

That although the reserves made by the company were situated in certain localities the fund accruing thereon was a general one in which all the hapus who owned the territory comprised within the Nelson Settlement had an interest proportionate to the extent of land to which they were entitled, at the time of the sale to the company.

The Court requests that the members of the hapus who it has been decided were the owners of the land, at the time it was sold to the company, will furnish lists of the persons, being the survivors of the vendors, including also those who are deceased, the right of succession to whom will be investigated, and it is further requested that the lists be furnished as early as possible as the time at disposal is limited.

119. Following upon this judgment lists of the persons beneficially entitled were on the 24th November, 1892, put through the Court, and on the 14th March, 1893 (Nelson M.B. 3/153), a formal order was made which defined the shares to be allotted to the hapus whose claims had been upheld. This order reads as follows :—

Nelson Tenth.

It is hereby ordered that the survivors and the successors to those deceased of the persons whose names are entered on folios 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57 of Col. 3 of the Nelson Court minute-book shall be deemed and are hereby declared to be the persons beneficially entitled to the proceeds that have accrued and may yet accrue on the Native Reserve lands situated in the City of Nelson and the suburban districts of Motueka and Moutere known as the New Zealand Company's Tenth, saving and excepting the rents accruing and to become due on certain portions of the aforesaid reserves which have already been allocated to individual Natives, and that an order defining the relative interests of the several persons entitled to the proceeds of the first before-mentioned land be drawn up and dated from to-day.

(Sgd.) A. MACKAY, Judge.

Schedule of the Proposed Apportionment of the 151,000 Acres amongst the several Hapus for the Purpose of determining their Proportionate Beneficial Interest in the Funds accrued from the Nelson, Moutere, and Motueka Tenth under the Management of the Public Trustee.

Name of Hapu.	Area allotted.	Locality of Former Abode.	Proportionate Share of Funds.
	Acres.		
Ngatikoata	20,000	D'Urville and Croixelles	20/151
Ngatitama	20,000	Whakapuaka	20/151
Ngatirarua	49,000	Motueka	49/151
Ngatiawa	12,000	12/151
Ngatirarua	20,000	Takaka and Motupipi	20/151
Ngatitama	20,000	20/151
Ngatiawa	10,000	Takaka, Motupipi, and Aorere	10/151
	151,000		151 shares.

(Sgd.) A. MACKAY, Judge.

Later on at pages 268 to 279 the names of the survivors and successors to the persons shown in the lists and the extent of their shares are set out.

120. The aim of the Court was to ascertain the names of the persons who owned the 151,000 acres awarded by Mr. Commissioner Spain to the New Zealand Company in 1844, as it would be these persons and their successors who would be entitled to the benefits of the Tenth reserved to them by the scheme of the company. Unless a person were an owner in the actual area awarded to the company he could not, naturally, have any interest in the benefits which accrued from the alienation represented by that award.

121. The evidence given in this Tenth case is the evidence that was not given and should have been given when the title to Whakapuaka was investigated. The award of 151,000 acres has for its north-eastern boundary the southern boundary of Whakapuaka. The line that runs between the Nelson portion of this award (which portion the judgment just quoted says belonged to Ngatikoata and Ngatitama) and Whakapuaka Block must, to give Whakapuaka a separate and distinct identity, be one of four things—(1) The boundary of a reserve by some one; (2) the boundary or limits of a conquest; (3) the boundary of a separate occupation; or (4) the boundary of a gift.

122. Wi Katene (speaking figuratively) was awarded the whole of Whakapuaka under a claim based upon conquest and occupation. Logically, therefore, Whakapuaka must either represent the extent of his conquest or he must have reserved it from a large area to which he had exclusive rights as a conqueror. In actual fact he did claim that he reserved it from the sale, but as he also (in the Tenth case) claimed to have sold the land adjoining it to the company, and as it has been plainly shown that many others of his tribesmen were equally entitled to this adjoining land, it is difficult to understand how he could, but for the weakness of the opposition and paucity of evidence generally, have succeeded in obtaining, under the claim advanced, his judgment in Whakapuaka. As an