1950

NEW ZEALAND

REPORT AND RECOMMENDATION ON PETITION No. 113 OF 1938, OF JAMES RAIHE REWETI AND ANOTHER, CONCERNING SURPLUS LAND IN THE WHAITI KURANUI BLOCK

Presented to Parliament in Pursuance of the Provisions of Section 18 of the Maori Purposes Act, 1939

Maori Land Court (Chief Judge's Office),
P.O. Box 3006, Wellington C. 1, 20th November, 1950.

Memorandum for The Hon the Minister of Maori Affairs, Parliament Buildings, Wellington.

WHAITI KURANUI BLOCK

1. Pursuant to section 18 of the Maori Purposes Act, 1939, I transmit to you the report of the Court on the claims and allegations contained in Petition No. 113 of 1938 of James Raihe Reweti and another concerning surplus land in this block.

2. In view of the Court's report, I have no recommendation to make.

D. G. B. MORISON, Chief Judge.

In the Maori Land Court of New Zealand, Waiariki District.—In the matter of section 18 of the Maori Purposes Act, 1939, and in the matter of Petition 113 of 1938, by James Raihe Reweti and Another, praying for an inquiry into surplus land in the Whaiti Kuranui Block.

AT a sitting of the Court held at Te Poi on the 8th day of February, 1949, and succeeding days, before John Harvey, Esquire, Judge.

Upon reference by His Honour the Chief Judge of the said petition for inquiry the following report is submitted:

(1) At the hearing the petitioners were represented by counsel in Mr. C. McDavitt and Mr. T. Machin. The Crown was represented by Mr. V. R. S. Meredith and Mr. F. McCarthy, who were assisted by senior officers of the Maori Affairs and Lands Departments. The inquiry was remarkable for the vast quantity of maps, minute-books, and documents produced by the Crown to show the history of the Whaiti Kuranui Block, as well as for the thorough and able manner in which counsel for both sides presented their respective cases.

(2) At the outset it was felt that, if the order of proceedings were confined strictly to the letter of the petition, the scope of the inquiry would be so narrowed that the petitioners would have difficulty in opening a case at all, while the Crown's case, which had been prepared at considerable expense to meet any form of attack, would not become

available (if not recorded) to meet the possibility of a future petition redrawn to cover all the points the petitioners wished to raise at this inquiry and would not be allowed to raise if tied down severely to the terms of the statute. The Court felt that the Legislature desired to ascertain the substance of the matter and not to be treated to an exhibition of hair-splitting by experts. In the circumstances, the Court permitted the petitioners considerable latitude, but even then they were unable to present any clear-cut issue. It must be stressed at this point that the Crown was not the purchaser of these lands from the Maori owners. The land was bought by or for the Thames Valley Land Company, an English concern financed through the Bank of New Zealand. When the Bank itself got into financial difficulties the land, and other land belonging to the company, was sold to the Crown by the Assets Realization Board at a figure much below what was paid to the Maoris by the company or its agents. Mr. Meredith appeared with Mr. McCarthy and the many departmental officers much more as friends of the Court than as advocates of views contrary to those propounded by the petitioners.

(3) The main grounds for complaint by the petitioners was that the Maori owners generally had received in Court awards about 9,000 acres less than the area which, they maintained, constituted the Whaiti Kuranui Block. The petitioners were quite unable to say or show the location of this large missing area. It was obviously not included in the titles to adjoining Maori-owned blocks, so it was conjectured that it must be found in the confiscated lands area to the north-east. A more feasible explanation is that the area never existed as part of the Whaiti Kuranui Block, but, even if it did, the fact that it was confiscated effectually extinguished any Maori title to it before the Court entered into its task of clothing with legal title the land owned by Maoris under their customs and usages. The Court had no jurisdiction over land which was not owned by Maoris, and could not from the very nature of its being the Court that it is call in question the Proclamations of the Crown and statutes of the colony.

(4) The petitioners then proceeded to attack the method by which the Court ascertained the owners to the land and the manner in which it gave title to the European purchasers. The Crown was able to show that the orders establishing ownership were made by general agreement, except in one case, and in that case the objector was so unreasonable and objectionable as to call down the reproof of the Court. The Crown also showed that every deed of sale had been approved by one of the Trust Commissioners specially charged by a statute to see that the transactions were fair, just, and honourable. One case was cited where to remedy an error whereby the purchasers would have got a Maori settlement the Court and parties agreed to the owners of another block conveying such block to the company in return for a conveyance of the Maori settlement from the company to two trustees for the thirty-seven owners beneficially entitled. This deal turned out badly for the thirty-seven owners because one of the trustees, taking advantage of the facts that the title did not (and could not under the Land Transfer Act) disclose the trust and that the land was technically European land that could be sold without the necessity of confirmation by the Maori Land Court, swindled the beneficiaries (in the year 1916) out of one-half of their property by selling such half-share to a European purchaser. His co-trustee did not sell, and upon his death the beneficiaries were appointed to be his successors. The Court cannot see why the owners generally should claim relief by a petition to the Crown for the wrongful act of one of themselves selected by them and virtually appointed by them to be their trustee. It is a notorious fact that many trustees, including trustees drawn from the ranks of members of the Maori race, have been guilty of breaches of trust. The law provides remedies, but the remedies are of material use only if pursued in time. As stated before, the sale took place in 1916, and no action was ever taken to follow the money the proceeds of the sale.

(5) A further complaint was made that an area of land, which included interests of non-sellers, was sold to defray the costs of victualling the meetings of Maoris attracted by the Court proceedings, which occupied a considerable time. I confess that

at the inquiry into the petition I was somewhat shocked to find that 5,000 acres had been sold to meet the store bills, but on going into the views of the Court, Trust Commissioners, and owners as expressed at the time it appears that they viewed the transaction as a normal and customary one in the circumstances. It certainly ensured that all contributed according to their means.

(6) In conclusion, the Court has to report that in its opinion there was no "surplus land" in the Whaiti Kuranui Blocks and that any differences existing between areas shown in the minutes and those on the completed orders can be explained satisfactorily often by inaccuracies in the sketch-plans originally before the Court.

(7) The Court considers it its duty to point out that this case has cost the State a great deal of expense which would have been avoided it the petitioners had been required to state in plain terms just what constituted the grievance they were asking the Legislature to remedy.

For the Court,

[L.S.] JNO. HARVEY, Judge.

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