

The point is, however, that the Stout-Ngata Commission recommended inquiry by the Government, and the natural assumption would be that the Government, before introducing the legislation of 1910, had made inquiries and had satisfied itself rightly or wrongly that there was little, if any, foundation for the complaints. Particularly would that be so, one may very well think, as the principal speaker supporting the Bill of 1910 was Mr. Ngata himself, who was a member of the Executive at the time, and his speech contains not a word of the Maori complaints. Moreover, Mr. Ehau himself said in the proceedings before us that the Act of 1910 "was instigated at the request of Ngati Whakaue to remedy the Thermal Springs Act," and he, Mr. Ehau, had been one of the deputation early in 1908—meaning, presumably, the deputation that attended before the Stout-Ngata Commission. Incidentally, it may be pointed out that Sir Robert Stout, who was then Chief Justice of New Zealand, and Mr. Ngata, the two members of the Commission, had no doubt as to the power and the right of the Crown to purchase. They point out in their report, referring to the Thermal Springs Districts Act, 1881, that after a Proclamation made by the Governor thereunder it was "not lawful for any person *other than Her Majesty* to acquire any estate or interest in Native land" in the proclaimed district "except by virtue of or through the means prescribed or permitted by" the Act. The report proceeds: "The Act does not prescribe or permit any mode of private alienation. *The Native owners could sell only to the Crown*"; and later on in their report is contained the passage we have already quoted, in which the Commission said that in their opinion the matter deserved the careful inquiry and consideration of His Excellency's Advisers. But the point is that again in that statement the Stout-Ngata Commission recognized the power to purchase. It was only if the purchase was made "*at an inadequate price*" that the action of the Crown could not be defended, and if the Crown had bought at an inadequate price, then the Ngati Whakaue should receive from the Crown beneficent consideration of their complaint. The power of the Crown, however, to purchase was never doubted, and, as we have already said in a previous paragraph of this report, we can see no reason now to doubt it.

18. Fifth: There was a claim made by the petitioners to bath fees collected by the Government from persons who used the baths. But that claim was not pressed either in 1935 before Chief Judge Jones or in the proceedings before us. On the contrary, it is admitted that the claim cannot be supported.

19. Sixth: A submission was made that the position of the Crown is in some way prejudiced by the fact that the deed of sale refers to an area of 3,020 acres, whereas Judge Clarke's order of 1884 covered an area of only 2,766 acres. This point is quite immaterial and has no validity. The suggestion is that portions of the total area of 3,020 acres covering the springs and medicinal waters and certain other areas were gifted by the Maoris to the Crown as reserves, and that by the deed of sale the Maoris were purporting to convey land that they had already disposed of and did not therefore belong to them. The obvious explanation, however, is that when the purchase was made it was a matter of convenience, seeing that there had been no previous deed in respect of the gifted portions, to include the whole of the land in the conveyance or deed of sale. It makes no difference what the acreage was: the point is that the course adopted was simply a conveyancing method of assigning and transferring to the Crown all the interest of the Maoris who executed the deed in the whole area of 3,020 acres or any part thereof. In other words, as Chief Judge Jones suggests, it was simply a matter of assurance of title.

20. Seventh: As to the purchase in 1889, it is asserted that the purchase should not have been made and that some other course should have been adopted. This, in fact, is not now a live question. But if it were, the answer is that the leasing system had broken down, that the conditions of the district and of the country generally, economic and otherwise, were in a deplorable state, and that a purchase by the Crown seemed to be the only feasible way of dealing with a most difficult problem. It has been said that this purchase was brought about in consequence of the pressure brought to bear upon the Government by the Europeans in the district. It would appear from the material before us that that is not an accurate statement. There is no doubt that