

REPORT OF THE WAITANGI TRIBUNAL
ON A MOTITI ISLAND CLAIM

WAI 12

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of a claim by the Patuwai Tribal
Committee relating to Motiti Island

The Minister of Maori Affairs
Parliament Buildings
WELLINGTON

Dear Mr Wetere

Motiti Island is located off the Bay of Plenty coast between Mount Maunganui and Maketu. It is populated by people of two tribes, Patuwai, a subtribe of Ngati Awa of the Whakatane district, and Whanau a Tauwhao, a subtribe of Ngai Te Rangi centred on Tauranga and Mount Maunganui, Patuwai occupying the northern half and Whanau a Tauwhao the southern half. In 1884 the greater part of the southern half was sold. Today that area constitutes one European farm. The balance area is Maori land divided into several titles in multiple ownership. The Maori occupants are principally of Patuwai descent. There are two marae there.

Since 1966 the Minister of Works has assumed the functions and powers of a local authority for the island in the absence of any other local authority involvement. Since then the island has operated without an operative district scheme and the people have largely managed their own affairs. They consider the water supply and roading is adequate for present needs.

In 1980 the Tauranga County Council notified an intention to include Motiti Island within the Tauranga County, for local government purposes. The Patuwai Tribal Committee called meetings of the Maori owners and an objection was lodged with the county. They complained that the county had not outlined its intentions for the island and that they were satisfied with the existing position.

In April 1984 the Local Government Commission notified a plan to include Mayor, Te Karewa, Motiti, and Moturau Islands in the Tauranga County. An accompanying

WAI 12

explanatory statement referred to 'uncontrolled development' on some of the islands, the cost of controlling development from central government, and the agreement of the Minister of Works and Development and the Tauranga County Council for the transfer of control. Objections had to be filed before 18 June 1984. The member for Eastern Maori alerted the islanders to the proposal and recommended that they engage a solicitor.

In May 1984 the Motiti Advisory Committee, which appears to be virtually the same body as the Patuwai Tribal Committee, made claim to the help of the Waitangi Tribunal in preserving the status quo. The Tribunal was asked whether it could persuade the Local Government Commission to set aside its scheme.

Acting on the Tribunal's instructions the registrar wrote to the claimants on 2 August 1984 as follows:

The Waitangi Tribunal is not able to take any steps to persuade the Local Government Commission to set aside any scheme for the inclusion of Motiti within the local County. The Tribunal can do no more than enquire and report on any claim that a Crown policy or practice is contrary to the principles of the Treaty of Waitangi.

I presume that in this case the Local Government Commission has now heard your objections and made a decision. If you wish the Waitangi Tribunal to enquire into the matter you would need to write to me

- ▶ setting out a claim that the policy of the Crown in promoting a change to local body control is contrary to the Treaty of Waitangi, and
- ▶ setting out your reasons for saying so.

The position is more fully set out in the Treaty of Waitangi Act 1975, a copy of which is enclosed.

That letter has not been replied to.

We are of [the] opinion that the islanders' claim was not a claim within section 6 of the Treaty of Waitangi Act 1975 and that we could not consider the relief sought in it. If it was a proper claim, we are of [the] opinion that the claimants were not without an adequate right of hearing before the Local Government Commission. At this stage an amended claim has not been filed.

For those reasons we decline to inquire further into the claim as filed, without prejudice to the claimants' right to file a reformulated claim if they wish.

Dated at Wellington this 21st day of May 1985

[E T J Durie]
Chairman

[Sir Graham Latimer,]
Member

WAI 12

[Paul Temm]
Member