1928.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1927.

REPORT AND RECOMMENDATION ON PETITION No. 261 OF 1927, OF RAHERA MURIWAI MUTU MORRISON AND OTHERS, RELATIVE TO COBDEN NATIVE RESERVE.

Presented to Parliament in pursuance of the Provisions of Section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927.

Native Department, Wellington, 27th September, 1928.

Petition No. 261 of 1927.

PURSUANT to section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927, I herewith forward the report of the Native Land Court herein.

In view of the report, I have no recommendation to make. I would, however, point out that the legislation affecting the order of 21st January, 1914, respecting Cobden Reserve did not in any way affect the merits of the investigation of the title. A freehold order had been made which the Court had not jurisdiction to make, and the Chief Judge was authorized to transform it into an order affecting the beneficial interests only, the fee-simple being then vested in the Public Trustee.

R. N. JONES, Chief Judge.

The Right Hon. the Native Minister, Wellington.

In the Native Land Court of New Zealand, South Island District.—In the matter of section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927; and in the matter of a Reference to the Court for Inquiry and Report respecting Petition No. 261 praying for Inclusion of Te Hore and Ngaki or their Descendants in the Native Reserves in the Cobden Township.

To the Chief Judge, Native Land Court, Wellington.

I HAVE the honour to report that the Native Land Court sitting at Wellington on the 13th and 14th days of March, 1928, inquired into the claims and allegations made by Rahera Muriwai Mutu Morrison and two others in their petition to Parliament, being No. 261 of the session of 1927. The facts are as follows:—

Under the New Zealand Native Reserves Act, 1856, certain parcels of land were reserved from the Arahura deed of sale of the 21st May, 1860, for the religious, social, and moral welfare of the Arahura Natives on the west coast of the Middle Island. (See pp. 386 and 387 of Mackay's Compendium, Vol. ii.) Amongst these is an area of 10 acres at site of town on the north bank of the Mawhera, or Grey, River—now called Cobden Township.

On the opposite, or south, side of the Grey River was another reserve, containing 500 acres, and called Reserve No. 31, Mawhera (now called Greymouth), which was set aside for individual allotments. In January, 1879, Commissioner Young held an investigation into the title of this 500-acre reserve and the shares of the Natives entitled to inclusion, and in due course a Crown grant was issued. (See pp. 16–18 of return G.–3B.)

No title was issued for Cobden, which contains 10 acres and lies on the opposite, or north, side of the Grey River. The legal estate is vested in the Public Trustee, and no inquiry was made respecting the beneficial owners until 1914, when an application for investigation of title was heard by the Court on the 12th, 15th, 20th, and 21st January. In accordance with the "takes" set up and the evidence given, the Court awarded the various sections of land constituting the Township of

* Exhibits not printed.

Cobden to the three children of Tuhuru in equal shares. Their names were Tarapuhi, Wereta, and Nihorere; and the *whakapapa* and list of owners and shares as agreed upon and settled by the Natives outside the Court, and duly submitted to the Court, appear on pages 258 and 259 of South Island Minute-book 19, while the originals are appended to the Cobden file. (See Exhibit A.) There being no objectors, the Court made an order in accordance with the list of names and shares. In giving evidence in connection with this investigation in 1914, Rahera Muriwai Uru (now Mrs. Morrison), one of the present petitioners, stated, *inter alia*, "Tuhuru occupied the Cobden side of the river (Grey), and reserved it for himself and his descendants. The same people occupied both sides of the river. The same people who were put into Greymouth Reserve (in 1879) should go into the Cobden Reserve."

At the same sitting Hoani Tainui said in his evidence: "Tuhuru was the *tupuna* for Cobden. He had three children—Tarapuhi, Wereta, and Nihorere. All those in the Greymouth Reserve are descendants of these three children, except the two Taiaroas and Aperahama te Aika. The same people are entitled to the Cobden side. They occupied both sides of the river, and went backwards and forwards. There are no names omitted from the Greymouth Reserve that ought to be included."

An affidavit was drawn up and signed by a number of claimants, including Rahera Muriwai and Hoani Tainui, setting out the names and shares of those who should be included in Cobden (see Exhibit B attached hereto); but this was set aside at a subsequent meeting of the Natives interested, and the list appearing in Minute-book 19, page 259, was adopted instead. The order for Cobden made on the 21st January, 1914, was amended and validated by section 28 of the Native Land Amendment and Native Land Claims Adjustment Act, 1920; and orders similar to that in Cobden were made in respect of other nine reserves that were supposed to be in the same category as Cobden (See Minute-book 23, pp. 103, 104, and 150.)

No appeal was lodged, but in consequence of a petition to Parliament the orders for the nine reserves were declared to be void and of no effect by section 53 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922, which empowered the Court to ascertain and determine the persons beneficially entitled to these nine reserves (but not to Cobden). In pursuance of this enactment the Court heard applications for investigation on the 24th Jnauary, 1923, when Mr. McDonald, on behalf of the petitioners, intimated that his clients had nothing to say against the twenty-nine persons put into the titles that the Act of 1922 declared to be void, but they desired to be included along with them. They admitted that Tuhuru was the main *tupuna*, but not the only one, as he had a sister, Ngaki (or Naki), and a half-brother, Te Hore, who should also have been included. Mr. Sim, who opposed the petitioners, pointed out that they were the very persons who had been responsible not only for the order for Cobden, which no one sought to amend or set aside, but also for the orders for the other nine reserves, when no effort was made to being in Te Hore or Ngaki.

After hearing evidence, the Court decided to admit Te Hore and Ngaki, not on terms of equality with Tuhuru but rather in accordance with the distribution of shares made by the elders in 1879 in the Greymouth Reserve as shown in Commissioner Young's report, and therefore awarded Tuhuru $\frac{2}{3}$, Ngaki $\frac{5}{24}$, and Te Hore $\frac{1}{8}$ in respect of each of the nine reserves that the Court was empowered to deal with. It is now sought to amend the order for Cobden so as to bring it into line with the new orders for the other nine reserves. This application is strongly opposed, on the grounds that Cobden is not in the same category as the other nine reserves, but was specially set apart and reserved by Tuhuru for himself and his descendants. The only evidence of this reservation was given by the present petitioners, who now state they had been misinformed and that the elders were all silent on the matter. Rahera Muriwai, who stated in former evidence that Ngaki was one and the same as Kokoiti, now alleges that she made a mistake and that Ngaki was another name for Moroiti, the wife of Waewae. It seems from the backing and filling, and asserting and retracting, that the present-day Natives know little or nothing about the *whakapapas* of a few generations ago, but blow hot or cold as their interests at the time prompt them. Much confusion seems to have been caused by an erroneous *whakapapa* given by Rev. G. P. Mutu before Young's Commission in 1879, where he gave Waewae, instead of Moroiti, as the child of Ruahuanui. (See G.–3B, p. 7, and Exhibit C.)

The *whakapapa* now agreed upon by all parties is attached hereto and marked "Exhibit D."

It seems that all the petitioners want is to amend the order for Cobden Township so as to make it similar to the orders in the other reserves, in which the names do not differ much from those found to be entitled to the Greymouth Reserves.

The Tainui family and others who oppose the petitioners contend that the order for Cobden should stand unaltered, for the following reasons:—

(*a*) The Cobden Reserve was, according to the evidence of the petitioners themselves, specially set apart for Tuhuru and his descendants.

(*b*) The order for Cobden Reserve was made on the application and in accordance with the evidence of the present petitioners, who now seek to alter it.

(*c*) The order for Cobden Reserve was validated by Parliament, and should not now be disturbed.

M. GILFEDDER, Judge.

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