

1917.
NEW ZEALAND.

NATIVE LAND CLAIMS ADJUSTMENT ACT, 1913.

REPORT AND RECOMMENDATION ON PETITION No. 393 OF 1912, RELATIVE TO A ROAD THROUGH
A BURIAL-GROUND ON POKURU No. 3A BLOCK.

*Laid before Parliament in compliance with Section 2 of the Native Land Claims Adjustment Act,
1913.*

Native Land Court (Chief Judge's Office), Wellington, 24th August, 1917.

The Hon. Native Minister.

Petition No. 393 of 1912—Rihi Huanga.

PURSUANT to the provisions of section 2 of the Native Land Claims Adjustment Act, 1913, I have the honour to forward herewith the report of Charles Edward MacCormick, Esq., Judge of the Court, on petition No. 393 of 1912, of Rihi Huanga, otherwise known as Mrs. Mainwaring, praying for relief *re* a road through a burial-ground in Pokuru No. 3A Block.

The suggestion that the position of the cemetery should be altered in any manner without the consent of the private owner of the land by which it is surrounded seems to me to be altogether impracticable, and legislation to effect such an arrangement, which Judge MacCormick points out would be necessary, would, I feel certain, result in fabulous claims against the Government for interfering in the matter, to say nothing of the expense of the revision of the survey.

It is rather a pity that the official file on this subject was not placed before Judge MacCormick in connection with the inquiry, especially the following report by the late Mr. G. T. Wilkinson, Government Agent for the Waikato District, dated 16th May, 1902:—

“ [TRANSLATION.]

“ To George Wilkinson.

“ Kihikihi, 8th May, 1902.

“ GREETINGS to yourself and Mahora and family. I shall be glad to know that you are all well.

“ George, I have seen from the Court book [possibly minute-book] that my graveyard at Te Iakau, within Pokuru No. 3 Block, has not been returned to me, but that it is in the possession of the Government. How is it that effect has not been given to the promise of the Premier to return that graveyard to me? At the time I asked for it he agreed to do so. Why then did you not inform me when partition was made of the land that it (the graveyard) was not awarded to me but to the Government? You told me that it had been awarded to me. George, I have discovered that you have deceived me. Now, friend, if you do not put this matter right during this month, I shall take some other steps, because this is very bad work indeed. That is all from

“ RIHI HUANGA.”

“ Mr. Sheridan.

“ THIS refers to a portion of the area that was awarded to the Crown out of Pokuru No. 3 Block, called Pokuru 3A. The total area awarded to the Crown was 251 acres—viz., 250 acres in one locality, and 1 acre in the locality that is said to contain the graveyard referred to by the writer. This graveyard has been the subject of contention between the writer, who is one of the owners of the adjoining block called Pokuru No. 2, and the owners of Pokuru No. 3. When the Pokuru Block was before the Court for partition some years ago the writer set up a claim to this graveyard and tried to get it included in the block awarded to her and her people, but either the Court did not believe her statement regarding it or doubted her right to it. Anyhow, the Court included it in the portion it awarded to the owners of Pokuru No. 3. The writer then appealed and a rehearing was ordered, but the Appellate Court also refused to include it in Pokuru No. 2. After that the writer petitioned Parliament for a further hearing, but was not successful in getting one. Subsequently she interviewed the Premier during his visit here

some three years ago, and he, after being informed that I was purchasing Pokuru No. 3, asked me to endeavour to get the graveyard included in the portion for the Crown when I cut the Crown's interest out of the block, which I have done. The writer's statement that I told her that the Court had awarded the land to her is not true.

"16th May, 1902.

"GEO. T. WILKINSON."

Notwithstanding the reservation, which is doubtless all that the late Mr. Seddon ever intended, the fee of the land remains vested in the Crown, and I think that it would be unwise to take any steps which would place the title in any other position, except perhaps to place the cemetery under the care and control of the local Maori Land Board.

I am adverse to the idea of appointing Native trustees, in consequence of the difficulties which arise from time to time as deaths occur amongst them, as in many cases their lawful successors are neither reliable or competent.

As a matter of form I recommend that no action be taken, as the suggestion I have made above can, if approved, be carried out by the Lands Department, to which this matter pertains.

JACKSON PALMER,
Chief Judge.

Native Land Court, Auckland, 17th August, 1917.

Part Pokuru 3a (1 acre).—Petition No. 393 of 1912, by Rihi Huanga.

At last Te Kuiti sitting I found on *panui* reference by you dated 23rd March, 1914, in terms of section 2 of the Native Land Claims Adjustment Act, 1913, to Native Land Court for inquiry and report on above petition. Petitioner says she has appeared several times before the Native Land Court. Matter has been gazetted ten times, but apparently never reported on.

It is not of much importance. This area of 1 acre was acquired by the Crown at same time as the main area of 250 acres of Pokuru 3A. Both areas are in one order but do not adjoin. According to petitioner this acre was an old *urupa*, and was acquired as part of Crown purchase under instructions from Mr. Seddon, who promised to return the *urupa* to petitioner, whose dead are buried there. (*Vide* the petition—copy on file.) The Survey Department have inspected and reported that a number of dead are buried in this area, but not recently.

The burial reserve was proclaimed and permanently reserved for a public cemetery (*Gazette* of 21st May, 1903). No trustees appear to have been appointed. The area was given in the Proclamation as 3 roods 6 perches, but the plan shows 1 acre (see note). Subsequently a road was taken through this cemetery, and has been formed and metalled at considerable expense. The Survey Department report that deviation is impracticable. The petitioner now does not ask for this, but is willing that the whole area of the *urupa* should be placed west of road. The only difficulty about this would be the fact of the proclamation as a cemetery, which defines the area. The land on both sides of the road and *urupa* is owned by the same person. What he loses on one side he gains on the other.

Legislation would be necessary. A clause might be drawn annulling the existing Proclamation and declaring the new area to be a cemetery, and appointing Rihi Huanga (*f.*) and Henare Tikitini (*m.*), both of Kihikihi, trustees thereof. These are the persons suggested by petitioner. Of course, what *she* wants is to have the *urupa* vested in these two persons as owners. Either course would suffice, in my opinion.

NOTE.—I find that difference in area is caused by the road, which absorbed 34 perches, leaving net area as 3 roods 6 perches.

CHARLES E. MACCORMICK, Judge.

The Chief Judge, Native Land Court, Wellington.

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