

land—to admit from motives of charity any allowance” (*i.e.*, to the purchaser) “for goods not delivered to them.” I repeat that it was the primary duty of the Commissioners to ascertain whether in each case the purchase was made on equitable terms. If they found that it was not on equitable terms, then it was their duty to disallow it and to report accordingly. In that case the land would revert to the Maoris, who would also retain—and the purchaser would lose—the purchase-money which had already been paid; and, as already mentioned, this in fact happened in a very large number of cases. It was only in the event of the Commissioners coming to the conclusion that the purchaser had proved that the purchase was made on equitable terms that they then proceeded to deal with the matter further under the further provisions of the Ordinance to which I shall now refer.

33. The Commissioners, by clause 6 of the Ordinance, were required in every case to inquire and set forth so far as it was possible to ascertain the same the price or valuable consideration, with the sterling value thereof, paid for the lands claimed to any of the chiefs or tribes or aboriginal inhabitants, as well as the time and manner of the payment and the circumstances under which the payment was made. That inquiry was necessary first of all to ascertain whether the purchase had been made on equitable terms. Mr. Cooney urges that the reports of the Commissioners do not refer to the question of adequacy of consideration, and that the record of the proceedings before the Commissioners does not show that any questions were asked on that point. But the reports do say, where it is the fact, that the Commissioners found the purchase to have been made in good faith and taking that in conjunction with the provisions of the Ordinance and the oath taken by the Commissioners as required by the Ordinance, and their express statement in the letter of the 22nd July, 1842, I cannot doubt that the Commissioners did their duty as honourable men. After all, one would not expect, in the conditions that existed in those days, to have evidence called in each case as to the adequacy of the payment for a parcel or a block of land. The Commissioners must be assumed to have made general inquiries and to have made themselves acquainted with the general conditions as to the then value of land: and they knew, of course, that at that time and in the then conditions land was of little exchangeable value. Even so, if a transaction came before the Commissioners for inquiry and it turned out that there was a vast area of land purchased for a mere trifling consideration, it may be assumed that such a transaction would have been disallowed by the Commissioners. Indeed, that is the only inference to be drawn from the fact that very many such transactions were disallowed, abandoned, or withdrawn, and I should think it a fair deduction that in most cases where they were abandoned or withdrawn it was because the claimants knew that the transaction would not be allowed by the Commissioners.

34. But, if the transaction were found by the Commissioners to have been made in good faith and on equitable terms, then they had to proceed further. This is what clause 6 of the Ordinance says: “and” (the Commissioners) “shall also inquire into and set forth the number of acres which such payment would have been equivalent to, or” (*sic*) “according to the rates fixed in a Schedule marked B annexed to this Ordinance.” (The word “or” in the text is an obvious error and may be disregarded as surplusage.) The clause then proceeds further: “And if the said Commissioners, or any two of them, shall be satisfied that the person or persons claiming such lands or any part thereof is or are entitled accordingly to the declaration of Her Gracious Majesty as aforesaid to hold the said lands or any part thereof, and to have a grant or lease thereof made or delivered to such person or persons under the Great Seal of the Colony, they, the said Commissioners, shall report the same and the grounds thereof to the Governor accordingly . . . . Provided, however, that no grant of land shall be recommended by the said Commissioners which shall exceed in extent two thousand five hundred and sixty acres, unless specially authorized thereto by the Governor with the advice of the Executive Council . . . .” It will be seen that these last quotations support the