

1929.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS
ADJUSTMENT ACT, 1928.

REPORT AND RECOMMENDATION ON PETITION No. 51 OF 1928, OF KIPA ANARU AND OTHERS,
RELATIVE TO RESERVE AND LAKE IN TUTIRA BLOCK.

*Presented to Parliament in pursuance of the Provisions of Section 50 of the Native Land Amendment
and Native Land Claims Adjustment Act, 1928.*

Native Department, Wellington, 27th September, 1929.

Petition No. 51 of 1928.—Tutira Block.

PURSUANT to section 50 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928, I transmit herewith the report of the Native Land Court upon the allegations contained in the above petition.

The Tutira Lake should, I think, become public property, and I cannot recommend any course which would tend to permit it to pass into private ownership. There is, of course, no objection to the Natives enjoying the rights of fishing and otherwise in the lake. Possibly those who still own shares in the lake could be induced to part with them to the Crown if a board of management comprising some members of the tribe could be set up.

With regard to the 2 acres required for a roadman's cottage, that is a matter for the Public Works Department to consider, and I have no recommendation to make thereon.

Referring to the surplus area, the Natives, in my opinion, should be paid for it. This land was portion of land given to the Natives in accordance with a contract entered into with them to give the land within certain boundaries. It was assumed from surveys made by the Crown that the area contained within the boundaries was 20,490 acres, and the Valuer-General based his valuation upon that area. When the land was partitioned, it was partitioned upon that basis in the manner set out in the report. Upon survey of the partition, however, it was found that there was an excess of some 3,530 acres, and this, according to the usual practice, will be divided amongst the sellers *pro rata*. Thus the Crown will get some 3,440 acres more than it paid for. The Native Department is willing that this should be paid, as it is equitable that the Crown should not profit by the mistakes of the Survey Department at the expense of the Natives. However, the Crown Solicitor has given an opinion that the Crown is not legally liable to pay the difference. Personally, I do not think the Natives are without a remedy; but to remove any doubts I would recommend that the Natives be not taken advantage of, but be paid for the excess area that the Crown has obtained, and, if necessary, that legislation be introduced for the purpose of authorizing the amount to be paid.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.

In the Native Land Court of New Zealand, Ikaroa District.—In the matter of section 50 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928; and in the matter of petition No. 51 of 1908, of Kipa Anaru and fifteen others, praying for the return of reserve and lake in the Tutira Block.

To the Chief Judge, Native Land Court, Wellington.

I HAVE the honour to report that the Native Land Court sitting at Hastings on the 9th February, 1929, inquired into the claims and allegations made by the petitioners in petition No. 51, sent by them to Parliament in 1928. The facts and circumstances appear to be as follows:—

Tutira is a block of Native land in the Mohaka and Waikare district. It was confiscated on account of Te Kooti's disturbances in 1869, but handed back to loyalist Natives on the recommendation of Magistrate Locke and Sir Donald McLean in 1870. On the 6th July, 1882, the Native Land Court

ordered that a certificate of title be issued to forty persons for this Tutira Block, which was supposed to contain an area of 20,490 acres. Comprised in the block is a large lake called Tutira, with an adjacent smaller lake called Waikopiro. These two practically constitute one sheet of fresh water containing several hundred acres, and abounding in eels and other Native fish, as well as a few trout of poor quality. The lake is for the most part shallow, with a muddy bottom, although in parts the depth exceeds 150 ft. The water is clear, and from a scenic point of view the lake is a valuable asset. To the Natives it has, in addition to its natural beauty, a sentimental value, because it has been from time immemorial an important source of food-supplies of birds and fishes, and on that account has been coveted and attacked by foreign tribes, and has been valiantly defended, lost, and regained by the local Natives, whose kaingas, cultivations, and cemeteries border on its waters.

For the last half-century the Tutira Block has been in European occupation, and the Native owners, dispersed over Hawke's Bay, were induced in recent years to sell their shares to the Crown. About thirty-seven out of the original forty shares have been acquired by the Government at the price of about £2 an acre, and on the 24th July, 1928, the Native Land Court effected a partition by mutual consent, making an order for Tutira A (19,726½ acres) in favour of His Majesty the King, and one, Tutira B (561½ acres), for the non-sellers. A strip of land bordering on the lake and lying between it and the road was taken under the Public Works Act for a reserve for a camping-ground and roadman's residence. This strip consisted of 4 acres, but when the Natives entered a strong protest against the Government's acquisition of this piece an area of 2 acres was returned to them. The non-sellers felt that the waters of the lake should not be included in the Crown purchase, and that the partition practically excluded them from the lake and the enjoyment of its food-supplies. They fear that under acclimatization laws they will be deprived of the fishing-rights supposed to have been conserved for them for all time by the Treaty of Waitangi, while European occupation and residence on the shores of the lake and on the adjacent hillsides will tend to spoil the natural scenic beauty of the place and desecrate the resting-places of their departed elders.

They wish the Government to return to them the remaining 2 acres of the reserve and the whole or a good part of the lake. They allege that recent surveys indicate a surplus area of 3,000 acres which the Crown did not purchase or pay for. If the Native non-sellers are allowed to retain the lake as representing portion of their unsold shares, they are prepared to make a national gift of it upon such conditions as will prevent it from being appropriated by some enterprising pakeha individuals or organizations, to the exclusion of the Maori people. If the Government will not grant this request, they ask that the 3,000 acres surplus area be so located that it embrace the lake and the neighbouring hillslopes, and be left in the names of the Native owners of the Tutira Block.

M. GILFEDDER, Judge.

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