

1928.  
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS  
ADJUSTMENT ACT, 1927.

REPORT AND RECOMMENDATION ON PETITION No. 331 OF 1927, OF W. K. WIHAPI, RELATIVE  
TO LANDS OF ARAWA TRIBE INCLUDED IN THE BAY OF PLENTY CONFISCATION AREAS.

*Presented to Parliament in pursuance of the Provisions of Section 63 of the Native Land Amendment  
and Native Land Claims Adjustment Act, 1927.*

Native Department, Wellington, 26th September, 1928.

*Petition No. 331 of 1927.—Confiscated Lands.*

PURSUANT to section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927, I forward herewith report of the Court upon the above petition.

In view of that report I have no recommendation to make.

R. N. JONES, Chief Judge.

Office of the Waiariki District Native Land Court,  
Rotorua, 29th May, 1928.

*Petition No. 331 of 1927, of W. K. Wi Hapi, praying that the Native Land Court may be empowered to  
inquire into and determine Ownership of Land alleged to have been erroneously included in the Bay  
of Plenty Confiscated Lands District, and which is claimed to belong to the Arawa Tribe.*

DEAR SIR,—

Upon your reference under section 63 of the Native Land Act and Native Land Claims Adjustment Act, 1927, of the claims and allegations in the above petition for inquiry and report, I have to report as follows:—

The inquiry was held in open Court at Rotorua on the 17th instant. The petitioner, Wi Karena Wi Hapi, appeared in person. Mr. Darby, of the Lands Department, appeared to represent the Crown.

I have found it very difficult to ascertain what relief the petitioner actually seeks. In the first instance I cannot find that petitioner had the support of any other members of the Arawa Tribe, and throughout the proceedings the remarks passed by some of the large number of persons present seemed to indicate that they looked upon the proceedings somewhat in the light of a huge joke.

It would appear that out of an area of 440,000 acres (approximate) confiscated in the Bay of Plenty district under the New Zealand Settlements Act, 1863, by Order in Council dated 17th January, 1866 (*New Zealand Gazette*, 1866, p. 17), an area of 87,000 acres (approximate) belonging to the Arawa Tribe was included. I can find no absolute evidence of this wrongful inclusion, but from the documents produced to me such appears to have been the case, and I have accepted the position as such. I understand, however, that before the Commission presided over by Mr. Justice Sim, the Ngati Awa claimed this land. I cannot find that the confiscation of the 87,000 acres was ever revoked, although I have perused all the documents and references that were quoted and available to me.

Petitioner admits that the greater part, if not the whole, of the land was returned to Natives by way of Crown grant, and that those Natives to whom the land was returned were members of the Arawa Tribe. Throughout his whole address to the Court the petitioner stressed the fact that the land affected by the petition had been exempted from the operations of the provisions of the Native Land Act, 1865, and the Native Land Act, 1867, but to what purpose I cannot determine. To my mind the inference to be drawn from the aforesaid exemption is that the Natives were unable to apply for the investigation of the titles to any of the blocks within the boundaries of the 87,000 acres. Thus the Crown still treated the land as confiscated land. A notice calling for claims for compensation for land, including (*inter alia*) the 87,000 acres, confiscated, was published in the *New Zealand Gazette* of 1866, p. 364—a further indication that the Crown still deemed the area to be Crown or confiscated land.

It would appear—but of this I am not at all certain—that the petitioner's grievance is that the title or titles to the 87,000 acres were never investigated by the Native Land Court. Clearly, it was impossible for the Native Land Court to investigate land over which its jurisdiction had ceased, the operation of the Acts conferring such jurisdiction having by Order in Council been suspended in so far as such land was concerned. It was argued by Mr. Darby for the Crown that, of the 87,000 acres, 86,186 acres had been returned by the Crown to the Arawa Tribe, or certain hapus or individuals of the same. The petitioner admitted that such was the case, but contended that the whole of the Arawa Tribe did not share therein. When asked, however, if the whole of the Arawa Tribe had rights in the 87,000 acres he admitted that only certain sections were entitled. It will be noted that in the Schedule of Grants supplied by the Crown all the well-known hapus of the Arawa Tribe received substantial awards. As to the area of 87,000 acres, this area is an estimated one, as at the time there was no survey and the boundaries were point to point ones.

To briefly summarize, the position appears to me as follows: The 87,000 acres was confiscated, and remained confiscated, land until granted by the Crown to various hapus and individuals of the Arawa Tribe. The Native title to the land was extinguished, and it was impossible for the Native Land Court to investigate the title to the land in the usual way. Of the approximate area of 87,000 acres, a surveyed area of 86,186 acres has been returned to the Natives.

I cannot see that the petitioner has any grievance whatsoever, and therefore have no recommendation to make in favour of the petition, which I think the petitioner has lodged under a misapprehension as to the true position.

For your guidance I enclose a copy of the minutes taken on the inquiry and also a copy of the Schedule of Grants as supplied by Mr. Darby.

Yours faithfully,

The Chief Judge, Native Department, Wellington.

A. G. HOLLAND, Judge.

*Approximate Cost of Paper.*—Preparation, not given; printing (450 copies), £1 10s.

By Authority: W. A. G. SKINNER, Government Printer, Wellington.—1928.

Price, 3d.]