

1874. Legislative Council. Petition of Mohi Mangakahia and 19 Others. (*Presented to the Legislative Council by the Hon. Mr. Mantell, the 12th of August, 1874.*)

To the Honorable the Speaker and His Assembly in the House of Parliament of the Colony at Wellington.

Whangapoua, Coromandel, 13th July, 1874.

SALUTIONS TO YOU,—We have some words to say to you against certain portions of the new Act about Native Lands, 1873.

- About section 15 of that Act respecting the Assessors: the Act says, "One Assessor or more Assessors shall sit at a Court when required by the presiding Judge, and assist in the proceedings, but not otherwise; and his or their concurrence shall not be necessary to the validity of any judgment or order."
Now this is wrong. If that is to be done, there is no need for the Assessors to go into Court at all because they have no power. We ask you to amend this, so that the Assessor or Assessors may have authority, when in the Court, equal to that of the European Judges. Let not one be greater or less than the other, lest the judgment be wrong.
- Our second request is with regard to section No. 35, in which it is stated that the applicants shall give notice to each of the tribes, hapus, or persons believed to be interested in the land, and it must be satisfactorily proved that such notices were served upon such tribe, hapu, or people, Great confusion will be caused through this. How can it be clearly proved that such notices were served upon such persons, tribes, or hapus? We presume that those persons (the applicants) will have to go themselves to take their notices, in order that satisfactory proof of service can be given. The old men and women cannot do this, neither can those who are poor. Only those who are well off can do it. Do not reject the old men and women: they are people of New Zealand, and they have land. We think the proper course to be pursued would be for the Government alone to do this,—that is, to give notice to all the tribes, hapus, and people. Let it be done according to the way in which notices have hitherto been sent. That would be right.
- Our third request is in respect of No. 44, which says, "The examination of witnesses and the investigation of title shall be carried on by the presiding Judge, without the intervention of any counsel or other agent: Provided that it shall be competent for the claimants to select one of themselves to act as their spokesman to conduct the case in their behalf." We admit that it is right not to admit counsel or European agents, and to let the Maoris themselves conduct their cases in the Court, excepting of course the Judges and Assessors. To illustrate this: Suppose Tom and I take a case before the Court; suppose we are both ignorant persons opposed by Peter and others; suppose Peter to be a fluent speaker and a man acquainted with different points of law. Tom and I are precluded from getting an intelligent Maori to conduct our case, and we are beaten by Peter and party, who, not having any right to the land, get it through the superior intelligence of Peter. We therefore ask that Maoris should be allowed to conduct cases before the Court. There is no harm in this.
- Our fourth request is with reference to No. 78 of the same Act, which says, "The legal estate in land included in any memorial of ownership shall in all cases vest one month after the expiration of the time hereinbefore allowed for an application for a rehearing, and not before." Now, we object also to this: it is not fair. Let the date be that of the day when the Court decides in my favour. Let my authority over the land be fixed from then. Then, if any one interferes, let us fight it out before another Court: if he beats me then, well, it cannot be helped. If I get anything out of the land, well and good, I have obtained it during the time I had power over it; but if seven months are allowed to elapse before I am established upon the land, and in the event of my death before that time, what is to be done about what I may have intended to do? I am prevented by this provision, and am unable to realize the benefits of my land. That is all about that.
- We now proceed to remark upon section No. 106 of the same Act, which says, "From and out of any land which may have heretofore been or may be granted under the provisions of any of the Acts hereby repealed or of this Act, it shall be lawful for the Governor at any time thereafter to take and lay off for public purposes one or more line or lines of road or railway through the said lands, provided that the total

quantity of land which may be taken for such line or lines of road shall not be more than after the rate of five acres in every one hundred acres," Now, friends, what harm is there in quietly asking the owner of property for his consent or refusal, or to come to some arrangement for compensation for the five acres taken for such roads or railways? The good expression has been set on one side, and this objectionable word used in the Act. This is the objectionable word: it shall be lawful to "take" land for roads. That has been the word which has been the cause of evil in some parts of this island and of all the world, viz., "take." We consider that there is no law in the world which would prevent a thing being quickly asked for. Friends, amend this evil word, and let it run as follows:— "It shall be lawful for the Governor to ask for lines of road or railway through lands which have been or may hereafter be granted." Do not say "take" it. That is the word which was the root of the Maori Saying. "If I am to die, I shall die upon my land." This expression gives an idea of trouble to come. If it does come, whose fault will it be? It will be said it is the fault of him who acted in an arbitrary manner. That is all about that.

- We will now refer to the provisions of section No. 71, that is about having two plans: it is required that there shall be two plans of the land surveyed. On considering this we fail to see the necessity for the duplicate plan, unless it is only to add to the expense, for the Maoris did not suffer under the old Act through there being only one plan, but through the great expense of the surveys; and now that two plans are required they will suffer through this. There will be the cost of the survey, the cost of two plans, and perhaps other expenses incidental to the investigation, so that that will be a loss to us. That is all about that.
- We have something also to say about section No. 38, which provides that the Judge shall institute such preliminary inquiries in the manner he may think best, with a view of ascertaining whether the application to bring the land under this Act is in accordance with the wishes of the ostensible owners thereof: and if he shall see that the application is *bona fide*, and no objections have been offered, and no disturbance of the peace of the country is to be apprehended, then only will he consent to a survey being made. Now, friends, we consider this to be very wrong. It is not right that the Judge should go to inquire into the right or wrong of a matter that is to be a subject of investigation before him. What will there be left for him to do on the day when the Court sits? It is better to wait until the Court sits, then let him make such inquiry as he may think fit, and hear the claimant and counter-claimant, if such is to be done. Friends, let not the Judge make Preliminary inquiries from either claimants or counter-claimants. Let the Judge be as a stranger to both parties. If he is to act as is contemplated, do not let him be styled a Judge, but let him be called an investigator. We now conclude, in the hope that our Parliament will amend what is wrong, as we have shown above, in the new Act of 1873.

MOHI MANGAKAHIA and 19 others.

Kia te Tumuaki ratou ko tona Runanga i roto—i te Whare Runanga o te Koroni i Poneke.

Whangapoua, I Karamaene, Hurae, 13, 1874.

TENA koutou.—He kupu a matou kia koutou ko to koutou, Runanga. He whakahe na matou ki etahi waahi o te Ture hou mo nga whenua Maori (o te tau 1873.) Tuatahi a matou kupu, Mo te Nama 15, i rote i taua Ture, ara mo nga Ateha. I mea taua Ture, "ka noho nga Ateha, tetahi Ateha ranei, ki roto ki te Kooti hei kai awhina mo te Kaiwhakawa e whakahaere ana i te Whakawa, engari e kore e kiia ma te whakaae rano o nga Ateha, ka mana ai nga kupu whakatau, nga Ota ranei." Na e he ana tenei; mehemea ka pena, karoe he tikanga onga Ateha i haere ai ki te Kooti, no temea kaore o ratou mana. Na he tono tenei na matou, kia koutou, kia whakatikaia taua waahi he. Ara kia whai mana ano te Ateha, nga Ateha ranei, ina noho ki roto ki te Kooti, Kia rite tonu te ratou man ko nga Kaiwhakawa Pakeha, kua tetahi e iti iho kua tetahi e rahi ake, kei he te Whakarite Whakawa.

- Tuarua o a matou tono, mo te nama 35. Emea nei. Me tuku he Pauui e nga tangata na ratou nga tono, ki nga iwi, ki nga hapu, ki nga tangata e mohiotia ana e pa ana ki taua whenua. A kia mohio tuturu rawa, i tae aua Panui ki aua iwi, Tangata, Hapu ranei. Ta matou titiro ki tenei, ka nui te raruraru. Me pewhea e mohio tuturu ai i tae aua Panui ki aua tangata, iwi hapu ranei. Me haere tonu rapea e aua tangata, ki te kawae i a catou Panui e mohio tuturu ai i tae a ratou Panui. E kore tenei e taea e nga kuia ratou ko nga

koroheke, e kore e taea e nga Rawakore. Ma nga tangata whai moni anake tenei e haere e taea ai. Kei whakapararahako mai ki nga kuia nei me nga koroheke. He kuia he koroheke no Nuitireni, he whenua ano a ratou. Engari te mea tika e ki ta matou whakaare. Me waiho tenei mahi ma te Kawanatanga anake. Ara te Panui ki nga iwi, ki nga hapu, ki nga tangata katoa. Me penei ano me nga tukunga Panui o enei tau i mahue ake nei, ka pai tera.

- Te tuatoru o a matou tona. Mo nga kupu o te nama 44 emea aha ma te Kaiwhakawa o whakahare ana i te whakawakanga maana anake e patai nga kai korero i roto i te Kooti. Kaua he Roia. Tetahi taugata ke atu ranei. Engari he mea tika ko tetehi ano nga tangata na ratou nga kereeme ko ta matou tone tenei, e tika ana kaua he Roia Pakeha he kai whakahaere Pakeha ranei. Engari me waiho ma nga Maori ano ratou whakamaori e whaka haere i roto i te Kooti. Haaunga ra te Kai whakawa me te Ateha. Notemea mehemea na maua ko Tame te whakawa, tokorua maua he kuare anake, e whakatete ana kia maua a Pita ma. He tangata mohio a Pita ki te korero, ki etahi ritenga hoki o te Ture. Na, kaore maua ko Tame e kaha ki te tiki i tetehi tangata maori mohio hei kai whakahaere mo maua. Ka raru maua ia Pita ma, Engari kaore ratou i pa ki taua whenua, na te mohio o Pita, riro ana to matou Whenua. Koia ta matou tonono, me waiho ma nga Maori ano ratou e whakahaere i roto i te Kooti. Kaore he he o tenei.
- Te wha o a matou tonono, mo nga kupu o te nama 78, o taua ture nei ano. Emea ana. Ko te mana o te tangata me te whai take tuturutanga ki tetahi whenua i runga i te Tuhinga Whakamaharatanga, me timata i muri iho i te marama kotahi i muri iho i te pahemotanga o to takiwa kua whakaritea i runga ake nei, hei takiwa e tika ai kia turia he Whakawa Tuarua, kahore i mua mai. Na ka whakahe ano matou ki tenei, kaore tenei e tika. Engari ano I te Ra ano i whakataca mai ai to whonua e te Kooti kia au: me timata tonu ano i reira toku whai manatanga ki taua whenua. Waiho ma te tangata e peke, mana tena e whawhai ki te aroaro o tetehi atu Kooti, Ki te hinga au i aia i reira, he ahakoa e taea hoki te aha. Ko nga mea o runga o taua (whenua) i pau ia au, e pai ana auo notemea no runga hoki i toku whai manatanga i pau ai i a au. Tena ka waiho ki whitu rano nga marama ka whakatau ai i a au ki runga i taua whenua, a, ki te mate hohoro au ka pewhea. Ko aku i whakaaro ai kia meatia e ahau araia mai ana e tenei tikanga. A te kite kau ake au i nga painga o toku whenua, ka mutu tena.
- Ka timata enei kupu a matou mo nga kupu o te Nama 106, o tenei Ture ano. Emea ana, ka tika a te Kawana maana e tango e whakatakoto hei tika mo te katoa, tetahi, etahi raaina Rori, Reriwe ranei, kia rima eka e tangohia i roto i te rau eka kotahi, i raro i nga whenua kua karaatitia i raro i era Ture, i nga whenua hoki ka karaatitia i raro i tenei Ture. Na e hoa ma, he aha ra te he o te ata patai marire ki te tangata i te taonga. Kia whakaaetia atu, kia whakakahoretia atu ranei. Kia whakaritea atu ranei he utu mo ta matou rima Eka ka tangohia na hei, Rori, hei Reriwe ranei, whakarerea ake te kupu pai nei, tuhia iho ki roto ki tenei Ture ko te kupu kino nei. Ara ko te kupu e ki nei, he mea tika te tango whenua hei Rori. Ko te kupu hoki tena i tupu ai etehi raruraru hara i nga waahi o te motu nei, o to ao katoa ano hoki. Ara ko te kupu tango nei. Ta matou whakaaro kaore he ture i te ao nei e whakahengia ai te ata tonono marire. E hoa ma whakatikaia te kupu he nei. Peneitia ka tika a te Kawana ki te tonono kia homai he haerenga mo te Rori mo te Reriwe ranei, I roto i nga whenua kua karaatitia, meake ranei ka karaatitia. Kaua e kiia me tango. Ko te kupu tena i puta ai te whakatauki a te Maori, "Kia mate au mate ki taku whenua." Te ahua o te kupu nei me te mea nei ano tera e raruraru. A ki te tupu te raruraru no wai te he, tera ano e kiia no te pokanoa ano te he. Ka mutu a matou kupu mo tena.
- Ka whai kupu ano matou i naiane mo nga kupu o te nana 71, ara mo nga Mapi e rua nei. I kiia nei kia rua Mapi o nga whenua e rurutia ana. Ta matou titiro ki te ahua o tenei. Kaore he tikanga i hanga ai te rua o nga Mapi. He kai moni anake tona tikanga notemea kaore nga Maori i mate i raro i era Ture i te kotahi o nga Mapi. Engari i mate nga Maori i te nui o te utu o nga rurutanga, a, ka hanga nei ano kia rua nga Mapi. Akuanei ka mate ano nga maori i tenei. Ko te utu mo te rurutanga, ko te utu mo te hanganga o nga Mapi e rua. Ko te utu pea mo etahi tikanga o te Whakawakanga, Heoi ano ra ka mate ano akuanei, ka mutu ena kupu.
- Tenei ano etahi kupu a matou mo nga kupu hoki o te nama 38. E mea ana, ma te Kaiwhakawa e ui ui i te tuatahi ki tana ara e pai ai. Kia mohio ia he mea whakaae taua tonono kia tukua te whenua ki raro i tenei Ture, a, ki te kitea e ia he tika taua tonono, kaore hoki e whakaaturia mai te he. Kaore ranei e tupu he raruraru mo te motu. Katahi ano ka whakaaetia e ia kia tukua mai he kai ruuri mo taua whenua. Na, e hoa ma, ta matoa whakaaro mo enei kupu, ka nui te he. Ehara i te mea tika kia haere te Kaiwhakawa ki te patapatai i te tika, i te he ranei o tetahi mea meake nei ka whakawakia ki tona aroaro, kei whea hoki he mahi maana mo te ra o te whakawakanga o tera mea. Engari kia noho te Kooti, hei reira ia patai ai i taana ara e pai ai hei patainga maana, me te whakarongo mai ano o te kaitono raua ko te kaiwhakatete, ara mehemea he pera. E hoa ma kaua te Kaiwhakawa e tukua kia patai wawe ki etahi o nga tangata na ratou nga tonono nga whakatete ranei engari me waiho atu te Kaiwhakawa, hei tangata ke ki nga taha e rua. Mehemea ka pena, kaua e kiia he Kai whakawa, engari me ki he kai patai korero. Ka mutu i ena, a matou

korero engari ka tumanako atu matou kia whakatikaia mai e ta tatou Paremata nga waahi he kua whakaaturia atu nei e matou o roto ano o tenei Ture hooou o te tau 1873.

MOHI MANGAKAHIA me etahi atu 19.