

1945

## NEW ZEALAND

## THE NATIVE PURPOSES ACT, 1938

REPORT AND RECOMMENDATION ON PETITION No. 49 OF 1937, OF TEOTI TIMOTI KARETAI AND OTHERS, PRAYING FOR AN INVESTIGATION OF THE NATIVE RESERVE IN PRINCES STREET, DUNEDIN

*Presented to Parliament pursuant to the provisions of section 23 of the Native Purposes Act, 1938*

Native Land Court (Chief Judge's Office),  
Wellington C. 1, P.O. Box 3006,  
14th August, 1945.

Memorandum for the Hon. the NATIVE MINISTER.

PETITION No. 49/1937, OF TEOTI TIMOTI KARETAI: PRINCES STREET RESERVE, DUNEDIN.

PURSUANT to section 23 of the Native Purposes Act, 1938, I forward to you the Court's report upon Petition No. 49 of 1937, of Teoti Timoti Karetai and others, praying for an investigation into the Princes Street Reserve, Dunedin.

The inquiry was conducted by me, and my conclusions are contained in the report. I recommend that no further action be taken in relation to the petition.

G. P. SHEPHERD, Chief Judge.

In the Native Land Court of New Zealand, South Island District.— In the matter of section 23 of the Native Purposes Act, 1938; And in the matter of Petition No. 49 of 1937, of Teoti Timoti Karetai and others, praying for an investigation of the Native Reserve in Princes Street, Dunedin.

## REPORT OF COURT

PROCEEDINGS upon the inquiry into the petition were commenced in the Native Land Court sitting at Dunedin on the 19th October, 1939. The petitioners were represented by Mr. W. J. Meade; the Solicitor-General (Mr. H. H. Cornish, K.C.) appeared for the Crown; and Mr. D. Ramsay appeared for the Dunedin City Corporation.

Initially, Mr. Ramsay took the point that there was nothing to connect the land referred to in the petition as the Native Reserve, Princes Street, with the land comprised in the Crown grant mentioned in the proceedings in the action *Regina v. MacAndrew* (1 C.A. 172). Mr. Meade had stated that this was the land which was the subject of the petition, and although Mr. Ramsay was quite entitled to raise the question, it was not pressed unduly, and the hearing proceeded on the footing that the Crown grant area was the area upon which the controversy centred. The piece of land is that contained in a Crown grant issued on the 11th January, 1866, to the Superintendent of the Province of Otago. It is therein described as: "All that parcel of land . . . situate in the Town of Dunedin, being Reserve Numbered Eleven (11), containing . . . 1 acre 2 roods and 34 poles, more or less, bounded towards the west-north-west by Princes Street, 1290 links, towards the north-north-east by Reserve Numbered Ten (10), 118 links, and towards the south and west by area granted for harbour reclamation 1430 links." The *habendum* in the Grant runs thus: "To hold unto the said Superintendent of the Province of Otago and his successors in trust as a Reserve for Public Wharves and Quays and other purposes connected therewith of public utility to the Town of Dunedin and its inhabitants."

The position to-day is that a portion of the area is comprised in the soil of Princes Street and Police Street, and the balance is contained in land transfer certificates of title in favour of the Dunedin City Corporation. The land as originally granted was bounded by high-water mark, but, through reclamation works, considerable areas have been added to its frontage, with the result that the reserve is now no longer easily identifiable with the land contained in the grant.

At the hearing only one witness was called, and the proceedings virtually took the form of references to the lengthy official records relating to the land and submissions by counsel on the matter contained in those records, or the inferences to be drawn therefrom.

The history of the land starts with the purchase, in 1844, by Captain Symonds, on behalf of the New Zealand Company, of the Otakou Block, containing 400,000 acres. The Governor had waived, in favour of the New Zealand Company, the right of pre-emption over an area of 150,000 acres, and out of the 400,000 purchased the company engaged to select its portion, leaving the unappropriated residue to be dealt with by the Crown in such manner as it saw fit. By the deed of cession certain lands were reserved from the sale, but the Princes Street Reserve was not among them. The company made certain efforts in the direction of the settlement of the land, but in 1850 it surrendered its charter, with the result that the lands of the company became vested in the Crown subject to existing contracts.

It appears that towards the close of the year 1852 Mr. W. Mantell, the Commissioner of Crown Lands, Otago, made a recommendation that the piece of land in question, which for the sake of convenience is hereinafter referred to as the reserve, should be granted to the Maoris so that they could erect houses for their accommodation while on visits to Dunedin. A memorandum dated the 6th June, 1853, addressed to the Commissioner by the Civil Secretary states that the Governor had approved the reserve being made. No Crown grant was issued to the Maoris, nor does it appear that any other official steps in the direction of the completion of the reservation were taken.

In 1862 Mr. W. H. Cutton, who had succeeded Mr. Mantell as Commissioner of Crown Lands, sent forward to the Secretary of Crown Lands a petition addressed to His Excellency by John Jones and others praying that they might be allowed to rent the Government reserves abutting upon the harbour until the reserves were required by the Government. One of the grounds of the petition was