

PAPA-O-KAREWA.—Petition of MUTU TE AKE and Others.—Supplementary Report.

As I understand that the petitioners are now inclined to take exception to my having acted in this case, on the ground that as Chief Judge of the Native Land Court I had previously dismissed an application for rehearing of the same matter, I desire to offer the following explanation:—

When the petition was before the Native Affairs Committee in 1905 I reported as follows: "The subdivision complained of was the subject of an inquiry by the Chief Judge of the Native Land Court in 1893, on an application for rehearing. The inquiry lasted several days. Finally, the application was dismissed. I am not sure, however, but that the applicants might have obtained a rehearing had their case been better conducted." Consequent, no doubt, on this report the matter was referred for further inquiry, and came before the Commission at Te Kuiti in April last. The only Commissioners then present were Judge Scannell and myself, the third member (Mr. A. T. Ngata) not having, up to that time, joined us. Under these circumstances we were not desirous of proceeding with the case, but the petitioners, through their agent (Pepene Eketone), waived all objection on that account, preferring that the case should be proceeded with rather than that it should be indefinitely adjourned. Even then I would not have consented to act were it not that my report to the Native Affairs Committee showed that I had no prepossession in the matter—certainly none against the petitioners.

Notwithstanding that the case for the petitioners was on this occasion very ably conducted, the Commissioners, for the reasons set out in their report, have not been able to make a favourable recommendation.

G. B. DAVY.

No. 17.—MAUNGATAUTARI BLOCK.—Petition of HARE TEIMANA and Others.

The petitioners are members of the Ngati Raukawa Tribe, which tribe were the original owners of Maungatautari, but were held by the Native Land Court to have "forfeited their rights by leaving the land." Against that decision the present petition is a protest.

The title to Maungatautari was investigated by the Court in 1884, when Ngati Raukawa were amongst the claimants. The Court held that Ngati Raukawa had lost their right through conquest by Ngati Maru, who, in the words of the Court, "by force of arms caused such of Ngati Raukawa as continued in occupation to vacate the land, and by that and their occupation acquired the mana."

The Court further found that Ngati Haua, Ngati Koroki, and Ngati Haurua, and their hapus having driven Ngati Maru (Marutuahu) away from Maungatautari, in their turn acquired the mana, which they had retained ever since.

Ngati Raukawa disputed this decision, and applied to the then Chief Judge of the Native Land Court for a rehearing, which was refused. This is one of the grounds of the petition.

Another ground is that since the adjudication of Maungatautari, certain adjoining blocks have been adjudicated upon by the Native Land Court and awarded to Ngati Raukawa, notwithstanding that the conditions were—as the petitioners allege—substantially the same as in the case of Maungatautari. The blocks particularly specified are Wharepuhunga and Rangitoto-Tuhua, which the petitioners allege are really one with Maungatautari. This part of the case is summed up in the statement in paragraph 8, "That there was no conquest of Ngati Raukawa as regards these blocks collectively."

There are other allegations of a more or less personal character contained in paragraphs 9 to 15 of the petition, which may be passed over without remark, as they were not relied upon by the petitioners.

As regards the proceedings in the Court of 1884, we think that no one who dispassionately considers the evidence before that Court, the reasons given by the Court for its decision, and the reasons given by the Chief Judge for refusing a rehearing, can doubt that both the Court and the Chief Judge were fully justified in their decisions. The Royal Commission which sat in 1881, to inquire as to certain claims of a branch of Ngati Raukawa calling itself Ngati Kauwhata, had previously—in respect of a portion of Maungatautari which had been severed from the original block as Maungatautari Nos. 1 and 2—come to the same conclusions.

Most of the minor points raised by Mr. Fraser on behalf of the petitioners were urged in support of the Ngati Kauwhata claims before the Commission of 1881. For instance, some of the Ngati Raukawa who were left behind having taken part in the fight at Taumatawiwi. Also the contention that some of the Ngati Raukawa were left on the land to maintain the rights. Also as to the invitation given to the Kapiti people by Te Waharoa, and subsequently by Wi Tamihana, to return and occupy the land. As on all these points we are in accord with the findings of that Commission, we need not further refer to them.

Great stress was laid by Mr. Fraser on the finding of the Court in the Te Aroha case to the effect that Taumatawiwi was not a conquest of land. That is true as regards the matter then before the Court. In that case it was shown clearly that there had been no effective occupation by Ngati Haua on the Te Aroha lands. But there are no better-attested facts in the history of the period immediately preceding and following Taumatawiwi than the occupation of Maungatautari by Marutuahu previous to, and by Ngati Haua subsequent to, and as one of the results of that victory.

The case of the petitioners rests, however, mainly on the allegation in paragraph 8 already referred to, "that there was no conquest over those blocks (Maungatautari, Wharepuhunga, and Rangitoto-Tuhua) collectively." This is undoubtedly true as regards the conquest by Ngati Maru, but is, we submit, not the proper test of the question now before us. That a people which retains any considerable portion of its lands cannot be called a conquered people may be conceded. But there may be a complete conquest of a portion of its territory, and this is exactly what is claimed in the present instance. It is indisputable that after the migration to Kapiti, Maungatautari was occupied in force by Marutuahu, who built pas there, and held it against all comers up to the