

the report in detail later, but it is sufficient to say at the moment that neither side quarrels with the statement of the facts as made by the Chief Judge in his report, which statement is accepted by all parties as being substantially correct. It is unnecessary for us, therefore, to make any general statement of facts in this report: to do so would, it seems to us, be supererogatory, because the report of Chief Judge Jones is on record as well as the proceedings upon which it is based, and may be referred to by Your Excellency's Advisers or by any person who may be interested in the subject-matter or who may wish to criticize or comment upon the report which we are now making. Of course, the Chief Judge's report does not state all the details of the transactions involved, but it does seem to us to be a sufficient statement of the material facts.

6. The quarrel is not with the facts as set out in the report, but with the Chief Judge's recommendations.

The Maoris accept—but the Crown does not—the basic recommendation that a payment should be made by way of compensation. The Crown says that no wrong or injustice was done, and therefore there is no case for compensation. What the Maoris complain of is the quantum of compensation recommended, which they contend is inadequate.

7. At the inquiry held in 1935, counsel for the Ngati Whakaue petitioners concluded his final summing-up thus: "We are sure, your Honour, that only considerations of justice and fairness will enter into your mind, and we, the suppliants, will be satisfied, Sir, if, after you have considered the matter fully in all its aspects, you give a decision." It must be remembered that the petitioners had no legal claim to relief, and what they were really asking for was compensation based upon principles of fairness for the wrongs or grievances which they claimed to have suffered. Their petition was made to Parliament, and Parliament in its wisdom delegated a competent Court to inquire into it. The statement of counsel to which we have referred was in the circumstances well open to the interpretation that the Chief Judge's report, which the Ngati Whakaue were satisfied would be just and fair, would be accepted by them as a final determination.

8. If, therefore, the Government had accepted and had been prepared to act upon the recommendations in the report, they might properly have taken up the attitude that the inquiry was intended to settle the matter once and for all, and that the report must be taken accordingly as final and binding upon both the Government and the Maoris. Had that attitude been adopted, the Maoris, so it seems to us, would have had no right to complain further.

9. But the Government did not take up that attitude, and the Maoris did complain. Indeed, in September, 1936, almost before the Government had had time to consider what course it should adopt, the Maoris, emulating a well-known character in one of our famous English novels, sent Mr. Cooney as their representative to Wellington to see the then Prime Minister and ask for more. The request then was for interest for the period since 1890 upon the amounts recommended by the Chief Judge. That request not being conceded, in February, 1938, a deputation attended before the Minister of Native Affairs at Wellington and complained more specifically of the inadequacy of the compensation recommended by the Chief Judge.

10. It is proper to say that the Government at that stage was, in our view, justified in not accepting the Chief Judge's recommendations. Firstly, some of the Departments concerned considered that these matters of complaint relating to the township in respect of both the leasing administration and the subsequent purchase were included in the settlement of the Arawa claims (generally spoken of as "the Lake claims") in 1922, and that on other grounds there was no case for compensation. We shall deal at a later stage with the point relating to the 1922 settlement, as it was raised again before us as a matter of defence to the whole of the claims. Secondly, the Minister of the day, as is plain from files to which we have had access, believed, upon what appeared to be authentic information, that the claims were not supported by the majority of the Ngati Whakaue people. As to this second point, the Minister's attitude is quite understandable on the information that was before him. It must be remembered that the petition of 1928, though numerous signed, was signed by only a minority (103 in all) of the members of the Ngati Whakaue Tribe who were interested at that time in this land, and Mr. Kepa