

*Part I: As to the Leases under the Thermal Springs Act.*

In order to understand the position, knowledge of the circumstances of the formation of the township is necessary.

In the year 1880 difficulties arose owing to the fact that certain persons at Rotorua entered into tenancies with the Native owners of the land despite the fact that its title had never been investigated. Several Europeans were able to negotiate for occupationary tenures without a legal basis. Disputes arose between these tenants and their Native landlords giving rise to criminal prosecution for forcible entry and the like. The Government on its part was extremely anxious that the asset of these natural wonders should be fully exploited in the interest of visitors, and that legal tenures should, if possible, be provided so as to ensure suitable accommodation.

The Government approached Chief Judge Fenton, who had the confidence of the Natives, and requested him to negotiate with the object of securing some fixity of tenure. He was, if possible, to obtain a cession, or a long-term lease to the Crown, of sufficient land to form a township. If, however, the Natives would neither sell nor lease, then he was to endeavour to arrange that a town might be laid out and leased by the Crown for their benefit, also for the use of the thermal springs and waters. The records show that the Government was prepared to agree to almost any terms which would effectively render the lake country more agreeable and attractive to visitors than hitherto.

Chief Judge Fenton accordingly met the Natives in November, 1880, and later he reported that "the Natives pretty well put themselves in my hands with the exception of not permitting cession to the Crown." Save for their steadfast opposition to sale of the freehold either to the Crown or to private individuals he found the Natives tractable and reasonable to deal with. On 25th November, 1880, he entered into an arrangement with the representative Native chiefs which provided for the surveying and laying-out of the Township of Rotorua on its present site; and for the disposal of the sections by way of 99-year leases through the agency of the Crown. The arrangement also provided for ample thermal reserves, a recreation-ground, sites for public offices, and other reserves. These together with all streets required were to become vested in the Crown for the public benefit. Chief Judge Fenton explained that the leading ideas in his mind were:—

1. Fixity of tenure over a long period.
2. Authority over the thermal springs.
3. Control of hotels and boardinghouses.
4. Sole supervision of the layout of the town.
5. Exceptional local government.
6. Devotion of sufficient suburban land for farming purposes.

It was recognized that these matters would eventually require legislative authority.

One of the first decisions arising out of the arrangement was to have the Native title investigated so as to know with what persons the Government had to deal. The land was surveyed and an application for investigation of title lodged. On the 28th June, 1881, the Native Land Court made an order that the Ngatiwhakaue tribe were the owners of the Te Pukeroa Oruawhata No. 1 Block. This was insufficient to create a title, as the law required the names of individuals to be recorded. It was, however, useful in limiting the ownership to that tribe as between the several claimants. The Government sought to obtain confirmation of the arrangement of 1880 from some of the members of the tribe, and on the 20th November, 1881, an agreement with a section of that tribe was entered into. From that date the Government evidently considered it had authority to act. The title was pushed to completion and on the 27th April, 1882, a certificate of title under the Native Land Court Act, 1880, was ordered to be issued in favour of 295 Natives, being members of Ngatiwhakaue tribe with the relative interests undefined.

Meantime the Thermal Springs District Act, 1881, came into operation on the 24th September, 1881. Although that Act does not mention the 1880 arrangement it was doubtless intended to embrace it. The preamble recites that "it would be advantageous to the colony and beneficial to the Maori owners of land in which the natural mineral springs and thermal waters exist that such localities should be opened to colonization and made available for settlement." The Act provides that the Governor may proclaim districts in which the Act shall operate. The fifth section enacts that as soon as any Native land within the district has passed through the Court the Governor may make arrangements with the Native proprietors for rendering the land available for settlement by Europeans, and grants certain powers. Of these, the only ones which concern the present inquiry authorize the Crown to—

- (1) Act as agent for the Native proprietors in dealing with intending lessees.
- (2) Execute all deeds and assurances that might be necessary.

The twelfth section provides that where the arrangements with the Native proprietors are such that the land is to be disposed of for settlement by lease, the Governor might, with the assent of the proprietors (to be ascertained as he might think proper), do certain things—namely, to—

- (1) Manage the letting of the land.
- (2) Authorize the execution of deeds of lease.
- (3) Appoint receivers to give good discharges to tenants for the rent.
- (4) Make regulations for the collection and distribution of rents.