Continued

21-5-90

Mr Bush

If time is allowed I will communicate with the Government.

The Court adjourned at 10.45 a.m. until 10 a.m. tomorrow.

Thursday 22nd May 1890

present place the same
The Court opened at 10 a.m.

O A M A R U C A S E R E S U M E D

(No arrangement arrived at)

S. Bush

The block was surveyed as one block, but when the block was heard, the Court divided it into 7 divisions.

A rehearing of the block was applied for and refused by the Chief Judge.

About 1 month after that dismissed

Robert Smith Bush Agent for Crown 2/- (sworn) I was directed by the Government to apply to the Court at Opotiki to have land awarded to the Crown in each division in proportion to area, and to offer for the Crown to undertake the subdivision survey, if land at 1/- per acre was then awarded to the Crown for each of such subdivision surveys -

In April 1886 I

Continued

OAMARU SURVEY

A. S. Bush

was asked by the Natives who applied to have the land investigated to have this land surveyed by the Government and offering land in payment, but as the Survey Department could not undertake the survey. The Natives then asked a Surveyor to be sent and the Natives signed i.e. Tauraka Nikora, Hautakaru, Tairua Apanui Petamana Patangata an agreement with Mr Baker to survey the land at $5^{\rm d}$ per acre. The agreement is I beleive lost.

The Natives also agreed if after the block was investigated the survey was not paid that the Surveyor should take land at 1/- per acre in any part of the block. As the money was not paid, the Government were asked by the Natives to pay for the Survey.

Mr Barron of the Survey Department sent a wire to the Assistant Survey General in which he says that Tauha Nikora for the Natives had asked Government to pay for the survey.

Tauha Nikora afterwards sent in a formal application for the Government to pay cost of survey. I produce this letter.

charges continued

R. S. Bush

The Natives Committee at Opotiki met in the Court House adjouring my Office and I know of my own knowledge that the survey of this block was twice before the Committee and it was so generally known that any Native who claimed an interest in the land had an opportunity of appearing before the Committee. The Committee confirmed the application for survey. The Government now only claim at the rate of 3^d per acre for the survey and the Natives have had the benefit of the survey and map as they have had the land awarded to them upon this plan.

Other Natives, than those whose names are on the application came and asked that their land should also be included in the one survey. The whole block is in point of fact owned by one tribe, Whakatohea one small portion excepted.

The Natives, Hohaia Iti, and Rewiti Newa etc, came and asked me personally to get the surveyor to include whatever interest they owned in the block.

I ask if this Court is inclined to make orders in each division to make orders at once as against such divisions as are

OAMARU SURVEY

- R. S. Bush not represent now -
- V. G. Day The order for rehearing is as to the survey charges over the whole block and not as to divisions.
- R. S. Bush I applied to the Court at Opotiki for land and held a meeting with the Natives before I went into Court, but we could not agree, we went into Court next day and the representatives of No. 3, 4, and 5 divisions assented to the land being taken.

Representatives of 5 of the divisions No 3, 4, 5, 7, 2, agreed to give land at 1/3 per acre for cost of survey of the outside boundaries.

Rewiti Newa was one who assented for No. 4 division, Paora Pakihi represented No. 2 division.

Te Hautamihana represented No. 3 division.

No. 5 represented by Te Ua and Paora Pakihi

Heremia Hoera represented No. 7

Te Ua was not present in Court on the first day.

Tamaikoha for No. 1 would assent to nothing and went out of Court .

Awanui assented for No. 6 division.

Charges

R. S. Bush

After some wrongling in the Court five of the representatives agreed to give land for the outside boundaries, 5 of the parties agreed to give land, then for both the outside and subdivisional surveys.

The Court finally made orders for land for both surveys as to divisions No's. 2, 3, 4, 5 and 7 and orders to the Crown for No. 1 and No. 6 as to the outside boundaries.

G. Day

I ask that the Court only to deal with the cost of outside survey.

R. S. Bush
V. G. Day for
Natives

I know an application was sent in to have the land investigated, but I don't know where the boundaries are as set out in that application.

I have no idea if such a block could be surveyed for a less sum than.

Charles Goldsmith

Witness for R. S.

Bush

(sworn) I am the District Surveyor. I was 17 in the Bay of Plenty District. I know some of the lands. The land is very broken about this block. This survey was made by arrangement by Assisstant Surveyor General with Surveyor to have the land surveyed at 3^d per acre. About the 5th February 1887. He allowed 3^d per acre on account of the great difficulty of

getting

OAMARU CASE

E. C. Goldsmith

men and provisions on to the block and also because some triangulation work would be required and also because the Natives had previously agreed to this price.

I say that 3^d per acre is a fair price because the country is so rough and difficult to travel over.

I consider that as the Government has had it's area alloted in different parts that 1/5 per acre a fair value.

The land is bad being broken, black birch country of fair soil, I have been along the Eastern and Northern boundary, and from the Eastern hills, you can see nearly all over the block. I have been on some of the high hills.

I considering the scattered nature of the Government pieces and the difficulty of access and east of opening the country. I consider 1/5 per acre a fair price for the land.

The cost of the subdivisional survey is at the rate of £12 per mile.

E. C. Goldsmith

V. G. Day

There may have been a lot of trig: work done and yet not shown of plan, were the are common boundaries a redution is made proportionately, the £1306 is made up at the rate of 3^d per acre over the whole block, the Natives had agreed to pay 5^d per acre for the survey, if contracted for, I do not think the survey would have been done for less than 13^d per acre. The lines adopted from other surveys were allowed for in charging 3^d per acre.

The Government allowed 1^d per acre for triangulation survey. I don't think this land worth more than 1/5 per acre. There are about 36 miles of common boundaries, but common boundaries deductions do not apply to areas beyond 25,000 acres.

____Jone

(sworn) I know this land, I have been over nearly all the North Western end of block.

Witness for R. S. Bush

As far South as Omaukoro stream. I have been over all the Northern boundary line. I have been over Eastern side of Motokora Station 149. and at the sub trig station and at Southern en on a Mountain called Moanui

O A M A R U S U R V E Y

Jones Cont these are all high mountains I have also been in the Kowhai track which passes near the centre of the block.

The soil is good near the rivers, and black birch grows on all the mountains.

There are no flats along the river, but the soil is good. The part cut off for the Crown in No. 4 and 3 and 5 divisions includes some very bad land, being high and rough.

I think 1/3 peracre a very good price, it is very difficult of access and does not adjoin any other Government land.

The Government bought better land in the Motu block at $10^{\rm d}$ per acre.

The division No. 6A is about the value as the others. The Southern end of the block is better or less rough than the Northern end. I consider 1/3 a large price for such land, as land for a private person such a small porton would be value less.

Mr Bush closes case

V. G. Day

I have no witnesses to call: -

CHARGES CONTINUED

V. G. Day

I cannot contest the price of the land in the pace of the evidence adduced.

But I contend the cost of survey to great, in cases were a block exceeds 25,000 acres, special arrangement has to be made and must be made before the survey is commenced.

The arrangement as to 3^d per acre was made before the survey was made. Between the Assisstant Surveyor General and Mr Baker and now we find about 36 miles of common boundaries which are not allowed for in the sum of £1306.

It has been mentioned that the Natives signed an agreement for survey at $5^{\rm d}$ per acre but now they state that is lost.

As shown by dates of Authority on the map the survey work only took 6 months in mid-winter to complete and for 6 months work the surveyor wishes to charge the sum of £1306.

I submit that a deduction should be made for the common boundaries.

S. Bush

The survey was arranged for between the Natives and Mr Baker and it was confirmed by the Assisstant Surveyor General. I witnessed the signing of the special arrangement.

OAMARU CASE

R. S. Bush

At $\mathbf{5}^{\mathbf{d}}$ per acre which was reduced by Assisstant Surveyor General to $\mathbf{3}^{\mathbf{d}}$ per acre.

And no travelling allowance has been charged and this ${\bf I}$ think ought to have been done.

The Court adjourned at 1 p.m. until 2.30 p.m.

The Court resumed at 2.30 p.m. OAMARU Resumed

JUDGMENT

By the Court f1.0.. order

We confirm the orders of the Judge below.

No evidence having been given entitling us to say his decision was wrong.

5 hapus out of 7 acre now shown to have agreed in Court and the Judge having stated that all consented and there being now no evidence to the contrary we cannot assume that they did not consent. Mr Day has called no witnesses at all and the onus is upon him (for applicants) to show the decision of Judge O'Brien to be incorrect.

We have also positive evidence now produced that the price charged for the survey was a fair andreasonable price, and are further have positive evidence that the land given in payment was paid for at its full value. In the absence of any evidence to the contrary are cannot say that the survey charge was excessive or

JUDGMENT CONTINUED

that the price for the land was insufficient. But these two question were the only two questions on which our decision was asked.

We have no grounds for saying that on either question Judge O'Brien was wrong in decision.

Orders as set forth on page 14 confirmed.

The Crown to complete the subdivision survey of No. 2, 3, 4, 5, and 7 in consideration of the area allotted to the Crown.

The Court then adjourned until Tuesday 27th May 1890. When Tahora No. 2 rehearing case will be taken

Vamarie Survey was asked. by the gatires - like applied to have the land investigated Lonk to have this land surveyed: by the Love and roffering land in payment; but Is the survey Dept. I evelo not underlake the surver: the fatives then asked a Surveyor to be sent: and the pateties signed i e Lauruka Actora. Nautakaje, Lairua apanei belamana balangala wet 16 Baker, to shirer the dands at 5d her acre, the agreement it I believe look, of after he block was investigated, the surver evas not paid, that the Dureler should take land Her acre in any park of he block: as he horrer was not faid. The Hood wite asked by the fateves to pay for the Shesver Dept. Sent a wire to the certific Sterejab. in which he say hatrankikora for he hateren had , asked Hort the survey Lauka Arkira of Kerwards

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Camario case men and provisions on to the block. and also because some trangulation work would be regulised; x also because the Adtives had previously agreed to their Live ! I say that 3. per lacre is a fair price, because the eventry is so rough and difficult to travel over. of sonsider that as Loud has had its area alloted in différent partis. that 1/3 per acre a fair value. The land, is bads. being broken; black birek aventi, of fair soil; I have been beling the Eastern and northerns boundary: and from the distin Kills. gibre sans see rearly all of his high hills -. d have been over the bluck: un, Derrie I sunsiblering he scattered rateire, of the Hort. perces and the difficulty of access; and said of opening d eunseder 1/5 the eventing, ber acre la fair drèce for to land:

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Jan Jan arie de la mar ... reduced by assi S Lexicol 150 Set acre, --la jand no travelling la levignice, has begandes and the I think ought to have been done: L. · Mie bourt adjourned at Mb . . until 1:30/ /2/ the lower lesured at 25 opms Camare Resumed By the bourt We confirm the orders of the fudge below
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