

1929.

## NEW ZEALAND.

## NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1919.

REPORT AND RECOMMENDATION ON PETITION No. 90 OF 1918, OF MERE TE IWINGARO AND  
OTHERS, RELATIVE TO MANGAPOIKE 2<sub>B</sub> BLOCK.

*Presented to Parliament in pursuance of the Provisions of Section 34 of the Native Land Amendment  
and Native Land Claims Adjustment Act, 1919.*

Native Department, Wellington, 26th September, 1929.

*Petition No. 90 of 1918,—Mangapoike 2<sub>B</sub> Block.*

PURSUANT to section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1919, I transmit herewith the report of the Native Land Court upon the allegations in the above petition.

In view of that report I have no recommendation to make.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.

Native Land Court and Tairāwhiti District Māori Land Board Office,  
Wairoa, 7th February, 1929.

*Mangapoike 2<sub>B</sub>.—Petition No. 90 of 1918, of Mere te Iwingaro and others, praying for Redefinition of  
the Relative Interests of the Owners of this Block.*

I HAVE the honour to report that, pursuant to your reference of the 12th October, 1928, under section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1919, this matter came before the Court for inquiry on the 5th instant.

Judge Brown had previously inquired into the subject-matter of the petition on the 16th February, 1920, and although he then intended to report to you he apparently omitted to do so.

The title to Mangapoike No. 2 Block was a memorial of ownership dated the 30th October, 1884, in favour of 540 owners. In 1894 the block came before the Court for partition, and by a judgment delivered on the 15th October, 1894, Mangapoike No. 2<sub>B</sub> was awarded to "the descendants of Kapiti and those who have acquired rights on that land." A list of twenty names was later on handed in to the Court by Tamati Hake, and on the 22nd October, 1894, a partition order was made in their favour. The shares were fixed as equal.

The partition was appealed against, but was affirmed by the Appellate Court.

The present petitioners object to the award of full shares to the following persons: Hera Wharekaraihe, Hakopa Tipuna, Herita Taunoa, Honatana Matawhaiti, Katerina te Naihe, Mihaere te Tihi, Makuini te Waiohiorore, Miriama te Okiekie, Pera Tamahikawai, Petera Ingoa, Rapana te Tuku, Tiripa Karatau, Wi Honatapu, and Petera Pako, on the ground that they are not descended from the ancestor Kapiti, and also on the ground that they have no occupation.

At the inquiry before Judge Brown in 1920 Rutene Tuhi appeared for the petitioners. He then stated, "The fourteen persons I object to are also descendants of Tutekapiti—some of them are," but maintained that Tutekapiti was not the same person as Kapiti, the ancestor to whose descendants the land was awarded.

Mangapoike No. 2<sub>B</sub> was the subject of a decree of the Validation Court dated the 8th July, 1896, and became vested in the East Coast Commissioner.

On the 14th February, 1923, the Native Land Court, under section 11 of the Maori Land Claims Adjustment and Laws Amendment Act, 1907, found the owners beneficially entitled to be those shown in the partition order of the 22nd October, 1894. In so deciding Judge Brown states, "The whole question turned on the identity of the ancestor to whom the land was awarded by the partition Court. There were two mentioned—namely, Kapiti and Tutekapiti. From the former six of the owners have descended, and from the latter the whole of them."

This decision was appealed against, and was affirmed by the Appellate Court, which in its decision states, "The Court below decided that Tutekapiti and Kapiti were the same person. We are not prepared to rule on that question."

In the present proceedings Mr. H. E. McGregor appeared on behalf of the petitioners, and stated that "the whole case practically hangs on the question of identity, and his case must stand or fall accordingly as this is decided." In supporting the petition he relied mainly on Napier Minute-book No. 8, which was missing when Judge Browne dealt with the block in 1923. In that book Tutekapiti is shown as the child of Haumakoe and the parent of Hinewaenga, and Kapiti is shown as the child of Rauru and the parent of Rakau.

Mr. Mitchell, who appeared for the respondents, pointed out that both of these statements might be correct and easily reconciled. It was quite conceivable that Haumakoe and Rauru were the parents of the ancestor.

After a careful scrutiny of the evidence taken by the various Courts I am of opinion that it is overwhelming in favour of the contention that Tutekapiti was the same person as Kapiti.

I may quote the following references:—

Wairoa Minute-book 8/122—Te Pania Reweti: "Kapiti, father of Hinewhainga, laid down a boundary." The Napier Minute-book previously referred to and relied upon by Mr. McGregor gives the *whakapapa* thus:—

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Haumakoe
  |
Tutekapiti
  |
Hinewaenga.

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Surely this clearly indicates that Kapiti and Tutekapiti were one and the same. Te Pania Reweti was the principal witness in 1894, when the ancestor Kapiti was established.

Same minute-book and page; same witness: "Kapiti was father of Hinewaenga."

Same minute-book, page 120; same witness: "The ancestors Tutekapiti and Kapiti are one and the same."

I therefore have to report that in my opinion the petitioners have failed to establish their case and are not entitled to relief.

A copy of Judge Browne's minutes taken in 1920 is attached to your file N 1927/282, which is returned herewith. A copy of my own minutes is attached hereto.

Petition No. 222 of 1927, by the same parties, was not the subject of a reference to the Court, but it has no more merits than the earlier one, and should, in my opinion, be similarly dealt with.

W. H. BOWLER, Commissioner.

The Chief Judge, Native Land Court, Wellington.

*Approximate Cost of Paper.*—Preparation, not given; printing (450 copies), £2.

By Authority: W. A. G. SKINNER, Government Printer, Wellington.—1929.

Price 3d.]