

1950
NEW ZEALAND

**REPORT AND RECOMMENDATION OF MAORI LAND COURT ON PETITION
No. 15 OF 1947, OF RAURETI TE HUIA AND OTHERS, PRAYING FOR
AN INQUIRY IN RELATION TO CERTAIN LANDS IN MANGAPIKO AND
PUNIU PARISHES**

*Presented to Parliament in Pursuance of the Provisions of Section 55 of the
Maori Purposes Act, 1947*

Maori Land Court (Chief Judge's Office),
P.O. Box 3006, Wellington C. 1, 10th March, 1950.

Memorandum for the Hon. the MINISTER OF MAORI AFFAIRS.

LANDS IN MANGAPIKO AND PUNIU PARISHES

PURSUANT to section 55 of the Maori Purposes Act, 1947, I transmit to you the report of the Court on the claims and allegations contained in petition No. 15 of 1947, of Raureti te Huia and others, praying for an inquiry in relation to certain lands in Mangapiko and Puniu Parishes.

In view of the Court's report I recommend that no further action be taken on this petition.

D. G. B. MORISON, Chief Judge.

Maori Land Court, Judge's Office, Auckland,
16th November, 1949.

Report for the Chief Judge.

Re PETITION 15/1947, BY RAURETI TE HUIA AND OTHERS

I HELD a special sitting at Te Awamutu on Monday, 12th April, 1948, to inquire into the matters raised by this petition.

You will see from the petition itself that it is couched in the vaguest possible terms and it is not possible to see from the petition who might be affected by it. It was assumed that the Crown only was affected, and the Crown appeared by its representative, Mr. P. B. Wright, of the Land and Survey Department, Auckland.

I desire to suggest that in all cases the petitioners should be required to set out explicitly in their petitions exactly what is claimed, how the claim arises, and who is affected by the petition.

When the inquiry opened in the present case, Raureti te Huia was invited to proceed *seriatim* with the claims covered in paragraphs 1 to 8 of the petition. He thereupon dealt with 1 and 2 together, but claimed that the lands referred to in these two paragraphs were given to trustees for the Church of England and that there had been a failure of the trusts. He asked, therefore, that one-half the land be returned to the donors or that a Maori Committee be appointed to act with the trustees for the administration of the trusts.

I had to point out that the petition disclosed nothing of this claim, that the crown was not affected, and that before any inquiry as sought could be entered upon it would be only fair and proper that the claim should be made in detail so that any one concerned might appear to answer it.

I recommend that before any further inquiry is entered upon, that be done, and all parties concerned notified.

As to the claims in paragraphs 3 to 8 they were dealt with in the following manner :—

Paragraphs 3 and 4—It was alleged these lands had been confiscated and were returned or set aside by the Crown for Maoris both loyal and rebel, but were subsequently sold by the Crown to Europeans.

Paragraph 5—This land it was alleged was confiscated and later granted to Maoris, but Maoris who were not Waikatos.

Paragraphs 6 and 7—These claims it was alleged related to land set aside by the Crown for Maoris but not claimed by them and later granted to Europeans.

Paragraph 8—Raureti te Huia was unable to say what this was related to, but was intended, I understood, to include everything not embraced in any other claim.

Mr. Wright for the Crown drew attention to the Waikato-Maniapoto Maori Claims Settlement Act, 1946, both as to the matters recited in the preamble and as to the wording of section 3, and submitted that all matters arising out of the confiscation of land in the Waikato were finally disposed of by that Act. He pointed out that all the lands referred to in the petition were included in the area edged blue on plan 15226.

Raureti te Huia was unable to argue these questions. In reply to the Court he stated the claims made in the petition had not previously been presented to the Commission or to Parliament, for the reason that his constituents wanted to have the confiscated land questions settled first, and that now that they had been and the Act had been passed they thought the time was now ripe to press these claims. If this is true, it shows little belief by the claimants in their claims. I gathered that Raureti considered that if the claims were not made before the passing of the Act they could not be said to be disposed of by the Act.

I have not attempted to check the statement that these claims are now presented for the first time because, in my opinion, they fall within the mischief that the Act was passed to correct. The opening words of section 3 refer to claims and demands heretofore made, or which might hereafter be made, in respect of or arising out of the confiscation of lands in the Waikato district. It is perfectly clear that if there had been no confiscation of land the present claims could not have arisen and Raureti was driven to admit this. It does not matter in the slightest what the identity of the claimant is if the confiscation gave rise to claim.

I entertain no doubt that the claims made in paragraphs 3 to 8 of the petition are included in the terms of the Act and are included in the settlement thereby made, and as to those matters I recommend the petition be dismissed.

As to paragraphs 1 and 2 of the petition, I endeavoured to hear these claims. After much delay the petitioner has now withdrawn the claims as he says he has insufficient funds to present them to the Court.

The first difficulty was to discover what these paragraphs of the petition were about, and for the information of the Court and the Church Mission Society the petitioner was invited to set out with proper particularity what the claims were. He endeavoured to do this, but it only resulted in the restatement of the petition without adding greatly to the information already given.

I held a further sitting at Ngaruawahia in February last, but the petitioner was not ready to go on. He was, in fact, not able either to state the grounds of his petition properly, or to urge what was relevant to support his claims. Counsel for the Church authorities were present and ready to answer the petition. As the petitioner could not proceed counsel asked for leave to state briefly the grounds relied on in answer to what appeared to be the claim—viz., that the Church authorities had not properly administered the funds from the lands given to it.

It was pointed out that a Royal Commission sat in 1905 to consider the same question and that its report appeared as a parliamentary paper G-5 in 1905. There the whole history of these lands was given. Since then the trusts have been well and properly administered as theretofore. The Royal Commission's report will be found in Appendix to Journals, G-5, 1905.

In support of counsel's statement evidence was given by Mr. H. A. Swarbrick of Te Awamutu, Mr. A. B. Whyte, Registrar and Secretary of Waikato Diocesan Board, and Mr. J. E. Barton, Registrar of the Diocese of Auckland.

These gentlemen gave the history of the administration of the trusts relating to the lands referred to in the petition before and after the report of the Royal Commission in 1905. They were not cross-examined.

Now that the petitioner finds himself unable to proceed the Court is not able to hear the matter further. The petitioner has made no case, but the Church authorities have furnished information that makes it appear doubtful at least that a case can be made out in any event.

I can only recommend that the petition be dismissed.

In the matter of petitions, generally, referred to the Court for investigation, I would suggest that before any petition is so referred, the claim of the petition should be fully and fairly set out and all persons affected thereby given an opportunity of appearing on the petition before the parliamentary Committee. In the present case the Court's time has been wasted and the respondents put to much trouble and expense unnecessarily. If the Court had power to award costs against a petitioner who fails to make out a case on his petition, it would have the effect of reducing the number of petitions sent to the Court for hearing, to those that at least appear to have some merit.

E. W. BEECHY, Judge.

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