

57. The Land Claims Settlement Act, 1856, was amended and extended by the Land Claims Settlement Extension Act, 1858, but it is not necessary to refer in detail to the provisions of this later Act. It is sufficient to say that Mr. Commissioner Bell examined carefully all the cases that came before him, that he caused a survey to be made in each case, where it was necessary, of the whole of the land mentioned in each original grant, and of the quantity of that land to which he found the claimant entitled plus the addition and allowances provided for by the Act of 1856. He then ordered a grant to be issued for the area to which he so found the claimant to be entitled, and, wherever the total area surveyed exceeded the area so granted, the quantity in excess was regarded as being in the category of "surplus lands."

58. It is perfectly correct, as Mr. Cooney has emphasized, that in all the cases which had previously come before Commissioners Godfrey and Richmond, and in which grants had been made for the areas recommended by the Commissioners or increased areas allowed by Governor Fitzroy, Mr. Commissioner Bell accepted (as he was bound to accept), as the basis of his own adjudication, the area to which the claimant was stated in the grant to be entitled. That is to say, to use Mr. Cooney's expression, Mr. Commissioner Bell adopted the acreage previously fixed and "built on" it by making the additions provided for by the Act of 1856, and, as Mr. Cooney says, Mr. Commissioner Bell did not in those cases consider the question of whether the original purchase had been made on equitable terms. That, indeed, was no part of his duty, because the question had already been investigated and determined by the original Commissioners. So far as the "old land claims" which had been dealt with by the original Commissioners were concerned, what Mr. Commissioner Bell had to do was to consider the question of equity and good conscience only as between the purchasers and the Crown, and, in considering the question of equities of the purchaser, he could not go outside the "yardstick," which had already been applied, plus additions made pursuant to the Act of 1856.

59. But, as regards "old land claims" which came before Mr. Commissioner Bell for the first time that, is to say, which had not previously been investigated by the original Commissioners, his duty was the same as was that of the original Commissioners in the cases into which they inquired under the Ordinance of 1841, that is to say, he had to investigate the claims in the same way and satisfy himself that the purchase was made in good faith and for fair and adequate consideration, and it is impossible to doubt that he faithfully performed his duty. What he did in respect of these claims, after satisfying himself that a purchase was made in good faith and on equitable terms, was to apply the "yardstick," as he was compelled to do for the purpose of computing not the area to which the purchaser was entitled as against the Maori vendor, but the area for which the Crown, as the owner of the land, was prepared to give him a grant.

60. Mr. Commissioner Bell therefore had before him in the case of the old land claims which had not been previously investigated :—

- (i) The deed of sale, describing the land as bounded by physical features, and in a very few cases stating the supposed area ;
- (ii) A statement by the purchaser of the area that he considered he was buying ;
- (iii) The surveyed area ; and
- (iv) The particulars of the purchase-money or other consideration.

He then ascertained, according to the yardstick and the provisions of the Act of 1856, the area that the Crown was prepared to grant to the purchaser. A grant was issued accordingly, and the difference between the area actually granted and the surveyed area was "surplus land" which in law was the property of the Crown. As to the old claims which had been before the original Commissioners, the position may be conveniently summarized, although it is really repetition, by saying that Mr. Commissioner Bell had the same particulars as those Commissioners had had, but in addition he had the surveyed area. He then ascertained what area the claimant was entitled to by adding