

75. The independence and sovereignty of New Zealand under Maori ownership was never questioned by the British Government. Indeed, it was continually emphasized by successive Colonial Secretaries.

76. The Maoris were not a conquered people nor was their country annexed, as is often erroneously stated, but they were induced to cede sovereignty to Britain by signing the Treaty of Waitangi, and we wish to emphasize that the signatures of the chiefs were not obtained without considerable difficulty owing to their land problems being unsettled. Without the promises made by Busby, Governor Hobson, and the Missionaries generally, it is very doubtful if the Treaty would have been completed in its present form.

77. In the unanimous report of the Commission we have drawn attention to the comments of Judge McCormick and Mr. Justice Sim's Commission, and also of the three Judges of the Native Appellate Court, with reference to surplus lands. The question of equity and good conscience was obviously exercising the minds of all of these learned gentlemen when deciding points of law.

78. In one of the schedules put before the Commission large areas of land were classified as "reverting to Maoris." We consider this a misleading statement, for these were areas in which alleged contracts had not been consummated and the lands concerned had not ceased to be the property of the Maoris. Our contention is that none of these transactions have any relation to the value that should be given to the surplus lands in which it had been decided by the Commission the Maoris have an equity.

79. In passing we deem it not inappropriate to draw attention to the settlement of some of the Maori claims of recent years which have promoted amity, understanding, and better relationships between the two peoples:—

- (a) Rotorua Lake Settlement (with respect to Arawa Claims).
- (b) Taupo Waters and Fishing Rights—(Tuwharetoa Claims).
- (c) Ngaitahu Claim.
- (d) Taranaki Claim.
- (e) Waikato Claim.

80. We are fully aware that in fixing the value of this area of surplus land we are confronted with a very difficult problem, but we must approach its solution on the grounds of equity and natural justice; indeed, as laymen, we can view it from no other standpoint. If these lands should have been and had been returned to the Maoris at the time of the creation of the surplus, then, allowing for development comparable with that of similar lands, the asset would at this date be very substantial.

81. We have already taken into consideration the question of returning to the descendants of the people concerned in this century-old dispute the land in which they have an equity. The claim could have been amicably and honourably settled on that basis, but, as already mentioned, there are no Crown lands suitable for this purpose. The alternative then is to recommend reasonable compensation.

82. In arriving at the amount of compensation to be paid, there are two methods which appeal to us:—

- (a) To make the computation on the assumption that these surpluses should have been returned to the original owners at the time of their coming into being and fixing the value upon the prices then ruling, and adding interest to the date of settlement.

A strong case could be made out for adopting this method, but we fully realize that the legal answer may be an effective bar to its use, as no legal contract had been broken, as there was in the Ngaitahu claim.

- (b) To be guided by the directions contained in the despatch of Lord Stanley of 1843, and the subsequent legislation of New Zealand, Land Claims Settlement Act, 1856.