

Thermal Springs Act, 1881, itself by section 3 and section 5, subsection (1), expressly recognized the right of the Crown to acquire interests in Native land subject to the Act, and the Solicitor-General said that in his opinion these provisions were sufficient authority for the proposed purchase. It may be that the Crown had some other power or authority than the provisions of the Act of 1881, but, assuming that there was no such other power or authority, we see no reason to doubt the correctness of the Solicitor-General's opinion that there was sufficient power and authority conferred by the Act of 1881. Even if the correctness of that view could in years gone by have been challenged, the point has certainly long since lost any importance or relevance that it otherwise might have had, as the Thermal Springs Districts Act, 1910, expressly declared the land to be vested in the Crown.

17. Fourth: There was much reference to the Stout-Ngata Commission of 1908 on Native lands and Native land tenure, particularly with regard to a memorandum which was placed before that Commission as to the Arawa grievances and the reference thereto in the Commission's report, and it is true that that memorandum complained both of the alleged mismanagement of the leasing administration by the Government between 1880 and 1889 and the alleged smallness of the price paid by the Crown on the purchase in 1889. It was well known, however, that the Commission had no power or authority to deal with these matters of complaint, and the memorandum, admirable as it undoubtedly is as a piece of English literature, is open to the comment that probably it was not intended as anything more than a rhetorical gesture. Indeed, Mr. Kepa Ehau at the inquiry in 1930 explained this by a statement which is recorded by the Chief Judge as follows: "One other point I think should be cleared up. The memorandum submitted by N'Whakaue to Stout-Ngata Commission in 1908 includes the name of Mr. Tai Mitchell. The object for which the Stout-Ngata Commission sat was with regard to the undeveloped lands and those required for Native occupation. The excess area was to be submitted to Crown for settlement. Incorporation was suggested, and it was suggested that the excess area should be vested in the Maori Land Board, and accordingly many blocks were so vested. Before consulting the rest of N'Whakaue the memorandum was submitted to the Commission to indicate to that Tribunal that the tribe had had private dealings with the Government, but the course of such dealings with the Government required explanation. They did not wish to have doubts with regard to the new portions of land to be dealt with by the Government. That, and that alone, was the purport of the memorandum. Had Mitchell and Bennett thought there was any real grievance they would have pushed the matter on, but what was really desired was to inform the Commission of the matter which raised suspicion among the petitioners regarding the Government dealings with them." The Commission reported as follows: "We have placed in an appendix to this report a memorandum signed by the Chiefs and some of the members of the Ngati-Whakaue Hapu. It was read to us at the sitting of the Commission, and expressed the views of the hapu. The allegations made in the memorandum, especially those affecting the acquisition of the Township of Rotorua by the Crown, are such that they deserve explanation or denial by the Native Land Purchase Department. The truth or falsity of the charges must be known to that Department. If it be a fact that, whilst acting as trustee for the Native owners, the Crown, having prohibited the Natives from selling their lands, *bought them at an inadequate price*, the action of the Crown cannot be defended. A transaction of that character would, if it took place between an ordinary trustee and a beneficiary, be set aside by any Court of justice before whom the transaction came for decision. If it be found, therefore, that the statements in the memorandum cannot be disputed by the Department, then certainly the Ngati-Whakaue Hapu should now receive from the Crown beneficent consideration. This is a matter in our opinion that deserves the careful inquiry and consideration of Your Excellency's Advisers." (The italics are ours.) It is not without significance that two years afterwards the Thermal Springs Districts Act, 1910, was passed, which *inter alia*, declared the land to be vested in the Crown. Some legislation of that kind was necessary, if for no other purpose than to make provision for the assessment of compensation to those few of the original owners or their descendants who had not been parties to the deed of sale or to the previous agreements made with Mr. Fenton and Mr. Clarke.