

The only authority adverse to the rights and claims of the Natives is the Whangarei Harbour Act, 1907, which took from the Natives certain unascertained areas of Native land, and handed them over to the Harbour Board without the Natives being granted compensation, and without giving them a full opportunity of lodging complaints or objections. A reasonable and probable explanation for this may be that the Department responsible for the matter may not have been aware of the existence of land above ordinary high-water mark, though we are told by Major Clark-Walker and Hoori Rewi that they actually made the necessary objections not only in writing addressed to the Marine Department, but also personally to the Hon. Mr. J. A. Millar, the then Minister of Marine, during a visit paid by him to Whangarei some time prior to the passing of the Whangarei Harbour Act, when he gave assurances that no Native land would be taken for Harbour Board purposes.

There is not the slightest doubt of the existence of land above ordinary high-water mark, because I personally walked upon some of it during a period of extraordinary spring tide, and found both gorse and grass growing freely on it—a sure sign of the land not being affected by tidal waters.

There is a substantial piece of land, upon which no mangroves are growing, roughly estimated at some 8 to 10 acres; but the exact area of dry land can only be ascertained by a survey or making long and exhaustive observations of the tides, and defining the true limit of ordinary high-water mark.

After a careful consideration of the evidence adduced at the inquiry, I have to report that my findings upon the questions submitted to me are as follows :—

- (1.) That such portion only of Hihiaua Block (as known to the Natives) which remained above ordinary high-water mark at the time of the passing of the Whangarei Harbour Act, 1907, was before then Native land.
- (2.) That such portion as aforesaid should not have been included in the Second Schedule to that Act as an endowment for the Whangarei Harbour Board without compensation being given to the owners.
- (3.) No compensation should be given to the Native owners, because I recommend a return of the land to such Natives as may be ascertained by the Native Land Court upon an investigation of title.
- (4.) That such portion as aforesaid should be revested in the Native owners as may be determined by the Native Land Court, and that no compensation be paid by the Crown to the Harbour Board.

I wish to make it clear that my findings only affect the dry land within the boundaries of the 53 acres described in the Second Schedule to the Act of 1907. The whole of the 13 acres 2 roods is covered at ordinary high tide.

As regards question 3, I find that the petitioners do not desire compensation, because the damage suffered by the loss of a fishing reserve cannot be measured by pounds shillings and pence. They want the return of the land for the purposes of camping thereon whenever Land Courts are held in Whangarei, because at the present time they have no other land that can be so utilized.

The equities of the case in so far as the petitioners are concerned could be met by an amendment of the boundaries of the 53-acre portion, by excluding therefrom such area of dry land as may be defined after an accurate and careful survey has been made.

Finally, as regards the allegations made in the petition, I have to remark as follows :—

- (1.) The investigation referred to was never completed, because of insufficient information.
- (2.) The land upon which the two houses stand is called Hihiaua Block, and it was investigated by the Native Land Court on the 15th day of May, 1867, but no portion of it is included in the Second Schedule to the Whangarei Harbour Act, 1907.
- (3.) Allegation is true.
- (4.) The evidence given at the inquiry would be sufficient to establish such a claim before the Native Land Court.
- (5.) Allegation is true.