

1946
NEW ZEALAND

**REPORT AND RECOMMENDATION ON PETITION No. 174 OF 1937, OF
TE HEKENUI WHAKARAKE AND OTHERS, CONCERNING THE
NGATIMARU LANDLESS NATIVES' LAND**

*Presented to Parliament in pursuance of the Provisions of Section 23 of the Native Purposes
Act, 1938*

Native Land Court (Chief Judge's Office), P.O. Box 3006, Wellington C. 1,
2nd September, 1946.

Memorandum for the Hon. the NATIVE MINISTER.

NGATIMARU LANDLESS NATIVES' LANDS

PURSUANT to section 23 of the Native Purposes Act, 1938, I transmit to you the report of the Court upon the claims and allegations contained in petition No. 174 of 1937, of Te Hekenui Whakarake and others, concerning the Ngatimaru landless Natives' lands.

These lands were granted by the Crown under the Ngatimaru Landless Natives Act, 1907, to certain Natives whose names were set out in the Schedule to the Act.

The petitioners claim that all members of the Ngatimaru Tribe at that time who were landless should have been included in the grant. They allege that they are members of the tribe who are landless, and claim that they or their elders should have been included; they also allege that some of the persons who were included were not members of the tribe and should not have been included.

The petition prays for an inquiry to ascertain the true membership of the Ngatimaru Tribe so that the strangers wrongly included may be removed from the titles and the rightful persons included.

The Court upon inquiry found that there was no foundation for the claims that all members of the Ngatimaru Tribe who were landless should have been included and that some persons were wrongly included. On the other hand, the Court was satisfied that it was not intended that all members of the Ngatimaru Tribe should be included, and, further, that the persons included were properly included.

I therefore recommend that no further action should be taken on the prayer of this petition.

The Court in its report has recommended that if the allegations made by the petitioners that they are landless are correct, and if there is any vacant Crown land in the vicinity which could be set aside for them, this should be done, and the matter referred to the Court to determine the names of the beneficiaries in pursuance of the power contained in section 527 of the Native Land Act, 1931.

This section provides that where any Crown land has been set aside or reserved for the use or benefit of Natives or where it is proposed to so set aside or reserve any such land, the Court shall have jurisdiction, on the application of the Minister of Lands, to inquire and ascertain what persons shall be included in the certificate of title or other instrument of title of that land, and to determine the relative interests of the persons so ascertained.

Such an award of additional land does not come within the prayer of the petition. If the Government should decide to take this recommendation into consideration, it should be borne in mind that there may be members of the Ngatimaru Tribe, besides the petitioners themselves, who are landless, and therefore, before setting aside any land, it would be advisable for the Court to inquire and ascertain the number of persons who would be concerned.

D. G. B. MORISON, Chief Judge.