

SESS. II.—1879.
NEW ZEALAND.

NATIVE AFFAIRS COMMITTEE

(REPORT OF, ON PETITION OF SARAH CUNNINGHAM AND MARY HEANY, TOGETHER
WITH MINUTES OF EVIDENCE).

Brought up 12th December, 1879, and ordered to be printed.

REPORT.

No. 23, Session I.—Petition of SARAH CUNNINGHAM and MARY HEANY.

THE petitioners, who are half-castes, state that they had interest in certain lands in Poverty Bay, which were identical with those of Mrs. Wyllie, who received 400 acres at Waimate therefor. They allege that they never received notice of the sitting of any Court to inquire into the title of the lands in question; and they pray, as they are now too late for every other appeal, that the House will afford them relief.

I am directed to report as follows:—

That the Committee regret that the time at their disposal has not been sufficient to enable them to complete the inquiry into this petition.

12th December, 1879.

E. HAMLIN, Chairman.

[TRANSLATION.]

No. 23, Session I.—Te Pitihana a HERA KANINAMU me MERE HINI.

E ki ana nga kai-pitihana, he hawhekaihe, i whai take raua ki etahi whenua i Turanga pena tonu me Keita Waere i riro na e 400 eka i a ia i roto i Waimate. No reira e mea ana raua kaore i tae he panui ki a raua o tetahi Kooti e whakawa ana i aua whenua, a e inoi ana raua i te mea kua tu reiti raua i naianei mo te whakawa tuarua kia hoatu he oranga ki a raua e te Whare.

Kua whakahaua ahau kia ki penei:—

E pouri ana te Komiti mo te poto o te takiwa i a ratou e taea ai te whakaoti te whiriwhiri i tenei pitihana.

12 Tihema, 1879.

MINUTES OF EVIDENCE.

WEDNESDAY, 6TH AUGUST, 1879.

T. W. LEWIS, Esq., sworn and examined.

1. *The Chairman (Mr. Bryce).*] Can you give any information to the Committee in reference to the petition?—All the information that I can give to the Committee is that Mr. Cunningham, the husband of one of the petitioners, has written three or four letters to the Government respecting his wife's claims. In one letter he states that from time to time he has heard of sittings of the Native Land Court taking place, in which his wife was interested, but was too busy to attend. [Letter read.] The position therefore seems to be this: that Mr. Cunningham, according to his own showing, had apparently neglected his wife's interests, and allowed her claim to lapse. I have not been able to ascertain definitely the nature of her claims.

2. *Mr. Hamlin.*] Are these two petitioners sisters of Mrs. Kate Wyllie, as stated in the petition?—I am not aware except from the statement made in the petition. In a letter from Mr. Cunningham it is also stated that his wife is a sister of Mrs. Wyllie. Correspondence has taken place on the matter. I have a letter here from Mr. Cunningham. I will read it if the Committee desire.

3. *The Chairman.*] What is the purport of it?—The grounds upon which his wife's claims are based.

4. *Hon. Mr. Nahe.*] Have the petitioners sent to the Government before this?—Yes; on the 3rd of June, 1878, and in 1879 two letters were received.

5. Did the Government ask the people—the Natives of Turanga—or have the Natives themselves made any inquiries respecting the petitioners' claims?—A minute was placed upon the papers to the effect that Mr. Cunningham himself is alone to blame for the position. From a subsequent paper it would appear that the Native Minister intended to see personally to the matter when in Waikato.

6. If it is found that the petitioners had claims there, and that they have been deprived of their lands in the Poverty Bay District, and if they have received no compensation whatever, would there be any steps taken to relieve them?—That is a matter for the House to decide.

7. *Mr. McMin.*] What is the general system of giving notice in cases of this sort?—The notices relating to the investigating of the titles to land are advertised and published throughout the district. The petitioners were fully aware of what was going on in Poverty Bay, but apparently did not think that the interests were of sufficient importance to necessitate their going there to attend the Court. I gather from the correspondence that it is only the fact that Mrs. Wyllie has received 400 acres of land that made the petitioners look out for their interests.

8. Were the claims put in for the blocks named in the petition advertised before the Court sat?—All the information that would enable a Native to identify a block is given. This petition refers to other lands than those passed through the Native Land Court. Such, for instance, is the township of Gisborne.

9. That would not be advertised in any way?—Yes. The necessary information was widely made known.

10. That would be land included in the deed of cession. There would be no advertising with regard to that?—The claims would be heard before a Compensation Court, the sittings of which were fully advertised for a long period. If these writers had claims, these claims should have been brought before that Court, when they could have established them.

The Chairman: As far as I gather from the correspondence, they had a general idea that claims were being investigated in that district; but no specific claims to blocks were brought under their notice. I do not know whether that is the correct impression, but it is the one on my mind.

Mrs. KATE WYLLIE sworn and examined.

12. *The Chairman.*] The Committee is desirous of obtaining your evidence on this petition. Are the petitioners related to you?—Yes; they are my younger sisters.

13. What is the nature of the petitioners' claims?—They make a claim because they are left out of lands.

14. I do not mean that. What is the nature of their claims?—Their claim to the land is identical with mine. We claim through our ancestors down to our mother's time.

15. Are you speaking now of the Town of Gisborne?—I am speaking of Gisborne, Whataupoko, and all those blocks included in the petition.

16. Have the claims of yourself and those entitled with you ever been determined by the Court?—Our claims have been investigated by the Court.

17. What was the decision of the Court with reference to your claims?—When the blocks came before the Court, the claimants stood up and asserted their claims on genealogical grounds, and my name was included amongst the owners. My sisters' names were not included. When I stood up to put in my sisters' names in these lands, the other Natives objected, as they were not living in the district, but were away in Waikato.

18. Did your sisters make any claims themselves?—To the Court?

19. Yes?—When Kaiti was going through the Court, a letter came from them to Judge Munro. Their case was then entertained, and they were included as owners.

20. Is that the only case in which they made a direct claim to have their names inserted?—That is the only piece.

21. Why did not they claim in the other cases?—Perhaps they were too young, and did not think of it. Those lands that were conducted by myself through the Court I have got my sisters included amongst the owners, such as in Puketapu. In the Arai, Ropata Whakapuhia conducted that case through the Court, and from that block they are excluded. I was the only one of us admitted.

22. Did they claim then to have their names included?—No; I do not think they knew that the lands were going through the Court at the time.

23. How old were they at that time?—One was about seventeen and the other about fifteen years of age.

24. Where were they residing at the time?—At Waikato. One was married at seventeen and the other at fifteen.

25. Did you make them acquainted with the fact that the Court was going to sit and determine claims in which they were interested?—In some of the lands I informed them. That was with regard to those that went through the Court subsequently. Those that went through the Court first I did not inform them of.

26. What notice did they take of the information?—They replied by letter, and asked me not to leave them out of the blocks.

27. Did you succeed in getting them put in?—Those lands that I got through the Court myself, I got my sisters included as owners along with myself; but they were only small pieces. Other pieces, like Whataupoko, Raharuhi Rukupo got put through the Court. He only included of us myself and my brother. In the Town of Gisborne, when it was dealt with, the result was the same.

28. With respect to these lands in which their names have been inserted, are their claims valuable?—They are only small pieces—perhaps one acre to each person.

29. Are they town or suburban lands?—Kaiti is the only one near the town. The lands are many of them flat.

30. Do I understand you to say that your sisters had notice of the sitting of the Courts in all cases?—No.

31. Why did not you write to them?—I did not know at the time of the first Courts. I did not know much at that time of the operations of the Courts, and that was the reason. That was the time the biggest and most valuable blocks were put through the Courts. At subsequent Courts I knew more about these things, and I gave my sisters notice.

32. I suppose the usual notice was given in the newspapers?—I cannot answer that question. I know that the notice was posted up outside the Courthouse, giving the names of the blocks being put through.

33. Can you give the Committee any idea of the value of the claims of your sisters?—I think the value of the shares they ought to have had would now be £20,000. Their shares, if they were in every block that my name is in, would be worth now over £20,000 each sister's share. I judge from what I have received for my own shares sold. I have received large amounts for the shares I have sold. I think that my sisters have a perfect claim to be put in the Waimata Block. They are not in that block. They have very just grounds for being included in that land. That land belongs principally to us, and our names are not in at all. The Government gave that land to the Natives.

34. *Hon. Mr. Nahe.*] Were those lands adjudicated upon by a Court, placing only ten persons in the grants?—We were not aware of that at the time. We had no idea at the time that the land was granted in equal shares. It was after the land had been purchased by Captain Read that we became aware of the fact that the persons in the grant held equal shares. In all our blocks heard before the Court there were not ten men put in the grants as trustees. Sometimes the owners were as many as fifty. In other blocks there were as many as twenty or thirty persons. In a few cases only were there ten put in as trustees; even then there were many others put in besides. In some cases the owners who ought to be in along with the others were left out.

35. You say that some of the owners were at times left out. Who is to recompense those Natives?—I am not a Judge, to say who is to pay them. All I know is, that in such cases we are told to petition the House, and that the House would consider the matter and do what is fair and just.

36. *Mr. Tomoana.*] Have you considered your relations in those lands in which you were included?—I have considered my relatives in those lands where I had the management of them in the Land Court.

37. You could do nothing for them in those lands confiscated by the Government? You have no power with regard to those lands?—No. I have a claim to Waimata. That land was given back by the Government. We inherited it from our ancestors. It was given back to us by Mr. McLean. I will say nothing about Patutahi or Te Muhunga.

38. *Mr. Tawhiti.*] You say, wherever you conducted cases before the Court—that is, in your own blocks—you have admitted your sisters?—Yes; in the Puketapu Block, Te Awapuni Block, and Okirau, as well as many other blocks where I have had the management in the Land Court. Where other persons than myself conducted the cases they did not put my sisters in, although I requested them to do so. The Natives would not admit them. They would only consent to my name being put in as one of the owners. With regard to Kaiti, I had some difficulty to get my own name put in. I had also difficulty in getting their names inserted in the list of owners. I employed counsel on their behalf. I employed Mr. Cuff. It was not until a letter arrived from the Chief Judge that they were admitted in that block.

39. Why did not your people admit them? Why did they show favour to you and not to your sisters?—That is the very question I put to the Natives at the time. I asked them, "If you put me in, why not put my sisters in? Their right was equal to mine. If you admit that I have a claim to be put in a certain block, why not admit also the claim of my sisters?"

40. What did the Maoris say?—They said, "What does it matter to us? They are in Waikato. Let them get land there."

41. Do you know that the land which you have received belongs to your sisters as well as yourself?—The land is from our ancestor down to ourselves, and our claim to it is equal.

42. Do you not represent all of the shares of your family in those lands?—No. If I am put into a Crown grant, whatever share I have belongs to myself. If they are included with me, they get separate shares. That is the way Crown grants are managed.

43. *The Chairman.*] Is it not customary in Crown grants to put in the principal person of a family and leave the others out?—Perhaps that has been the custom in lands such as Napier lands. In Poverty Bay lands there have been as many as twenty up to fifty and more persons in a grant.

44. Why have you been able to put in your sisters in certain pieces?—In the pieces I conducted through the Court I have been able to get my sisters put in. Those blocks which I did not manage—that other Maoris put through the Court—I failed to get them admitted.

45. *Mr. McMinn.*] Was your name included in all those blocks mentioned in the petition?—My name is not in the Whareongaonga Block.

46. Are your sisters' names equal to yours in all those blocks?—Yes. If they had been admitted, and their claims individualized, they would then have got as much as myself.

47. Have you not got the same claim through descent as they have?—We all claim through one ancestor, as well as our Maori co-grantees, and our claim is equal.

48. *Mr. Swanson.*] I understand that the question is, not what the claim is, but what it is equal to?—They have in all respects an equal claim with myself, and would have shared so if included in the grant.

49. *Mr. McMinn.*] Are the grants in which your name appears for yourself, or in satisfaction for the family claims?—Are you referring to the 409 acres?

50. I am referring to those lands over which awards have been issued for your shares in the separate. Do those awards include your own shares only, or whatever shares the family had?—The

400 acres were for myself—for my share in the Township of Gisborne—because my name was included in the Crown grant.

51. If they had all received their equal shares, as you say they were entitled to, I understand you to say that their share in value would be equal to about £20,000?—If they had been admitted in all those blocks in which I am an owner, they would have received land of the above value, separate from my own.

52. In what position is the Waimata Block, in which they have a claim? Has it been adjudicated upon by the Native Land Court?—No; it has not been adjudicated upon by the Native Land Court. Mr. McLean was asked to return some land to the Natives. It was supposed to have been taken by the Government. It turned out afterwards that such was not the case. By some mistake Porter included it in the survey. The Natives—myself and relatives—who were interested went and saw McLean. He gave us back the 4,000 acres known as the Waimata Block. The names of persons to receive the block were got. The block was given for the tribe. We saw the names of the owners in the *Gazette*. Myself and my sisters are the real owners of that land. The land has not passed the Native Land Court. I think it was Mr. Locke who brought the list of names that are in the *Gazette*.

53. Is that a Native reserve?—Yes. I petitioned about it last year. I only desire that we may get what we are entitled to.

54. In each case where intimation was sent to your sisters, did they apply to the Court?—In the case of Puketapu I sent word to them that it was going through the Court. They sent word back saying they hoped that I would not leave them out, but put them in where they had a claim.

55. And you did not do so?—I have answered repeatedly why I did not get them in.

56. You mentioned about five blocks in which you got your sisters put in as owners?—All those blocks I put through the Court myself. I consider that my sisters have hardly a claim against the Government with regard to all those lands that were adjudicated upon by the Court. I think it was their own or their husbands' faults for not appearing when the claims were heard. I did all that I could for my sisters. I consider that they have a perfect right on every just ground to petition the Government about the Waimata Block, that was given back to us. In my own case it was not through any love for me that the Maoris admitted my claims. It was simply because I fought my case out, and persisted in doing so until my name was admitted.

57. *Mr. Carrington.*] Are they your half-sisters?—No; they are my full sisters.

Mr. T. W. Lewis: One reason why Mrs. Wyllie received the 400 acres was, because she was included as an owner of the Township of Gisborne, and did not legally sell.

Mrs. Wyllie: I signed my name, and my husband objected to my sale; and that was the reason I received the 400 acres as additional payment for my share.

THURSDAY, 7TH AUGUST, 1879.

T. W. LEWIS, Esq., sworn and examined.

58. *The Chairman.*] Can you give any further evidence?—The point upon which you desired that I should give further evidence was with reference to the Arai-Waimata Reserve. Sir Donald McLean instructed that the reserve should be made for the Rongowhakaata tribe.

59. [Letter from Mr. Locke on the subject read.] Can you tell the Committee anything further about the matter?—I went into the question more fully last night, when I find that the case is as stated by Mr. Locke. The block was given as a reserve for the tribe. The names of ten Natives were first given, to hold the land in trust for the other Natives interested. Subsequently Mr. Locke was written to and informed that it was necessary for him to furnish the names of the whole of the Natives interested in the block, to be included in the Proclamation. Mr. Locke, in reply to that, forwarded the names of those he considered interested in the block. The only question arising in my mind is, whether other names ought not properly to have been included.

60. The Committee examined that question very fully last year, and came to the conclusion that there were some names which ought to be included that were omitted?—I may state nothing has been done in the matter since. The reports upon the petitions of Kate Wyllie and Mrs. Read were referred to the Government. The following minute appears upon those papers. [Minute read.] The land is inalienable, and, if law admitted of it being held in trust for the tribe, that would probably be the proper thing to do.

61. Is it inalienable?—Yes. [Proclamation read.]

By Authority: GEORGE DIDSBUXY, Government Printer, Wellington.—1879.

Price 3d.]