

This is the case where the Government had taken, for its own purposes, land to which the claimant would have been entitled; the claimant could be granted compensation in land up to the amount that the land taken realized on sale, but with a maximum of £1 per acre, although it may have realized a much greater figure.

84. Taking the Act of 1856 as setting the compensation of these lands at not more than 20s. per acre, and the Crown having undertaken to recompense the old land claimants at this rate, then we see no reason why the Maoris should not be entitled to similar treatment; but there being no legal obligation on the part of the Crown, we must approach the problem on the broad basis of equity and good conscience as directed by Your Excellency's Commission.

85. The Maori is a full partner in our conception of citizenship. He has shown his willingness to shoulder his responsibility in both peace and war, and we were much impressed by a prominent member of his race when at a previous hearing of the Commission in connection with another matter he expressed the sentiment: "What is good enough for my pakeha brother is good enough for me."

86. Section 9 of the Land Claims Settlement Extension Act, 1858, provided as follows:—

Whenever the exterior boundaries of the land comprised in any claim or grant examined by the Commissioners shall contain a larger quantity than can be granted under the "Act of 1856," it shall be lawful for the Governor, if he shall think fit, on the recommendation of the Commissioners, to grant to the claimant a pre-emptive right of purchasing the residue or any part thereof at the price of ten shillings per acre, whereupon the Commissioners may direct a grant of such residue or part to be issued:

Provided always that if the Commissioners shall be satisfied the land is of such inferior character as not to be worth ten shillings per acre, they may recommend the Governor to reduce the price thereof to any sum not less than five shillings per acre, and the Governor may, if he think fit, reduce it accordingly:

Provided also that such pre-emptive right shall be exercised within six months after the same shall have been granted.

This Act gave the old land claimants the privilege of buying back certain portions of surplus land at the price of 10s. per acre. This was a concession and not a Government value of land, and applied only to lands within the boundary of the grant already made.

87. If "surplus lands" were still the property of the Crown, it would not have altered our unanimous opinion of the Maoris' equity in the 87,582 acres, *and we would not, nor could not, have any hesitation in recommending handing them back for settlement. We did, indeed, explore this avenue, but a careful study of the maps and plans produced by Mr. Darby of the Lands Department clearly showed that no lands remained suitable for this purpose.* Had the contrary been the case, the Maoris may have found themselves possessed of a very valuable asset, the worth of which would be difficult to estimate. Their position would have been analogous to that of many of the old land claimants who used their £1 per acre Government scrip in lieu of unavailable land to purchase sections in and about the City of Auckland.

88. The Commission had before it two estimates of the area of surplus lands:—

(1) That of Mr. Commissioner Bell of 205,000 acres:

(2) That of Mr. Meredith compiled by the officers of the Lands and Survey Department of 104,000 acres.

The Commission as a whole discarded, as a measure of land values, the schedule under the Ordinance of 1841 which was described by both counsel for the Crown and the Maoris as the "yardstick" and adopted the principle of deciding every case on its merits, and it was by this rule that, after a most searching and exhaustive overhaul of these two estimates and eliminating all areas which have or had been the subject of Government purchase, and other areas which in the opinion of the Commission the Maoris did not have a claim, we unanimously arrived at the lower figure of 87,582 acres in which