

On the other hand, the charges against a Land Purchasing Officer of negligently making indiscriminate advances seemed, when referred to us as a matter of inquiry, to offer peculiar difficulties of their own. To examine into the payment of money in any given case with the view of ascertaining whether it had been paid to persons who were not the true owners, would be to examine into Native titles, and so to usurp the functions of the Native Land Court—a course which was, no doubt, as far removed from the intention of the Government as it would be obviously beyond our power to pursue. But if, to avoid this difficulty, we should confine ourselves to cases in which the lands had passed the Native Land Court, there would seem to be little to inquire about which the Government had not already the means of knowing. The award of the Court, with the list of owners, can always be obtained, and by comparison of this with the Land Purchase Officer's accounts it can always be seen whether money had been paid to persons not entitled to convey. But outside of the above two classes of cases, in which any inquiry by us appeared either impossible or superfluous, we thought it possible that evidence might be offered of such obvious negligence in the payment of money without proper inquiry as would enable us to take cognizance of it without any investigation of Native title. Such evidence we were, of course, prepared to receive; but we may be allowed to express our opinion that, generally speaking, the test of negligence or diligence on the part of a Land Purchasing Officer must be the success of his negotiations in acquiring for the Government a title to the lands for which public moneys have been paid. And whether his success in such negotiations has been as great as was fairly to be expected, we think the Government can determine better than any Commission of inquiry.

In the present case Mr. Wilson excuses any failure which he may have experienced in his land transactions by throwing the blame upon the Native Land Court and upon other persons. That this is the true state of the case appears from Mr. Wilson's statement that the cause of his report was a rumour which had reached the Government that large sums of money were being lost through purchases being made by him from parties not entitled. Mr. Wilson's charges, therefore, are to be considered not only as attacks upon others, but as a defence of himself. If proved, they would exonerate him from all blame for any failure in his land negotiations; but if not, his transactions would still have to be judged by the simple and efficient test of the degree of success with which they had been attended.

The terms of our commission required that every charge should be specifically stated in writing, and three days' notice given to the party affected thereby. We therefore commenced our proceedings by calling upon the respective parties to reduce to writing any fresh charges which they might wish to make, and to put into a more definite shape any others contained in the documents before us, but alleged in too general a manner to admit of our dealing with them. In response to this invitation, Mr. Wilson handed in two papers bearing date the 28th and 30th October respectively, which will be found amongst the papers forwarded herewith, and the contents of which will be noticed in their proper place.

We now proceed to report upon the several matters which have come before us, and this we shall endeavour to do in such a manner as may facilitate the apprehension of the whole subject in its principal bearings. And the first point upon which we shall touch will be the state of the Survey Department at Poverty Bay in the latter part of 1874 and the beginning of 1875. It was in the early part of the latter year (24th February, 1875) that Mr. W. H. Baker was appointed Deputy Inspector of Surveys. Up to that time there had been no proper organization of the department. At the time of Mr. Baker's appointment there were surveys going on in different places, some on behalf of the Land Purchasing Department, and some for Natives not in negotiation with that department. Mr. Wilson had been in the habit of employing and instructing surveyors himself for his own work, such surveyors being first approved as competent by Captain Heale, the Inspector of Surveys. After Mr. Baker's appointment applications for surveyors were made to him, but before that time Mr. Locke, the District Officer, seems to have been the only person who authorized surveys applied for by persons other than Mr. Wilson. It is not pretended that the authorizing of surveys in those days was done in strict conformity with the provisions of "The Native Lands Act, 1873." Such conformity was almost impossible in the absence of an Inspector of Surveys, and of a Judge of the Land Court; but Mr. Locke, as District Officer, did the best he could, and Mr. Heale afterward gave retrospective sanction to the course that had been adopted. At a meeting between Mr. Locke and Mr. Heale in February, 1875, it was arranged that the latter should take over all surveys then pending, and that in future things were to be done in accordance with the requirements of the Act.

This being the general state of things with respect to surveys, we can now inquire how far Mr. Wilson's complaints on this subject are well founded. In his annual report of the 6th June, Mr. Wilson uses the words "had surveyors been furnished in March, April, and May, 1875, when I applied for them." It appears in evidence that on the 25th February, 1875, Mr. Wilson asked Mr. Heale for two parties of surveyors. These not having been obtained, Mr. Wilson on the 1st April telegraphed to the Native Minister on the subject. It appears that at this early period Mr. Wilson had begun to indulge suspicions of some illicit agency being employed against him, for in this telegram he complained of some influence which seemed to hinder his getting surveyors. The only circumstance, beyond the fact of the delay since his application to Mr. Heale, that could have suggested this suspicion, seems to have been that all that time surveys were being made for other persons who were negotiating for the same lands as Mr. Wilson. On the 6th April, Mr. Heale telegraphed to Mr. Wilson that the surveyors could be supplied. Mr. Wilson further states that, on the 19th April, Mr. Heale expressed to him his regret that he (Mr. Wilson) had not been informed of instructions which had been given by Mr. Baker to the surveyors that they were not to go out without special instructions from him. On the 19th May, Mr. Wilson sent in written requisitions to Mr. Baker for surveys. Afterwards Mr. Simpson, who was about starting on survey work for Mr. Wilson, was taken away by Mr. Baker to do some work of subdivision, for which he was thought by Mr. Baker and Mr. Locke the most suitable person that could be obtained. On the 8th July, Mr. Wilson, despairing of getting surveyors, telegraphed to Mr. Clarke, the Under Secretary of the Native Department on the subject, and after that, he says "the surveys proceeded more vigorously." No doubt the interval between the 25th February and the 8th July seems a long time to wait, but it does not appear that the application