

the railway, at the price of £1,550, and the remainder, about 12 acres, sold for £2,100, and the purchaser had to pay £300 for immediate possession, making the value of this piece, in his estimation, over £200 per acre; and that he valued Lot No. 27 at £200 per acre, on account of its proximity to the railway station. The other land agent valued No. 1 at £400 per acre, and No. 27 at £150 per acre.

I think I have stated correctly in substance the evidence given by these witnesses. These were all the witnesses called, although the inquiry was adjourned for a considerable period to enable evidence to be procured, if possible, to show that the piece of land on the south side of the Tamaki Road had been a gift by Jabez Bunting and Te Hana, or some chiefs of the tribe to which they belonged, to the Maori woman Kenehuru, Meurant's wife.

I called no witnesses, and I may say at once that, with the view I took of the case, after having carefully perused and considered the papers which were placed before me to peruse before the inquiry began, and which included some papers I was afterwards informed were Mr. Carleton's private papers, I thought I should be required only to bring evidence as to the value of this land, but after hearing the evidence for the claimant, I considered this unnecessary, and called no evidence.

The view of the case I have impressed upon His Honor the Chief Judge of the Native Land Court, and which I submit to your consideration, is that, if this is a case in which any claim for compensation can properly be made, the claimant, and those represented by her in this claim, have obtained, by the Crown grant issued to them, land to which no one of the grantees was entitled, at least of equal value with the land which the claimant charges to have been improperly taken from her. The piece of land, containing 13 acres 3 roods and 10 perches, situate on the south side of the Tamaki Road, was, I believe, and as I contended in my address to the Chief Judge of the Native Land Court, comprised in the Crown grant by mistake on the part of the Government, a mistake fostered and confirmed by the deceased Meurant, who must be considered the agent of the grantees named in the grant in obtaining that grant, for he was the only mover in the transactions that resulted in the issue of that grant; and I beg to remind you that the claimant, and no person on her behalf, not even her deceased husband, has ever repudiated the grant.

I have had much difficulty to contend with in ascertaining the facts of this case, because I have not had the advantage of being instructed by any person, and I have relied upon the information I have gathered from a perusal of the papers in the case, and of the Government *Gazettes* of the years from 1844 to 1848, and my knowledge of the history of the colony.

I understood from the Chief Judge of the Native Land Court that he would acquaint Mr. Hesketh and myself with the purport of his report on the case before he transmitted it to you, but he has considered it right not to do this; and I think myself, therefore, bound to state to you more fully than I should have done the impression in my mind made by the inquiry.

I am certain that you will not think that I intend to reflect upon any person by saying that this inquiry is very unsatisfactory as to its result. I considered it would be improper in me to call as witnesses Sir George Grey, the Governor of the colony, and Mr. Swainson, the Attorney-General of the colony, when these transactions took place, as I saw it would be calling them to explain their official conduct; and after the great length of time which has elapsed, and, by deaths and other causes, witnesses cannot be procured to explain and prove many so-called facts, which can only be inferred now, and which, during the inquiry, were treated by all engaged in it as inferences of fact. Yet I beg to submit to you that, upon a fair consideration of the letters and papers, which I am informed have been transmitted to you by the Chief Judge of the Native Land Court, with his report, I am supported in my view that there is no case for compensation.

I consider it my duty to place before you as shortly as possible a review of the principal facts of the case, and my arguments in support of my contention; and I venture to say that this case may prove a dangerous precedent, for success will most assuredly bring forth other claims of the like kind.

Firstly: I submit there was no authority to issue this Crown grant. Assuming that Kenehuru was entitled, according to Native custom, to these thirty acres of land (though I think there are some suspicious circumstances about the gift which is the sole foundation of the title), there is nothing to show that that fact entitled her, or any one of the grantees, to a grant of that land. Amongst the papers, there is an opinion of the Attorney-General of the time that there was no authority to issue such a grant, and I do not suppose that opinion can be controverted; and there is the doubt at least in the mind of Governor Grey as to his authority to issue the grant, expressed in his own minute of 31st July, 1848, directing the land to be granted, in which he says, "I will then refer Home for a confirmation of these grants, and for a general authority on the subject." Lord Grey, in his despatch of 5th April, 1851, to Governor Grey, expresses his opinion that the grant to the Meurants was a fair adjustment, and I do not think that any person can deny that the claimant and her children obtained a great benefit by this grant, and that the interest of all concerned has been advanced by the issue of the grant much more than if matters had been left *in statu quo ante*. Without discussing the legal rights of persons other than Natives claiming land in New Zealand in those times, it is not an exaggeration to say that nearly all the grants issued in those times, except to purchasers of waste lands from the Crown, were issued on "adjustments;" for I apprehend that the Proclamations by Governor Fitzroy, waiving the Crown's right of pre-emption, were, strictly speaking, without authority, and may be said to have been made to "adjust" matters. Now, Mr. Meurant in his lifetime, and after his death, some person or persons, in the name of his widow, a lunatic in an asylum, claim compensation, because, in fact, this grant did not comprise the whole land alleged to have been a gift to the Native woman, and deny the grant to be an "adjustment" or an "arrangement," and seek to go behind it. If so, then, I submit to the Government, let the parties be placed *in statu quo ante*, and then consider their rights according to the principles of a Court of equity.

On the inquiry I could not deny that there was some evidence of this gift of the 30 acres, and certainly the Government seem to have recognized it as vesting the wife of Meurant with at least a status deserving the consideration by the Government;—a right the claimant's counsel says;—I say confidently no right, as a matter of law, to a Crown grant at any rate. But the Governor of the colony, for the time being, claimed to exercise a power to do what I must suppose he considered right and proper, to make provision for such a case as that of Meurant's wife; and thus the adjustment was