1916.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1915.

REPORT BY THE NATIVE LAND COURT ON PETITION No. 84/1915. WIREMU KARAKA AND 53 OTHERS, *RE* MANGAHAUINI No. 7 BLOCK.

Laid on the Table of the House of Representatives pursuant to Subsection (3) of Section 23 of the Native Land Amendment and Native Land Claims Adjustment Act, 1915.

Native Land Court (Chief Judge's Office), 29th June, 1916.

The Hon. the Native Minister.

I FORWARD herewith report by Judge Jones on Petition No. 84 of 1915, of Wiremu Karaka and 53 others, praying for a redetermination of the relative interests of the owners of Mangahauini No. 7 Block, as provided by section 23 of the Native Land Amendment and Native Land Claims Adjustment Act, 1915.

Unfortunately I did not see the clause referred to until after it became law, or I would have pointed out that, as I sat with Judge Rawson at the rehearing in 1912 of the former appeal, I should not be required to make any recommendation as provided by the section referred to.

I now respectfully submit to you the report without comment, and beg to recommend *pro forma* that the Native Appellate Court be authorized to rehear the order made by it in 1912 as to the definition of relative interests only of the owners of Mangahauini No. 7 Block.

JACKSON PALMER,
Chief Judge.

In the Native Land Court of New Zealand, Tairawhiti District.—In the matter of the Native Land Amendment and Native Land Claims Adjustment Act, 1915, and of a reference by the Chief Judge for inquiry and report in respect of the Mangahauini No. 7 Block.

THIS matter came on for hearing before Robert Noble Jones, Judge, at Tokomaru Bay, on the 27th day of March, 1916, and the following report is submitted:—

1. The title to the Mangahauini Block as a whole was investigated and an order made (*inter alia*) for Mangahauini No. 7 Block on the 9th May, 1898, and then comprised some 330 owners.

2. After the ancestors had been found, and prior to making the formal order, the question of the relative interests was discussed. On the 2nd May, 1898, the Court minutes show that there was a great deal of confusion over the list, and although it had then been in preparation for over a month nothing was completed.

3. Hemi Wakarara, a conductor, proposed the following division of shares between the respective ancestors: Descendants of Maroro, 800 shares; Kopai, 640 shares; Korongaungau, 230 shares; Ngatamawahine, 130 shares: total, 1,800 shares. The Court then noted that "after a long discussion, by intervention of the Court the parties agree the distribution shall be as follows: Maroro, 900; Kopai, 640; Korongaungau, 230; and Ngatamawahine, 130: total, 1,900 shares: the shares to be apportioned to individuals on that basis and brought into Court to-morrow."

4. On the following day Wi Potae, one of the parties, proposed that the 900 shares allotted to Maroro should be distributed among 207 owners according to their rights under seven sub-ancestors. This was objected to, but from what one can gather the objection was not so much to the method of the division as it was to the quantum that each section was entitled to. The Court gave the parties till the afternoon to consider the position, explaining "that the basis of shares

should be the living owners and not the dead ancestors. There was no division of the land among the ancestors, therefore the present true owners are presumably entitled to equal interests unless the contrary is shown." Seeing that the Court had already assented to the principle of division among ancestors in unequal shares, and that it had treated the rights as unequal in the adjoining blocks, it is somewhat difficult to follow its reasoning in this instance.

5. On the Court resuming Colonel Porter said it had been left to him to make the adjustment of shares under Maroro, and he submitted a division to the same sections as proposed by Wi Potae; but this was equally objected to. The Court, seeing no hope of any agreement, again intimated its intention of treating them all as equal, leaving those who objected to adduce evidence that any persons or group were entitled to more. The matter then stood over till the following day, when the Court inquired if any in the Maroro list claimed any share more than equal. Wi Potae claimed for himself and others in his list five shares each, while Pineamine Ngawaea claimed twenty shares each for all Kopae's descendants. Wi Potae set up a case, but after consultation with those interested withdrew his claim. Pine Ngawaea went some distance with his claim when his conductor asked him to withdraw it, saying that he might at some future time go into his rights, and the conductor announced that the claimant had at his particular request withdrawn. The Court then declared that the shares should be equal.

6. It will be obvious that this was an abrogation of the arrangement already entered in the minutes for a division among ancestors, and it must be self-evident that an equal division among the owners was not a very satisfactory way of dealing with the matter, since the more numerous the family the more shares that section would obtain. Several cases of large families who have benefited at the expense of others having greater claims have been pointed out to the Court. Such a division is not in accordance with Native custom or the practice of the Native Land Court in this district. Again, the descendants of Maroro were content with nine-nineteenths, or less than half the block; but taking their number as 207 they would under the Court order receive nearly two-thirds of the block: but this is not altogether a safe calculation, as they may have derived some rights from the other sources.

7. To continue the history of the case: In 1899 and 1900 it came before the Appellate Court, but while the order was varied by cutting off certain portions and adding fresh names to the main block no question seems to have been raised as to relative interests, but the Appellate Court recognized the principle of unequal rights in one of the portions cut off, and in the other they left it for the Native Land Court to ascertain the relative interests, expressly declaring they were not to be deemed to be equal. In the case of the names added to the main block they "directed that all questions as to partition, relative interests, and all other questions arising as between Native and Native amongst such persons and the persons included in the aforesaid order be settled and determined at a future sitting of the Native Land Court." The meaning of this is rather vague, but it is possible the Court would have given it a liberal construction and held that the whole question of the relative interests was at large, seeing how difficult it would be to apply the same principle as applied by the Appellate Court to a portion of the owners while a different principle applied to the remaining owners.

8. In 1912 the matter again came before the Appellate Court on rehearing under section 10 of the Native Land Claims Adjustment Act, 1910, when the Court varied the orders of the former Appellate Court, but apparently adopted the relative interests as originally fixed by the Native Land Court on an equal basis, and giving to one of the sections admitted by the previous Court lesser shares in the shape of a quarter-share each as compared with one share each awarded to the main body of owners. The Natives explain that they were so intent on the main questions before the Court—that is, as to whether certain sections were entitled to be admitted or not—that they overlooked asking the Court to have the anomaly of the relative interests adjusted. Whether this was so or not this Court cannot say, but it does appear that the relative interests in being treated as equal work very unfairly and inequitably, and no Native came before the Court to claim the interests should remain as they are. The consensus of opinion was that the shares should be adjusted in accordance with ancestry and occupation.

9. The block is being farmed by the owners, having been incorporated with other blocks for that purpose, while some small portions of it are leased by the corporate body to Europeans. Neither of these matters would be affected by the readjustment of shares if it were deemed advisable to authorize such a course being taken.

For the Court.

The Chief Judge, Native Land Court, Wellington.

R. N. Jones, Judge.

Approximate Cost of Paper.—Preparation, not given; printing (750 copies), £1 7s. 6d.

By Authority: Marcus F. Marks, Government Printer, Wellington.—1916.

Price 3d.]