SESSION II.
1918.
NEW ZEALAND.

NATIVE LAND CLAIMS ADJUSTMENT ACT, 1913.

REPORT ON PETITIONS No. 293 OF 1911, OF REWI WHAKAHORO, AND No. 271 OF 1913, OF HORORIRI MEIHA AND THIRTEEN OTHERS, AFFECTING THE WHATAROA NATIVE RESERVE.

Presented to both Houses of the General Assembly in pursuance of Section 2 of the Native Land Claims Adjustment Act, 1913.

Native Land Court (Chief Judge's Office), Wellington, 11th January, 1918.

Whataroa Native Reserve.

PURSUANT to the provisions of section 2 of the Native Land Claims Adjustment Act, 1913, I have the honour to transmit herewith the report of R. Noble Jones, Esq., Judge of the Native Land Court, on petitions No. 293/11, of Rewi Whakahoro, and No. 271/13, of Hororiri Meiha and thirteen others, affecting the Whataroa Native Reserve, being reference No. 10 in the First Schedule to the said Act.

JACKSON PALMER,
Chief Judge.

The Hon. Native Minister, Wellington.

In the Native Land Court of New Zealand, Tairawhiti District.—In the matter of the Native Land Claims Adjustment Act, 1913, section 2, and of a reference by the Chief Judge thereunder of petitions affecting the Whataroa Block.

THIS matter came on for hearing at Wairoa on the 20th May, 1914, and subsequent dates, before Robert Noble Jones, Judge, who begs to report as follows:—

1. The Natives claim in this matter that there was promised to the relatives of certain friendly Natives who were treacherously killed by Te Waru about December, 1868, a portion of land whereon the murders took place, and which the Natives allege is the Whataroa Block.

2. The bulk of the elder Natives are dead, but remnants are very consistent that some such arrangement took place. They have no documentary evidence to support their statements, and the matter has stood over in the hope of finding something on the records which would either substantiate or disprove their allegations.

3. So far as the records have been placed at the Court's disposal there is nothing upon them to show that any promise was made, and those in charge of the Native records profess to have no knowledge of any such promise. At the same time it must be apparent that the records are not very complete, since the papers show that on a claim made by another Native that a piece of land was promised him, the authorities strenuously denied any such promise till a copy of the promise in writing was actually produced.

4. It is not therefore safe to assume anything from the absence of documentary evidence on the records. The Native side will be best understood by condensing statements given on their behalf, first premising that the persons who were killed were—(1) Karaitiana Rotoatara, (2) Karauria te Awarangi, (3) Rewiti Pakerango, (4) Ahita Karari; and that these persons had no title of their own to the land referred to.

5. Kerei te Otutu, a very old Native, said, "The claim to the block arose through a request made by the chiefs Ihaka Whaanga, Paora te Apatu, Tamihana Huata, Hapimana Tunupaura, myself, Mere Karaka, and others, that that piece of land (Whataroa) be given as compensation for the wrong done to Karaitiana and his younger brothers by the Hauhaus,

who cut him open, tore out his heart and liver, and carried them to Waikaremoana. The said land was asked for the descendants of the persons who were killed, and Sir Donald McLean and Locke acceded to our request. There are two Europeans who are still living now who know of this: they are Captain Preece and the Hon. J. D. Ormond." The chiefs mentioned were leading chiefs of the Wairoa district.

6. Ihaka Maihi Whaanga, son of Ihaka Whaanga referred to in the preceding paragraph, said that "Whataroa was returned by the Government. At the time of Karaitiana's massacre I, with my father and others, went to Whataroa and found that all but one man had left. We searched for bodies, and found them after some difficulty. After that I heard Ihaka and others were making application to have the land given to the people as compensation for the massacre—that is, to the descendants of those who were massacred. The deed was suspected to be done by Te Waru. When the 1,000 acres were given over the relatives of those who were killed were appeased." He then recites the circumstances of the promise of Sir Donald McLean as stated by Kerei te Otutu. In cross-examination Ihaka said that they killed the old man for revenge, but that was not sufficient payment. It was Te Waru who instigated the massacre, and as the land was originally his—or, at least, he and his people lived there and were in occupation—it was quite right to take the land.

7. The Hon. J. D. Ormond was, the Court understands, referred to, but was unable to recollect the circumstances, or at any rate could give nothing that would assist the Court. Mr. Locke, who was referred to, is long since dead.

8. Captain Preece made a declaration that he was stationed at Wairoa in the year 1868, and in the early part of the month of October of that year scouts were sent to Whataroa to ascertain from Te Waru, the chief of that settlement, who had been a rebel in the war of 1865 and 1866, but had surrendered and professed to be a friendly Native, as to the movements of Te Kooti, who was then contemplating occupying Puketapu, near Ruakituri; that, their men not returning, he accompanied an expedition to Whataroa, where they found the settlement deserted and the murdered bodies of the scouts. He then mentions that in 1880 he succeeded Mr. Locke as Magistrate, and that amongst the other records which were in the office was a large book containing the names of the owners of a number of reserves, and that the Whataroa Reserve was entered in the said book as set apart for the families of the said scouts, and that Mr. Locke had informed him that that arrangement was made with the Native chiefs when the friendly Native interests and the rebel Native interests were extinguished in the main blocks. He further mentions that about the year 1890, acting under instructions from the then Under-Secretary for Native Affairs, he forwarded the book referred to, with other records, to the Native Department.

9. The Court applied to the Under-Secretary of the Department for the book, but received a reply that the Under-Secretary could not trace any book in the Department on the matter referred to, but suggested, as some of Mr. Locke's books were in the Napier Magistrate's Court Office, it might be there.

10. Search was made in the latter office, but no trace could be found of the book referred to. However, an old press-letter book of 1872, partly used for Native affairs, contained a copy of a letter dated the 19th August, 1872, to the Hon. Minister of Public Works.

11. *Inter alia*, this letter says, "As regards the question of compensation: By a deed of agreement made between the Government and the loyal Natives of the Wairoa district at a meeting held at Wairoa in 1867, the Government took possession of a block of land lying between the Wairoa and Waiau Rivers and between the Mangapoike and Kauhauroa Rivers on the left bank of the Wairoa River, excepting a block of 500-odd acres at Pakowhai and 25-acre section between the Mangapoike and Kauhauroa Streams on left bank of Wairoa River. The remainder of the block then brought under consideration under the provisions of the East Coast Land Titles Investigation Act, lying between the Waiau River and the Wairoa River and Ruakituri Stream stretching inland to Waikaremoana Lake, was returned to the Natives with the promise that the Government would divide it into blocks, taking streams or other natural boundaries, and also decide on the persons to be inserted in the grant for the same. . . . Though the unsettled state of the district and other causes the promise of the Government to subdivide the land and decide on persons to appear on grants has not until now been carried out. On the 3rd of this month I met the Natives, who mustered in great force at Wairoa, in reference to this question, having previously ridden over the country and visited Waikaremoana for the purpose of ascertaining the most suitable boundaries of the several blocks into which it was proposed to divide the land." He then mentions an agreement was agreed by the principal chiefs, which was forwarded to the Department. Probably these records, if still in existence, might have some reference to the reserves to be made (if any).

12. There is also some evidence given by one Hapimana Tunupaura in Wairoa Minute-book, Vol. 3B, page 132, given on the 9th April, 1889, in respect of another block. "This reserve at Whataroa," he says, "was not given back through the Government conquest. The chiefs asked the Government to give this land back. The names of the chiefs who applied for this 1,000 acres at Whataroa are Pitiera Kopu, Paora te Apatu, Tamai Tokotoka Rahurahu, Kerei te Otutu (already mentioned), and myself. This application had been made for some time, but before the arrangements were complete Pitiera Kopu died, and the remaining four completed the business. The reason we asked for this reserve was that Karaitiana Rotoatara, one of our chiefs, had been murdered at Whataroa by Te Waru. His brothers Karauria, Rewiti, and Ahita were also murdered there. This murder was committed when Te Kooti was at Puketapu, and the bodies were buried at Whataroa, and the Government awarded us 1,000 acres at Whataroa in consequence. There are no names on the title to Whataroa as yet. I may at some future time arrange a list of persons entitled to this 1,000 acres."

13. Hapimana was in error in stating there were no names in the title to Whataroa, as the Governor has already issued his warrant for a title to the original owners of Ruakituri as found by the Court on investigation of title, but he stated the area (upon survey 1,001 acres) correctly, and although there are twelve reserves out of the block none of the others exceed 417 acres.

14. To understand how this title came to be issued it is necessary to refer back to the title. After various negotiations with the Natives it was decided that the Crown should buy the Native interests in the four blocks referred to in Mr. Locke's letter of 1872, and in 1875 the Native Land Court sat and investigated the title to the four blocks, and some twenty-two persons were put in the title.

15. These persons thereupon sold to the Crown, excepting thereout some twelve reserves, totalling close on 3,000 acres: among these were Whataroa Reserve, described as 1,000 acres.

16. It is doubtful if the Natives actually conveyed to the Crown the reserves excepted, but it was assumed that they had conveyed the whole block, and an order of freehold tenure was made accordingly.

17. About the same time as the conveyance was sent to the Native Land Court for registration under section 83 of the Native Land Act, 1873, warrants were issued by the Governor for each of the reserves in favour of the original owners of Ruakituri Block under section 5 of the Volunteers and other Land Act, 1877, and this, of course, included Whataroa. The titles bear date the 4th December, 1882.

18. In 1901, section 30 of the Native Land Claims Adjustment Act, 1901, gave the Native Land Court jurisdiction to partition the various reserves as if they were one parcel; to admit persons who had been inadvertently and without intention omitted from the list of owners on original investigation, provided that no claim was to be admitted except such as was consistent with the finding of the original Court on investigation of title.

19. The Court sat in 1906 to determine the matters left to it by the 1901 statute, but it is quite evident this did not authorize any inquiry into any such right as was claimed in the way described by Hapimana Tunupaura (one of the acknowledged owners of the original block), as set out in paragraph 12. That these persons had some right, however, was acknowledged by admitting them as to about 10 acres.

20. It seems to this Court that they would not have any such right recognized unless there were some undertaking (as alleged by the representatives) in existence, and this Court suggests a careful search should be made for the records (which should show) to ascertain what was promised by Sir Donald McLean or those authorized by him either at Napier or at Wairoa. It is hardly likely the story is a fabrication.

21. If the parties have any claim it is probably only a moral one. That will be a matter for the Government to consider. If necessary some convenient way of settling this, other than by disturbing the titles, might be found. The Court, acting under section 30 of the 1901 Act, has distributed the reserve (with the exception of the 10 acres referred to) as if it belonged to all the original owners only, and it would not be judicious to alter the arrangement after this lapse of time.

22. It cannot be said that the Natives have slept on their rights (if any), as they have consistently petitioned Parliament as their only redress since the matter first came before the Native Land Court in 1906.

23. As to the petition No. 271 of 1913, that petition probably arose as a counter-petition to those who claim under the supposed promise from the Government. The Court, as directed by section 30 of the Act of 1901, apportioned the various blocks as if it was one whole block. This would necessarily disturb the ancestral rights, and, as Whataroa was the largest of the reserves, probably some without rights to that portion were included in it. However, the Court seems to have done as well as it could under the peculiar circumstances, and in this Court's opinion nothing has been shown by those petitioners to justify reopening the matter on the grounds alleged by the petitioners under petition No. 271.

For the Court.
R. N. Jones, Judge.

The Chief Judge, Native Land Court, Wellington.

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