

representatives, or any of them, should have any portion of the said Mokau Block returned to them, or whether compensation in money or money's worth should now be granted to such former owners or their descendants or representatives, or any of them; and

- (iii) If it be reported that compensation should be so granted, then to recommend what the extent of such compensation should be.

The Commission provides that if we shall see fit to recommend that compensation in money or money's worth be granted, we shall have regard to the value of the land, as nearly as may be, at the time of the purchase or cession thereof, and not to any later increment in the value thereof.

6. Our inquiry has, of course, been made on the hypothesis, which is now common ground, that the title of the Crown cannot be impugned or attacked in law, and what we have to do is to consider whether, on the material placed before us by the parties, any wrong or injustice has been or is being done to the original Maori owners or their descendants by asserting and maintaining the Crown's title to the block, and, in the performance of that task, to apply principles of equity and fairness.

7. In applying those principles there are certain fundamental maxims and rules which must be borne in mind:—

- (i) The title to the Crown being unassailable in law, the onus of showing that some wrong or injustice has been done must necessarily lie upon those who assert it—*i.e.*, the Maori claimants.
- (ii) Law, equity, and common-sense alike discourage stale demands where a party has slept upon his rights and acquiesced for a great length of time. The established Courts, indeed, refuse to lend their aid to such claims. We cannot ignore this rule, though we consider that, in applying it, some latitude should be allowed in respect of a Maori claim such as this, but not to the extent of excusing delay which must be regarded as in itself unconscionable, or which has been such as to be calculated to prejudice the opposing party (in this case, the Crown), or to prevent the possibility of evidence being given which would have been available by way of answer had the claim been made in reasonable time.
- (iii) From lapse of time all things are presumed to have been done rightly and regularly. This maxim applies as well where matters are in contest between private persons as to matters public in their nature. Deeds, wills, and other attested documents which are more than thirty years old, and are produced from the proper custody, prove themselves, and the testimony of the subscribing witness may be dispensed with. The law will presume in favour of honesty and against fraud, and the presumption acquires weight from the length of time during which a transaction has subsisted.

8. Now, the deed of cession was made as long ago as the 28th January, 1859, and, although (as we shall show in more detail later) the fact that the land had been sold to the Crown was known generally to the Natives in the district and to all those who conceivably had any interest in the land, it has not been satisfactorily shown to us that any exception or objection was taken to the sale until the year 1935. Efforts have been made to show that certain objections were made previously, commencing soon after