

1920.
NEW ZEALAND.

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

REPORT AND RECOMMENDATION ON PETITION No. 293 OF 1919, RELATIVE TO VALIDATING
ORDER OF ADOPTION MADE BY THE NATIVE LAND COURT ON 25TH APRIL, 1913, WITH
REGARD TO NGAWHAREWITI TIWAI AND OTHERS.

*Presented to both Houses of the General Assembly in pursuance of Section 34 of the Native Land
Amendment and Native Land Claims Adjustment Act, 1919.*

Office of the Chief Judge, Native Land Court, Wellington, 2nd September, 1920.

Re *Ngamoni Ngawharewiti*—*Petition No. 293 of 1919.*

PURSUANT to section 34 of Act No. 43 of 1919, I transmit report of Native Land Court on above petition.

I recommend that no legislative action be taken.

There are no such strong claims of merit or such exceptional circumstances as would, in my opinion, justify the Legislature in interfering with the ordinary course of justice or overruling the decisions of the Courts herein. Indeed, with regard to two of the children claimed to have been adopted I have strong doubts as to whether they were ever adopted according to Native custom.

It appears that while the Native Land Court was sitting at Chatham Islands in 1907 a Mr. A. Shand approached the Court and said he had "been requested by Ngamoni Ngawharewiti to ask that action be taken in respect of three children whom she wished to legally adopt. One of them had been with her from infancy. The other two are older, but had been previously whangai'd (adopted) by her parents, and she wished to continue the adoption. She has expressed a desire to get them included in titles to land, but he had told her it could not be done." The Court informed Mr. Shand that it had to discriminate between *bona fide* adoptions and adoptions merely for the purpose of putting children into titles to land; that that was the object in view when regulations were framed requiring a Judge's certificate prior to completion of registration. The Court had already stated that it recognized the difficulty of completing adoptions in places where a Court only sits at long intervals, had offered to put any statement on record, and advised the parties as to the necessary application to be lodged.

A statement was accordingly taken on the 22nd March, 1907. Ngamoni Ngawharewiti in the course of it described the two elder children as having been taken by her mother, who recently died, and that she desired to continue keeping the boys as her own *tamaiti whangai*. The youngest child, which she was then carrying on her back, was two years old, and she appears to have taken that child on the day she was born, the child's mother having died a week after confinement. She said, "I desire to adopt those three children, and wish them to succeed to my lands after my death as though they were my own children." A little later on, apparently in reply to the Assessors, she says, "I say that two of them were previously adopted by my mother, and I wish to adopt those three children so that they may succeed to my father's lands. . . . It is true that the children I am adopting are related to me on my mother's side, but I claim I have the right to dispose of my father's lands as I may think proper." (To Court:) "My desire to adopt these children began in the past and has continued to the present time. It was not through any ill feeling towards relatives on either side that I desired to adopt them."

The position with regard to the two is apparently that Ngamoni continued to perform the natural duty of looking after her infant foster-brothers, and there is no tangible evidence of actual adoption, although it is clear she wished them to succeed to her lands.

Objectors were called for, and one Inia Tuhata objected, apparently on behalf of his niece, who he claimed had been adopted by Ngamoni and her mother. The reply to this was that the girl lived with her father, and also with her grandmother and aunt, who looked after her, as her own mother was dead.

Having taken the statement, the Court left the question of granting a certificate *re the bona fide* nature of the adoption in respect of the three children to a future Court.