

mation could be put through the Native Land Court without an intimation being given of the intention of the Government to remove the Proclamation, and this in a manner which I confess appears to me to have been irregular and adverse to the public interest; for it was done by obtaining the opinion of the Chief Judge upon a point of law apparently adverse to the opinion which he previously held on the subject, by arguing it before him by one party only, on the occasion of a private call; which opinion I humbly venture to think should have been given by the Chief Judge in open Court—the argument taking place in open Court—so that all should have had notice of the opinion of the Court; and I think that opinion should have been communicated to the Government by its own law officers. The law agent of the Patetere land purchasers informed the Native Minister on the 7th May, 1880, that on the receipt of his telegram of the previous day he called on the Chief Judge, and had an interview with him, and then goes on to say: “I argued that it was quite lawful and within his jurisdiction to put land through the Court although under Proclamation, and that to hold otherwise would be to deprive even the Crown of the power to put proclaimed lands through Court until the law could be amended. After considerable discussion he agreed with me, and told me I might wire you that he was now satisfied *lands might be adjudicated upon without any intimation of intention of Government to remove Proclamation.*”\* It will be sufficient to let him know that Government is not objecting to the investigation of title. He will probably wire you so himself. The lands will then go through under Proclamation, and without any promise of withdrawal; and, in the event of failure on our part to carry out conditions, would place Government in best position to close up its own title, the land having gone through the Court, and the owners being ascertained.”

One effect of this proceeding was to continue to withhold from the knowledge of the public the intention of the Government to allow this land to be purchased from the Natives. I think also that it establishes the fact that conditions had been agreed on by the Government with private parties regarding interests in lands at the time that all the rest of the Queen’s subjects were shut out from acquiring those interests. I also cannot see what advantage the Government gained by the concealment from the public of its intention to remove the Proclamation; its doing so clearly gave the Patetere land purchasers a great and unfair advantage over their fellow-colonists. But had a statement been made in open Court that the Government, having secured the lands to which it was entitled for payments made, intended then to withdraw the Proclamation over the rest of the block, and thus open it to general purchase, the Government would have occupied as safe a position after the land had gone through the Court as it did by concealing this fact, and it would then have acted justly to all. I think I am not wrong in saying that this part of the transaction appears as if those who had entered into conditions with the Government had then come to it and said: “You will perhaps find that we are not to be trusted, and that we shall fail to carry out the conditions, therefore we advise you to do so and so, to place yourself in the best position to close up your own title in the event of that contingency arising.”

Ultimately the Government issued a Proclamation removing the first Proclamation from the Patetere lands defined by given boundaries, thus authorizing all the Queen’s subjects, after a date fixed by law, to purchase the whole of those lands in the open market. It did not at the same time notify that large portions of the best parts of the land contained within the boundaries named had already been virtually acquired from the Natives. If I am right in this, as I believe I am, I think the issue of that Proclamation was a misleading act, likely to be productive of much disappointment and useless expenditure to many persons.

It would be sad to see a Government, the embodiment, as it were, of the people, aiding persons in breaking the law, and humbly bearing spoils taken by unlawful means from the public at large to lay them at the feet of power and wealth. But it would be a still sadder sight if such a proceeding was to condemn many families who had observed the law to remain in poverty as labourers instead of occupying lands and comfortable homes; and it would be sadder still if this punishment was necessarily from the circumstances of the case to pass on for generations to a people compelled to occupy an inferior position, whilst vast estates and the political influence and power of influencing in all temporal respects the destinies of the vast mass of their fellow-men were to be secured to those and their descendants who a very high authority had reported had acted unlawfully in acquiring those properties.

To do this would be in truth to punish virtue and its progeny, and to reward vice and its descendants. All danger of this happening will be avoided if the Government will next session introduce a Bill as a Government measure by which it shall be provided that, upon its being established to the satisfaction of the Supreme Court that any lands claimed to have been purchased by any person or persons from the Natives, and which are in their possession, have been so purchased by unlawful means, the said Court shall thereupon declare such alleged purchase to be absolutely null and void, and such lands shall become public lands, to be dealt with in such manner as Parliament may direct.

The course taken by the Government and the purchasers of the Patetere Block has been defended by two arguments, which I will shortly notice.

It is said that it is desirable to get lands from out of the hands of the Natives, and let them come under the ordinary European law. Again, that in this instance some of the purchasers, or their law agents, unless a condition had been made that the land acquired should be put up to auction in the ordinary way, would not have engaged in the purchase.

To the first of these two arguments I reply that any purchaser who presents himself and says he has deliberately acted unlawfully and acquired great tracts of land for himself, to promote the public good, appears in a very suspicious guise. In this case we have it from the highest authority that the Patetere land purchasers, by stepping in and interfering with the Crown, had produced this effect: “The fact of their competing has been, and will continue to be, a means of raising the price of the land which we (the Government) are seeking to acquire, besides protracting the completion of our block indefinitely.” This is, I think, a sufficient reply in this case. But generally, admitting fully that it is most desirable that all land in New Zealand should be subject to one law, I should be prepared to show that these unlawful purchasers, in almost all instances, delay rather than facilitate that end. I go farther, and say that to train, allow, and encourage a portion of the population to act unlawfully to

\* The italics are mine.