

SESSION II.
1923.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS
ADJUSTMENT ACT, 1921-22.

REPORT AND RECOMMENDATION ON PETITIONS Nos. 81 AND 82 OF 1921, RELATIVE TO THE PERSONS INCLUDED IN THE TITLE TO LOT 95, PARISH OF TE PAPA.

Presented to Parliament in pursuance of Section 35 of the Native Land Amendment and Native Land Claims Adjustment Act, 1921-22.

Native Department, Wellington, 12th July, 1923.

Memorandum for the Hon. Native Minister, Wellington.

Re Petitions Nos. 81 and 82 of 1921, Lot 95, Parish of Te Papa.

ENCLOSED herewith is the Court's report under section 35 of the Native Land Amendment and Native Land Claims Adjustment Act, 1921-22.

The report does not disclose the position of the title, and, as this is in an extraordinary position, I have thought it best to refer to it with the object of having it set upon a sure basis.

Originally this land was set aside in 1866 to be granted to two persons on trust for the Ngati-hangarau. Although a grant was prepared, for some technical reason it apparently was never signed. Under these circumstances the Minister of Lands, in 1916, applied to the Court under section 11 of the Native Land Amendment Act, 1912, to inquire who were the beneficial owners, evidently for the purpose of issuing a title. The report was made, and the Warrant actually prepared for signature, but was eventually returned to the office preparing it, with the remark, "It must be held that the Native Land Court had no jurisdiction to hold an inquiry into the ownership of the land, and that the report of the Judge was accordingly *ultra vires* and inoperative."

It is submitted that the idea the Court had not jurisdiction arose from an erroneous construction of an opinion given by the Solicitor-General with regard to the effect of section 11 of the 1912 Act. If that section had any virtue at all this clearly appears to be a case that the Court would have jurisdiction to act in, if properly authorized.

In any case, it has been assumed that a title would issue; the block has been partitioned into sixteen divisions, which have been surveyed; and numerous succession and other orders have been granted; and, as there is no title, there are grave doubts of the Court's jurisdiction to issue them.

I recommend that legislation be passed—

- (1.) Authorizing the Governor-General to sign a Warrant for the issue of a title, subject to its being amended as hereafter noted as from 25th April, 1917.
- (2.) The Court be declared to have had jurisdiction to grant orders made since that date.
- (3.) The Native Land Court be authorized to hear and determine any application to have the title amended, and if it is satisfied that the amendment proposed is just and ought to be given effect to, to adjust the titles and partitions or other orders in such manner as it thinks most expedient to give effect to any rectification necessary.

R. N. JONES, Chief Judge.