harbour Board was exceedingly remiss in not asserting its title to the area in question when the occupation first commenced. The occupants of the area are either fishermen or wharf labourers with their families. Being "made" land, they no doubt considered that it was "no man's land," and that they had as much right as any one else to live on it. The conduct of the Harbour Board in permitting them for years to occupy it, build houses there without warning, objection, or interference, without any proper understanding, and without any demand for rent, no doubt tended to strengthen the impression they held.

The only objection to their occupation was made about ten years ago, and after their houses had been built. They took no notice of the objection and nothing further was done until lately. On the other hand, the Europeans who reside on the "made" land on the other sides of Tutu and Hongihongi Streams pay rent, I understand, and are subject to restrictions as to their occupation.

Enclosed are—

- (1) The Native Office file:
- (2) Your reference to the Court, with copy of petition:
- 3 Copy of Mr. F. A. Carrington's plan showing the position of the old Native village in relation to the land in dispute:
- (4) Copy of the map in the Survey Office, referred to by the person representing the petitioners when Court inspected the land:
- (5) Copy of plan showing position of high-water mark in 1885:
- (6) Copy of the evidence taken on the inquiry.

The Chief Judge, Native Land Court, Wellington.

JAS. W. BROWNE, Judge.

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