

(e) The report of 16th September, 1912, upon petition 186/1912 was a reference to previous proceedings and findings upon petitions Nos. 60 and 535 of 1896, 317 of 1909, 6/1898 (L.C.), and 33/1910 (L.C.).

This report adds: "At the same time it seems very strange that any one Native should be entitled to such a large area (18,000 acres) in the Middle Island."

(f) The report of 13th October, 1910, upon petition 33/1910 (Legislative Council) is exactly the same as the report upon petition 186/1912 (clause (e)).

(g) The report of 5th November, 1909, upon petition 317/1909 was as follows:—

"I do not think I can do better than refer you to the findings of your Committee on petitions Nos. 60 and 535 of 1896, and to the report of the Legislative Council of the 14th October, 1898, on petition No. 6 of that year."

Before issuing this report the Under-Secretary referred the matter to the Chief Judge (Jackson Palmer), who in his reply remarked that it seemed very strange that any one Native should be entitled to such a large area (18,000 acres) in the Middle Island.

(h) The report of 28th September, 1903, upon petition 689/1903 was purely in reference to previous reports upon similar petitions.

Correspondence regarding previous petitions was not available to this Court. It has probably been burned in the Parliament Buildings fire.

231. From the foregoing it will readily be seen how the official attitude all along was to direct attention to the viewpoints of Alexander Mackay as expressed by his letter of 1896, and how easily the Maoris praying for a rehearing could conceive the idea that it was a judgment of Judge Mackay's that they were attacking.

232. At a sitting of the Native Appellate Court held at Wellington on the 22nd September, 1910, Hemi Matenga applied to have the Whakapuaka Block declared European land. The application was not granted. It is interesting to note that the late P. Sheridan, whose knowledge of Native affairs was unique, expressed the opinion in a memorandum dated 25th August, 1910, that "this application should be opposed until the question of a trust is settled."

233. This completes the marshalling of all material evidence that the Court is aware of.

234. The Court has arrived at the following conclusions:—

(a) That the evidence adduced to the Native Land Court of 1883 was insufficient to furnish that Court with the facts of the true history and ownership of the Whakapuaka Block.

(b) That Huria Matenga agreed to contest the Ngati Kuia and Ngati Koata claims on behalf of certain other descendants of Kauhoe (all being close relations of hers and all being members of the Ngati Tama Tribe), and that she practised a fraud upon those relations when she failed to have their names included with her own in the title to the Whakapuaka Block.

(c) That, through this action of Huria Matenga and the failure of her husband Hemi Matenga and witnesses at the 1883 hearing to have the full history of the Whakapuaka Block disclosed to the Court, the rights of sundry persons who were in occupation of parts of the block in and around the year 1840, and who without in any way alienating their interests lived upon parts of the block until their respective deaths, have never been the subject of a judicial inquiry.

(d) That it was reasonable for certain persons resident upon the block in 1883 to remain quiescent and to rely upon the substance of the promise of Huria Matenga to them to have their names included in the title until, say, the year 1896, when the actions of Hemi Matenga (husband of Huria Matenga) in ousting those persons should have made it clear to them that Huria was not going to honour such promise to them.

(e) That since the year 1896 descendants of Kauhoe have taken all reasonable steps and have made every endeavour to have the question of ownership of the land reopened, and that their efforts have been thwarted largely by statements and declarations which to this Court appear unworthy of the value hitherto placed in them.

(f) That Kauhoe was a sister of Waipunaahau (*vide* Wellington M.B., 12/56), mother of Te Peehi Kupe, whose murder at Kaiapoi and the alleged desecration of whose bones were reasons that have been given for the conquest of the Tasman Bay and Golden Bay districts. The Court therefore sees nothing abnormal in her approaching in her trouble the highest local representatives of the conquerors—the Ngati Koata—particularly so if the Court is correct in assuming that she did not approach Ngati Koata until after her late husband's people (Ngati Tama and Ngati Rarua) had failed to avenge his death.

(g) That, without in any way expressing an opinion upon the nature or even the existence of the alleged gift, it can be stated positively that Kauhoe was of such high rank and Maori custom such that she could not have been present in company with her son Wi Katene te Puoho at the ceremony of a gift to him of land without in her own right participating in the benefits of such a gift. The Court knows of no Maori custom by which land can be given to one as trustee for another.

(h) That, while there is a possibility of Ngati Koata having been entitled with others to rights in the northern end of the block, such rights by now cannot but be prejudicially affected by the long delay that has ensued between the investigation of 1833 and their one petition of protest in 1935.

(j) That those claiming under the petition of Waka Rawiri and another have shown no strong claim to the land, and have offered no satisfactory reason why they failed to make a claim before the Court of 1883, or why they waited fifty years since 1883 before pressing to have their rights investigated.

(k) The fact that the "take" to Whakapuaka Block is never mentioned without reference to Kauhoe in some way is considered strong evidence that she had at least considerable interests in her own right in the block, and, as such block was in 1883 deemed to be held by the Natives under their customs and usages, the Court cannot but suggest that all descendants of Kauhoe must be found to have some share or interest in such block, and that a determination which gives the land to any one descendant to the exclusion of all others must be wrong in principle and unjust in effect.

(l) That a reinvestigation of the ownership of the Whakapuaka Block, and if necessary an adjustment of the equities upon the basis of such a finding, appears to be desirable.

For the Court—

JNO. HARVEY,
Judge.