1924.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1920.

REPORT AND RECOMMENDATION ON PETITION NO. 5 OF 1918, OF TUMATAHI TE WHATAANGAANGA AND OTHERS, RELATIVE TO WAERENGA EAST BLOCK.

Presented to Parliament in pursuance of Section 32 of the Native Land Amendment and Native Land Claims Adjustment Act, 1920.

Native Department, Wellington, 6th September, 1923.

Petition No. 5 of 1918.—Waerenga East 2A Block.

PURSUANT to section 32 of the Native Land Amendment and Native Land Claims Adjustment Act, 1920, I enclose the report of the Court herein. In view of that report I recommend that no further action be taken.

The Hon. the Native Minister, Wellington. R. N. JONES, Chief Judge.

22nd August, 1923.

Waerenga East Block.—Petition No. 5 of 1918.

I HAVE to report that I have held a further inquiry into the decision of the Native Land Court and of the Native Appellate Court, in pursuance of your reference under section 32 of the Native Land Amendment and Native Land Claims Adjustment Act, 1920.

The land affected is Waerenga East No. 2A, which was partitioned by the lower Court on the 21st March, 1917, into—

No. 2A No. 1—26 acres, thirteen shares—awarded to Mere Ratema and others.
No. 2A No. 2—68 acres, sixty-eight shares—awarded to Tiakiawa Tahuriorangi and others.
No. 2A No. 3—76 acres, thirty-one shares—awarded to Manahi Tumatahi (the petitioner) and others.

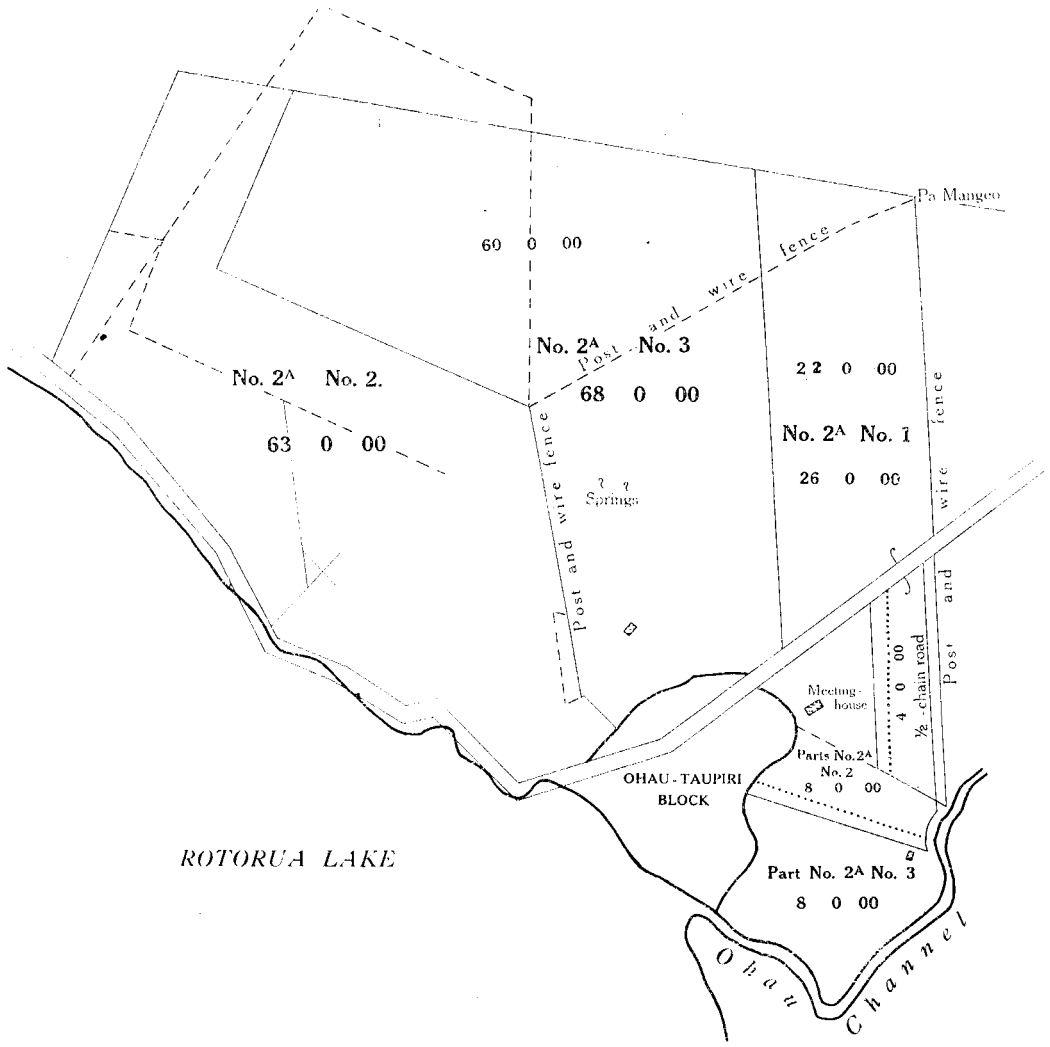
This partition was appealed against by Tiakiawa Tahuriorangi and by Manahi Tumatahi.

The Appellate Court in its decision of the 25th February, 1918, considered that the former had nothing to complain of, and dismissed his appeal.

The matter in dispute then, as now, was confined to the area (about 21 acres) to the south of the road.

The Appellate Court in its decision states: "The question therefore narrows itself down to whether the 21 acres have been fairly divided. On this point we think we must differ slightly from the Native Land Court. It awarded Ratema's party 4 acres, Tiakiawa's 8 acres, and Manahi Tumatahi's 9 acres. Taking the relative interest of the parties, however, the true proportion would give the first-named less than $3\frac{1}{4}$ acres, Tiakiawa's party nearly $8\frac{1}{2}$ acres, and Tumatahi's nearly $9\frac{1}{2}$ acres. Moreover, there is in Tumatahi's piece a good-sized swamp, which he asserts he has tried to drain without success. And he has no road frontage, while the other two have. We understand, however, that the Ohau Channel frontage is of some value. We consider, therefore, that Tumatahi should get $\frac{3}{4}$ acre more, to be deducted from Ratema's party—the line between 2A No. 2 and 2A No. 3 to be moved northwards the necessary distance to give this extra area to No. 3, and the line between No. 1 and No. 2 to receive the $\frac{3}{4}$ acre taken off it south of the road in its portion north of the road by moving its western boundary the necessary distance."

The attached sketch will indicate the awards of both Courts. The dotted lines (thus .....) show the variation made by the Appellate Court and the location of the further area of 3 roods which it awarded to the petitioner's party.



WAERANGA EAST No. 2A, Nos. 1—3

Scale

0 5 10 Chns.

It is quite clear that the lower Court has, and I think rightly, departed from the share basis in allocating the area awarded to each section of owners. In this it probably took into consideration the fact that one section contained the whole of the lake frontage.

The point at issue is a simple one. The land in dispute is a small piece of about 3 acres in the extreme southern end of No. 2A No. 3, and bounded on the north by the fence shown on the sketch. It is not disputed that this fence was erected by the petitioners, and they claim the land up to it. There are no buildings on this piece, and no cultivations apart from the fact that the land is in grass.

A comparison of the shares with the areas of the sections shows that one share in Ratema's section was calculated as 2 acres, one share in Tiakiawa's at 1 acre, and one share in the petitioner's at about $2\frac{1}{2}$ acres.

The position is that the petitioners fenced in more land than they were entitled to.

I consider that they have been generously treated by the earlier Courts, and recommend that no further action be taken in regard to the petition.

Head Office file N. 1920/427 is returned herewith.

W. H. Bowler, Commissioner.

The Chief Judge, Native Land Court, Wellington.

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