

to vacate. Natives who disposed of their landed interests to the Crown and who have not been paid for the houses owned by them and situated upon Crown land have justification for continuing to occupy their houses until such time as they shall have been paid. The buildings concerned are those marked "F," "N," "Q," and "S" on Plan No. 12879 deposited in the office of the Chief Surveyor at Auckland. I also draw attention here to the remarks made in paragraph 53 concerning the building marked "F1" on that plan and the hutment shown as being occupied by M. Katene.

65. Question 6 is, "Whether the Natives now occupying portions of the Orakei No. 1 Reserve Block subdivisions purchased by the Crown as aforesaid have any right or justification for continuing to occupy the said land or any part or parts thereof and for refusing to vacate the said land or any part or parts thereof in order that the Crown may obtain vacant possession of the same." The answer, subject to what I have said above, is "No."

Question 7 : Whether promises were made that the papakainga land would not be purchased ?

66. The question suggests an allegation that an official or agent of the Crown, as an inducement to the Natives who owned the Orakei Block subdivisions to sell to the Crown, promised them that the papakainga land would not be purchased.

67. Mr. Tole received instructions to purchase the interests of the Native owners in the Orakei Block in October, 1913. By December, 1914, in which month the Crown began to purchase interests in the papakainga, most of the Orakei Block subdivisions had been bought. The Native owners came to Mr. Mays for the purpose of negotiating sales, and, during the first year of the purchase operations, interests representing an area of 14½ acres were acquired.

68. It must have been a matter of common knowledge with the Natives after December, 1914, that the Crown was purchasing interests in the papakainga. Had such a promise as is alleged been made prior to December, 1914, sales and purchases in breach of it must at once have been a matter of comment by Native sellers or Native non-sellers. It is highly improbable that a promise was made subsequent to 1914, because the continued sales after that date would have been a contradiction of any such promise; the sales already made and those being made would obviously indicate that part at least of the papakainga land must ultimately be partitioned out to the Crown.

69. The allegation that some promise was made was supported by the evidence of Ngapiapi Reweti and by the evidence previously given by Wiremu Watene at an inquiry held by Judge F. O. V. Acheson of the Native Land Court in 1930. Ngapiapi Reweti did not repeat in detail before me his evidence upon this point, but what he said previously was before the Commission, and he was cross-examined as to its truth. At the 1930 inquiry he said, in brief, that he was instructed by Mr. Mays to tell the Native sellers that the Government would not buy the flat and that "that would be left to them for all times." He said further, "I had some difficulties in getting the signatures. That promise made it easier, when I told the Natives that the flat would not be sold. I told that to Watene Tautari, Hira Pateoro, and other Natives." In cross-examination before me he said that he had told them in "Earl and Kent's time," which was before the Crown decided to purchase. In the "Government's time" he said he was away at Paeroa working in the quarry.

It remains to deal with the statement made by Wiremu Watene at the inquiry before Judge Acheson. He said, "When the Government approached me to sell my interest in the big block up above they stated that they would keep the bottom piece for all time—that is, the reserve down below, the flat. I sold my interest up above then." This Native does not refer in particular to any person as making the statement to him, but refers to it as being made by "the Government." This evidence was given by a man eighty-four years of age, and it was not, under the circumstances in which it happened to be made, tested by cross-examination, so that it was not clearly elicited—I do not make any implication of untrustworthiness—whether he regarded the statement as a promise. This Native had, prior to the commencement of the purchase by the Crown, agreed to sell all his interest in Orakei No. 2B, 4C, 4C 1, and 4C 2 to a private person who obviously could give him no undertaking that the papakainga land would be reserved. The subdivisions mentioned comprise his "interest up above" and contained practically all his interests in Orakei other than in the papakainga. He was quite willing to sell for a less price than that paid by the Crown without any promise touching the papakainga, and obviously he needed no such inducement to sell.

Ngapiapi Reweti sold his interest in the papakainga in 1917, and Wiremu Watene sold his interests over the period from 1923 to 1926.

70. At the hearing before me evidence was given in detail by Mr. Mays. He stated affirmatively what he did do and say. Before the Crown commenced to purchase, Ngapiapi Reweti had been working for Messrs. Earl and Kent in connection with private purchases. Mr. Mays visited Orakei once with a view to ascertaining the boundaries and familiarizing himself with the position prior to the commencement of the purchases. He met Wiremu Watene, the principal owner. Ngapiapi Reweti was there on that occasion. Mr. Kent was also there, but he is now dead. Upon Mr. Mays' statement, it appears that Ngapiapi Reweti concerned himself in the business of purchase. For example, he would come to Mr. Mays with Natives after it appeared that the papakainga land was to be sold and explain that "This man wants to sell his land."

The papakainga land is low-lying and is not so suitable for subdivisional purposes or for a model suburb as the rest of the Orakei Block. The land is valuable primarily for entrance purposes or for a recreational reserve in connection with a scheme of settlement, but it is not in itself attractive for actual settlement. Mr. Mays stated that he did not at first desire to purchase interests in the papakainga