

The difficulties complained of, so far as the various petitions are concerned, arise from the decision regarding relative interests given on the 5th October, 1929. The only way the petitioners can be restored to their previous position is to annul that decision as suggested by the Court of inquiry. This would mean—but I am not sure that the Court intended to go so far—that all the orders made in 1926 would be restored. It would follow that all partition orders made to carry out the order of 1929 should be cancelled. I see no justification for granting compensation, as suggested, out of Crown lands.

R. N. JONES, Chief Judge.

The CHIEF JUDGE, Native Land Court, Wellington.

TARAWERA BLOCK.

WE have the honour to inform you that the Court, sitting at Hastings on the 31st January, 1939, and the following days held the inquiry directed by you pursuant to the provisions of section 16 of the Native Purposes Act, 1937, into the following petitions:—

- (a) Petition 66 of 1936, of W. Baker and others, praying for the exclusion of Tarawera 5A Block from the scope of certain investigation or compensation:
- (b) Petition No. 262 of 1936, of Kaperiera te Pohe and others, praying for reinstatement of full rights in the Tarawera Block:
- (c) Petition No. 301 of 1936, of Matewai Utiera and others, praying that the ancestral rights to the Tarawera No. 3 Block be restored:

and we have to report as follows:—

In order to understand the position, it will be necessary to state shortly the history of the block.

1. In 1867, in consequence of the rebellion, certain lands, including this block, were confiscated by Proclamation. The effect of this Proclamation was to set aside the precedent Native title and vest the land in the Crown, subject to an undertaking by the Crown to grant certain portions of it to loyal Natives.

2. By agreement dated the 13th June, 1870, certain Natives were selected to receive grants of various portions. Included amongst these portions was this Tarawera Block, which it was agreed should be granted to twenty-four persons whose names were specified in the agreement.

3. In the same year the Waikare Mohaka District Act, 1870, was passed. This Act declared that the agreement of the 13th June, 1870, should be binding on the Government of New Zealand and on all persons named in the agreement, that certain portions of the land referred to in paragraphs Nos. 1 to 5 of the agreement should vest in Her Majesty, and that as regards the residue the Governor was empowered to issue Crown grants in favour of the persons who, in pursuance of the agreement, were entitled respectively to the said pieces of land.

4. The Waikare Mohaka District Act, 1870, was repealed without anything being done in the direction of the issue of a grant for Tarawera, and as a consequence the Native Land Amendment Act, 1881, was passed empowering the Native Land Court to inquire and determine the persons who, in pursuance of the agreement, were entitled, and authorized it to issue certificates accordingly.

5. On the 6th July, 1882, the Court, sitting at Napier, under the provisions of the aforesaid section made an order that a certificate of title for the Tarawera Block, containing 87,000 acres, should issue in favour of the twenty-four persons whose names were specified in the agreement.

6. By section 4 of the Native Land Claims Adjustment Act, 1914, it was declared that the order referred to in the foregoing paragraph was valid and should take effect as an order made on investigation of title in the Court's ordinary jurisdiction, and that as from the date of the said 1914 Act the Court was to have jurisdiction in respect of the said land accordingly. It was further ordered that in ascertaining the relative interests the Court should treat the persons named as owners in the schedule to the agreement of the 13th June, 1870, as having been entitled in equal shares. The section further validated any succession or trustee orders made previously.

7. Section 25 of the Native Land Amendment and Native Land Claims Adjustment Act, 1919, passed on the 5th November, 1919, authorized and directed the Court to ascertain and determine what Natives included in the agreement of the 13th June, 1870, were omitted from the title to Tarawera, and to ascertain and determine the reasons for such omission and for the omission of the descendants of such Natives. The Court was to report its findings to the Native Minister with such recommendation as it might think fit. As a consequence, there was an inquiry, and a recommendation by the Court dated 9th August, 1920, to the Minister to include certain names. In pursuance of this recommendation, section 13 of the Native Land Amendment and Native Land Claims Adjustment Act, 1920, empowered the Court to include four names specified in the section in the title to the block. These names have been included accordingly.

8. On the 1st November, 1922, the Court, sitting at Hastings, partitioned Tarawera Block into ten divisions amongst the persons or their successors to whom it had been ordered that a Crown grant should issue. This partition purported to be based on a valuation made by a surveyor attending the Court at the time. The divisions into which the block was partitioned have all been surveyed.

9. The next and most important step in the legislative progress was the passing of section 38 of the Native Land Amendment and Native Land Claims Adjustment Act, 1924. This section empowered the Court to inquire and determine what persons, if any, other than those already admitted, ought to be included in the title. If the Court found other persons were entitled, it was as a consequence to redetermine and readjust the relative interests of the owners as it should think fit, and in this the Court was not bound to regard the agreement of the 13th June, 1870, nor the provisions of section 4 of the Native Land Claims Adjustment Act, 1914, directing the Court to treat the persons named as owners as being entitled to equal shares. It was to proceed as near as may be as if the Native customary rights of the parties still existed. It was empowered to cancel any partition order already