

1920.

NEW ZEALAND.

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

REPORT AND RECOMMENDATION ON PETITION No. 331/1915, RELATIVE TO COMPENSATION FOR
LOSS OF IMPROVEMENTS IN PUKEPOTO No. 8, TAKEN WHEN INTERESTS PURCHASED BY
THE CROWN WERE CUT OUT.

*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, Auckland, 7th August, 1920.

Re Pukepoto Block: Section 34, Native Land Amendment and Native Land Claims Adjustment Act, 1919.

PURSUANT to the above-mentioned section, I forward herewith the report of the Native Land Court upon Petition No. 331 of 1915.

In view of the report that the land is Crown land, I have to recommend that no further legislation is necessary until some more tangible claim of right to it is set up.

At the same time I have made personal inquiries into the matter so far as the records go, and I cannot help feeling that if the land is Crown land the Natives, by an unfortunate series of mistakes, have been led to believe that they had a title to the land.

The Kaiawe Block was originally sold to the Crown on the 7th September, 1859. Assuming that the plan on the deed agrees with the boundaries stated in the text, that sale undoubtedly covered the portion in dispute. However, in a plan subdividing this block, prepared in 1862, a portion of about 120 acres west of a road then laid down was apparently not taken into consideration, and was left without any section number, while that to the east of such road was sectionized. No reason is now available for this 120 acres being excluded, but in course of time the Natives are found occupying and building upon it. Later, when the title to Pukepoto, the adjoining block to Kaiawe, was investigated a sketch-map including the 120 acres as part of Pukepoto was prepared, and in asserting their claims to Pukepoto the Natives partly relied upon and gave evidence of their occupation of the part now in dispute.

It is claimed that the investigating tribunal was misled by an unauthorized sketch; and this may be so, but this does not explain why, when an authoritative sketch was required for appellate proceedings, one that similarly included the portion in dispute was prepared in the Survey Office, approved by the Chief Surveyor, and forwarded by the Surveyor-General as a sketch sufficient for the purpose of investigation of title.

In addition to this, after the appeals were settled, a proper survey of Pukepoto 8 was made, which included portion of the land in dispute, and this was on the 17th February, 1908 (Plan 7438), approved by the Chief Surveyor. I have little doubt, too, that the original diagram on the Native Land Court title for Pukepoto 8 was taken from Plan 7438, and probably included the portion of the disputed land which fell within that block. It is quite evident that the diagram on the order has been altered in some way, but how or under what circumstances I have not been able to ascertain.

So, too, Plan 7438 seems to have been, subsequently to its approval on the 17th February, 1908, altered so as to exclude the portion in dispute, although apparently the original approval still stands upon it. I have not been able to ascertain when the rectification took place, but it is pretty safe to assume it was at least four years after 1908. At any rate, in a county map published in 1912 some of the land is shown as part of Pukepoto 8 Block, and in 1914 the Native Land

Court partitioned the block as if the area in dispute was still within it. As the minutes of that hearing refer to Plan 7438 as being then before that Court, one might well assume that either the Judge palpably erred in adopting the greater area or that he had not noticed the rectification of the plan if it had then taken place.

Of course the errors (if there were any such) do not give the Natives a legal claim to the land; but, seeing that they were allowed to occupy and treat it as theirs without apparent protest, the Natives in course of time might well have believed that they were being deprived of something they owned.

The Hon. Native Minister, Wellington.

R. N. JONES,
Chief Judge.

Native Land Court, Auckland, 14th April, 1920.

SIR,—

Petition No. 331 of 1915, of Herepete Rapihana and two Others, praying that Part of the Pukepoto Block be returned to them.

I have the honour to report upon above petition, which was referred to the Court under section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1919, as follows:—

Inquiry was held at Ahipara on the 28th February last. The petitioner alone appeared before the Court. His statement to the Court was merely a reiteration of his petition. Besides making a statement to the Court, he handed in certain old plans, which, however, on the next day he demanded be returned to him. I told him I required the plans to compare with the existing plans, but he would not hear of them being left with the Court.

The facts of the matter as shown by documentary evidence are as follows: The part of the land now claimed by petitioner was included in a sketch-plan used by the Tokerau Maori Land Council when it investigated, amongst others, the Pukepoto No. 8 Block. This plan was not approved by the Chief Surveyor. The title to the block being determined, a survey was made, and, unfortunately, the surveyor accepted the sketch-plan as being accurate and followed the boundaries there shown. It was subsequently discovered that both the sketch-plan and the actual survey included part of the Kaiawe Block sold to the Crown in 1859 (*vide* Turton's Index, folio 6).

I have carefully inspected all plans submitted to me, and have no hesitation whatever in stating that the part now claimed by petitioner is not part of Pukepoto No. 8 Block, but is part of Kaiawe Block, and therefore Crown land. The mistake in the sketch-plan and in the subsequent survey unfortunately led the Natives to think that the part they now claim formed part of Pukepoto No. 8, and with this in view they built two or three houses on it. Subsequently, however, two of the occupiers acquired their sections by purchase from the Crown.

The petitioner failed to advance any reliable facts relative to his petition beyond producing the plans alluded to, and which were of little or no assistance to the Court. He had nothing whatever to substantiate his statements, which were controverted by the facts gleaned from the plans submitted by the Survey Department.

I have to report that the petitioner, who does not live on the land affected, has signally failed to convince me of the *bona fides* of his petition.

I enclose a tracing of the Kaiawe Block which shows the part in dispute, also file Native Department 1918/389.

After the various reports submitted by the Native and Survey Departments it seems extraordinary that the matter ever went so far as to be referred to the Court.

I have, &c.,

A. G. HOLLAND, Judge.

The Chief Judge, Native Land Court, Wellington.

Approximate Cost of Paper.—Preparation, not given; printing (450 copies), £3 5s.

By Authority: MARCUS F. MARKS, Government Printer, Wellington.—1920

Price 3d.