

- (b) That they be granted full compensation for the shares or interest in the said block of which they were dispossessed as a result of the investigation following the passing of the said section 38 of the Native Land Amendment and Native Land Claims Adjustment Act, 1924; or, in the alternative,
- (c) That the Native Land Court be empowered to reopen the whole question of the Tarawera Block and reallocate the same to the descendants of the original grantees thereof in the spirit of the agreement of 1870 and not on the basis of the customary rights of the Ngatihineuru as at present allocated.

The Court begs to report as follows:—

1. Numbers (1), (2), and (3) of the grounds of claim are correct. This Court is of opinion that the grantee whom the petitioners represented had rights by ancestry and occupation to a portion, at any rate, of Tarawera No. 7.
2. With regard to Nos. (4) and (5) of the grounds of claim: The Court, in pursuance of section 38, sat in Napier in 1925, cancelled the orders of the Court of 1922 excepting those for 3, 5A, and 5B, and made a residue order for the balance, including therein the area formerly called No. 7. In this residue order the petitioners were awarded an aggregate of 1,772 shares out of a total of 52,350. A number of appeals were lodged against the findings in this case, but none from the petitioners, although the Court is satisfied that they were present or represented at the hearing. It must be assumed, therefore, that they were satisfied with the award to them. Subsequently, in 1927, a division comprising a portion of divisions called by the 1922 Court 6A and 7 and the whole of 9 was partitioned off in one area, which the Court called Tarawera X and awarded to Koroa Sullivan for the purposes of sale. Immediately after the boundaries of this portion had been defined and the order made in favour of Sullivan, Mr. McDonald, as representing the Pohes, handed in a list comprising ten of them and asked that the balance left of No. 7 should be awarded to them. Subsequently Aterea Pohe objected to the inclusion of No. 7 in the sale, but later on at the same sitting he said (M.B. 74, p. 142): "He had been assured by the other owners that no objection would be offered by the Pohe family taking the balance of Section 7, and as Mr. Gardner did not desire to include their houses or cultivations near the bush edge in the north he would not appeal."

The facts that they did not appeal against the award of the Court of 1925 and that they acquiesced in the sale of a portion of No. 7 to Gardner do not, in this Court's opinion, bear out their allegation that they were not at any time in agreement with the allocation made by the 1924 Court.

On the revision of the Hineuru lists under the provisions of section 46 of the 1928 Act the Pohe family were allotted 1,950 shares out of a total of 50,026—that is a greater award than they obtained in the 1925 Court, which had investigated the ancestral rights of the grantees.

At the 1929 Court, a Committee was set up which investigated the "takes," allotted shares, and reported to the Court. Some objections were raised to the Committee's report, and the Court, after dealing with them and making the sundry alterations that it considered necessary, adopted the report as amended, and on the 5th October, 1929, made an order in accordance therewith defining the relative interests. The Pohes were represented at this Court. No objection was made by them, and they lodged no appeal against the definition of relative interests as specified in the order of the Court.

On the partition of 1934, seven members of the Pohe family were allotted 7B 1, 703 acres, taking up 1,543 of their shares, valued at £677. Two other members, entitled to 387 shares, took their interests in Tarawera 6B, and the remaining member, who is in 7B 1 for the bulk of his shares, took the balance in 10C 5.

A rehearing of this award was applied for, on the grounds that the boundaries of the land sold to Gardner came too far south and included some of their kaingas, that the land awarded to them in No. 7 was not sufficient to take in the whole of the interests of their family, and that, in addition to the award under Ngatihineuru, they should have been awarded some portion of the land allotted to Kahutapere. The rehearing was dismissed by the Court, and consequently an appeal was lodged and advertised for an Appellate Court sitting at Hastings. Before, however, the appeal could be heard the appellants withdrew it in open Court, and it was dismissed.

As to the area of the land partitioned off to pay costs and sold to Gardner, the Court has no means of knowing if the allegation in the petition that it was alienated at a price considerably less than its true value is correct. The freehold was purchased by a miller with the object of working the timber, but there is nothing to show that an appraisal of the timber was made by the State Forest Service or by any one else, nor was the consent of the Commissioner of State Forests obtained as would seem to be required by subsection (2), section 35, of the Forests Act, 1921. The Government valuation of the land was a little over 10s. per acre. Gardner offered £3 5s. per acre, or £11,908. This offer was accepted by Sullivan; and the Court, apparently satisfied that the consideration was adequate, confirmed the alienation.

Although subsection (2), section 35, Forests Act, 1921, refers only to a grant of a right to cut timber, the alienation of the freehold of a block of land with timber growing on it includes the right to cut the timber and, we think, comes within the provisions of subsection (2).

While on the question of timber, we were informed there was a considerable quantity left on some of the other divisions. The partition of 1934 is purported to be made on a valuation basis, but the valuation that was used was one by the surveyor for the purposes of the 1922 partition. In this valuation he did not place any particular value on the timber standing on the block, as the following examples show:—

"East and south side of high and broken country, high to medium mixed bush, red-birch, matai, rimu, and kahikatea: 12,000 acres at 10s., £6,000.

"Balance of bush country west of Taupo Road, fair to good mixed bush, rimu, matai, white-pine, and tawai: 10,700 acres at 15s."