1924.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1922.

REPORT AND RECOMMENDATION ON PETITIONS Nos. 314 OF 1919 AND 265 OF 1922, OF WIREMU KARAKA AND OTHERS, AND HOROMONA TEO PAIPA AND OTHERS, RESPECTIVELY, RELATIVE TO MANGAHAUINI No. 7 BLOCK.

Presented to Parliament in pursuance of Section 55 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922.

Native Department, Wellington, 4th August, 1924.

Petitions No. 314 of 1919 and No. 265 of 1922 regarding Mangahauini 7a Block.

PURSUANT to section 55 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922, I forward herewith the report of the Native Land Court herein.

After perusal of the records on which the report is based I find myself unable to concur wholly with its findings. It is stated (p. 2) that "The Appellate Court held that it [Mangahauini 7A] was a separate block, and that the appeals relating to No. 7 did not affect it. No inquiry was therefore held by the Appellate Court of 1912 as to the ownership of 7A." I think the Court must have overlooked the fact that it was frequently mentioned in the Court of 1912 under the name of "Waiparapara"; that Colonel Porter claimed to act as respondent in Mangahauini No. 7A, and that after hearing him the opposing conductor expressly withdrew his opposition so far as No. 7A was concerned (Vol. 14, pp. 165, 166). This is confirmed by a reference to the judgment of the Native Appellate Court of 1912 (Vol. 14, p. 257): "Before us, Mr. Delamere, who acted for the opponents of Te Keteiwi, withdrew his appeal so far as it affected 7A (Waiparapara), and asked that it be considered merely in respect of the Maungatio claim of Te Keteiwi."

Unless there has been some grave miscarriage of justice brought about by fraud or neglect of the conductor, which is nowhere suggested—the most that can be urged is that the parties were confused and did not realize their rights under the rehearing by the Native Appellate Court in 1912—it would be setting up a bad precedent to reopen a matter so expressly mentioned and dealt with.

There is, too, another phase to be considered. The claims of the Keteiwi section for Maungatio in No. 7 and for 7A are to a certain extent inseparable. The main opposition to them was that the Keteiwi rights were wholly on the other side of the Mangahauini Stream. This was apparently the view taken by the original Native Land Court; but it must have been overruled by the Native Appellate Court of 1900, as it allowed the descendants of Keteiwi to participate in the No. 7 Block and cut off a separate portion called 7A for the same section. The latter claim was based on an alleged appropriation of the Waiparapara portion of Rerekohu, a descendant of Keteiwi, and that his descendants occupied ever since. With regard to the No. 7 portion, the Native Appellate Court of 1912 upheld this decision by the Native Appellate Court of 1900, and thus established the section on that side of the Mangahauini Stream. It is clear that if 7A should be reopened and the tribunal dealing with the matter should find that the Keteiwi section had been wrongly included, then it would at once raise doubts (the report suggests such a doubt) as to whether the decision in regard to No. 7 is correct, and encourage claims to be made, not without reason, that the No. 7 title should be reopened also. There would thus be no finality in the matter.

With regard to the claim under Petition No. 265, if this (Mahutahiterangi) section had a strong case it might have a legitimate grievance, inasmuch as, although their claims were rejected by the Native Land Court and they had appealed, the fact that the appeal was dismissed probably shut them out from the 1912 Court, on account of the ruling that it was only authorized by the section to rehear orders of the Native Appellate Court, and apparently not appeals that had been dismissed (Vol. 14, p. 139). However, the Mahutahiterangi case has been dismissed by two Courts, and apparently the report does not credit it with any merits. But should there be a reopening of the matter, then this claim, which comes under that of the opponents of the Keteiwi section, must also be left open for consideration.

Under the peculiar circumstances, however, I feel constrained to recommend that no legislative action be taken in the matter.

The Hon. the Native Minister, Wellington. R. N. JONES, Chief Judge.