

1911.
NEW ZEALAND.

NATIVE LAND CLAIMS ADJUSTMENT ACT, 1910

(REPORT AND RECOMMENDATION UNDER SECTION 28 OF THE), ON PETITION
No. 501/1908, RELATIVE TO WHAKANENEKE BLOCK.

Laid before Parliament in compliance with Subsection (4) of Section 28 of the Native Land Claims Adjustment Act, 1910.

Native Land Court (Chief Judge's Office), Wellington, 15th July, 1911.

The Hon. the Native Minister, Wellington.

Re Whakanekeneke Block (Petition 501/1908).

PURSUANT to section 28 of the Native Land Claims Adjustment Act, 1910, the Chief Judge has referred this matter for inquiry and report. The report has been made, and is now forwarded for your perusal, and to be dealt with under subsection (4).

I have the honour to recommend that the Native Land Court should be authorized to determine whether, on the original investigation of the title of the block formerly known as "Whakanekeneke," Ani Ngakete, Te Tawa, Patu Hohaia, Kaiaho Hohaia, Hoana Hohaia, Raunateri Hohaia, Ripia Hohaia, and Ngakete Hapeta, or any of them, have as between themselves been awarded more or less shares than they were equitably entitled to, and to readjust such shares in as equitable a manner as possible in the block now known as "Whakanekeneke," after taking into account, if necessary, the allotments of shares made in other divisions of the original block; with power to amend the existing order for Whakanekeneke accordingly, including the power to add the names of any of the persons mentioned for the balance of the shares to which the Court may find them entitled; such jurisdiction to be exercised without prejudice to any existing valid contract of alienation of the Whakanekeneke Block.

It will be noted that this differs somewhat from the suggestion made by the Judge, inasmuch as it confines the inquiry to the particular parties and shares affected.

R. N. JONES, Deputy Chief Judge.

Native Land Court, Rawene, 4th May, 1911.

The Chief Judge, Native Land Court, Wellington.

Whakanekeneke Block: Reference for Inquiry and Report in Terms of Section 28 of the Native Land Claims Adjustment Act, 1910.

SIR,—

I have the honour to report that I duly held an inquiry here on the 2nd instant. Both parties were represented before me, but no facts were elicited beyond those appearing in the records of the Court and Native Department. I am not clear why any further report was required. The matter was fully reported on by the President of the Tokerau District Maori Land Board (Judge Browne) on the 5th February, 1907. For your convenience I attach a copy of that report, the original of which appears attached to Native Department file 08/533. I would also direct your attention to the reports on that file from the Registrar at Auckland. Judge Browne's report correctly sets out the facts, and I agree generally with the views expressed by him. It appears from the lists of names, however, that the petitioners, through their children, received some eighty shares in No. 3 parcel in addition to the figures given in the report, while Te Tawa, one of the other party, through her children, received some seventy shares more than the 325 mentioned. This, however, does not affect the position, as there still remains the most extraordinary disproportion.

I quite concur with Judge Browne that the petitioners should be afforded an opportunity of having their true rights determined. But I find myself in some difficulty as to the exact recommendation I should make. What Judge Browne refers to as a "partition" is not really such. It was a "division" of the original block, as surveyed, into eight separate blocks, upon investigation of title, and the distinction is material in the present case from the fact that no list of owners for the original Whakanekeneke Block was ever handed in to or passed by the Court. A separate list for each of the eight parcels was handed in and passed. The petitioners expressly disclaim any desire to interfere with or modify the orders in respect of any of the parcels except Whakanekeneke proper and Whakanekeneke No. 3. The latter, however, is in the middle of the other small parcels. You will observe that Judge Mair characterizes the partition or division as "unsatisfactory and unscientific." I do not myself see on what grounds. Each parcel is carefully defined, and there should be no difficulty in giving effect to the orders by survey. I think probably the best course would be not to interfere in any way with Whakanekeneke Nos. 1 to 7 inclusive, and to declare by legislation that Whakanekeneke proper is held by the persons named in the existing order with relative interests undefined, leaving it to the Court when fixing the interests to take into account the fact that certain members of Hohaia Patuone's family had received an award of Whakanekeneke No. 3. If thought advisable, an express direction to do so could be given.

As an alternative, the persons named in the whole eight parcels could be declared to be the owners of the Whakanekeneke Block, as it originally came before the Court, with their relative interests undefined. This is practically Judge Browne's recommendation. It obviously opens up a much wider field of litigation than my first proposal, which is the reason I prefer to suggest the latter.

I direct your attention to the fact that Whakanekeneke proper was partitioned by the Court on the 9th April, 1910, into parcels A, B, C, D.

I have, &c ,

CHAS. E. MACCORMICK, Judge.

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