

preserved. There exists ample statutory power in section 472 of the Native Land Act, 1931, to enable this to be done, and we assume that any necessary steps will be taken administratively as a matter of course. We would recommend that this be done.

26. It will have been seen from the foregoing paragraphs that in dealing with the Tangonge Block, where a promise by the original purchaser to give some of the land back was alleged, both Judge McCormick in 1925 and Mr. Justice Sim's Commission in 1927 suggested that there might be some question of equity and good conscience in connection with these surplus lands. Three Judges of the Native Appellate Court in 1942 made a similar suggestion in their judgment in the case of the *Motu Maire* and *Motu Orangi Islands*. In none of those cases, however, did the tribunal making the suggestion do more than suggest the possibility of the Maoris having some claim in equity and good conscience. They certainly expressed no opinion that there was any such claim; and, indeed, seeing that that question did not arise, it would not have been proper to express an opinion one way or the other. All that they did was to mention the point and leave it open. We apprehend that it is probably because of these various suggestions that the present Commission has been set up, and we understand the purpose of the Commission to be that we are to inquire into the very question which was expressly left open by Judge McCormick, Mr. Justice Sim's Commission, and the Judges of the Native Appellate Court—namely, whether the surplus lands or any part thereof ought in equity and good conscience to have been returned to or vested in the aboriginal owners who sold to the pakeha purchaser, or, in other words, whether the Maori vendors had a right in equity and good conscience to have the surplus lands returned to them.

27. Before the merits are examined of the general controversy whether the Maoris have a claim in equity and good conscience, we would refer again to the order of reference in the Commission. We are directed, in any case where we may see fit to recommend that compensation in money or money's worth should in equity and good conscience be granted in respect to any of the matters confided to us by the Commission, to report for whose benefit—that is to say, whether that of any particular person, hapu, tribe, or other group or class of persons—the amount of such compensation should be appropriated and applied. Although we have examined every case individually, it would be impracticable, in the event of compensation being ultimately given, after the lapse of one hundred years, and in view of the changed conditions during that period and the intermarriages that have taken place between members of the various tribes and hapus and families, to individualize the parties or persons to whom the compensation should be paid, and, even if the parties could be ascertained, to divide it in just proportions. Mr. Cooney expressly admitted—and we agree with him—that that would be a hopeless and impossible task; and this observation applies just as much to the specific petitions as to all the other individual cases in which it may appear that there are surplus lands to which the original vendors may have had originally a claim in equity and good conscience. While, therefore, it was necessary for us to examine every case individually for the purpose of ascertaining whether there was surplus land, and, if so, whether the original Maori vendors had any claim to such surplus in equity and good conscience, it is admitted by Mr. Cooney—and again in our view very properly admitted—that the only way in which the matter could be equitably dealt with to-day is to make a recommendation that the compensation, if any, shall be dealt with *in globo* for the benefit of the Maoris or of Maori institutions in the district or districts in which the surplus lands are located. We have examined the possibility, in the event of our making a recommendation that the Maoris have claims in equity and good conscience, of making any of the surplus lands that may still be held undisposed of by the Crown available for the benefit of the Maoris, but this would appear to be quite impracticable—the undisposed of lands are not of any considerable aggregate area, are scattered in various districts, and are not lands which would be suitable for profitable or successful occupation by the Maoris.