Mr. Bush, Resident Magistrate, in his reports in 1888 says that he thought the Natives would take £6,400, evidently based on the Surveyor-General's figures. The Natives themselves made an offer on 20th September, 1889, through Mr. Howarth, a solicitor, to sell the Rotorua portion, 3,200 acres, for £15,000. This excluded the question of the leasing administration by the Crown, the allegations as to which it was suggested should be submitted to arbitration. Under ordinary circumstances the agent would welcome his principal having independent advice, but it appears to have been resented in this case. The writer was informed that the Government intended to deal direct with the Natives. It would have been wiser to have permitted the Natives to have independent advice as to the value. Even as it was, that of the Surveyor-General's was considered insufficient, as a greater price was given. Evidence of value was given before this Court, but it seemed to be based on what has happened since, much of which could not be known at the time the purchase was made. There was a depression on, the people were just recovering from the effects of the 1886 eruption at Tarawera; the railway was still in the air, and many of the leases that were re-offered could not be disposed of even at a reduced rental. On the other hand, even if the Court takes the value of the Surveyor-General as some basis to guide it, it must be remembered that the town was already surveyed and laid out as such, that the Natives without compensation had donated the thermal springs, the reserve of the sanatorium grounds, and also the Pukeroa Hill on which they previously received £200 a year in rental, which rental had been taken and expended on the streets of the town. The gift of the reserves is not referred to as a reason for increasing the value, but the Government, being the owner of those reserves, might reasonably be expected to utilize and improve them within the near future and thus add to the value of the township adjoining the reserves. The records show that between 1881 and 1890 a sum of £27,182 had been spent out of the Consolidated Fund upon the sanatorium and a sum of £11,749 out of the Public Works Fund, while £724 approximately had been spent upon the public buildings within the township. Possibly some of the first-named amount may have been expended in salaries, but even so the expenditure was an earnest of the Government's intention to utilize the reserves for health-giving purposes.

Possibly the solicitor who offered to take £15,000 for the township on behalf of the Natives ascertained in some way a value as the basis for such offer, and it was not likely to be less than its worth. The area in this offer was stated at 3,020 acres. The sanatorium grounds and Pukeroa Hill were possibly included for assurance of title, but if we exclude these and other reserves, including road lines, it brings us pretty close to the area stated in the judgment of the Court in 1884—namely, 2,766 acres. The Court thinks that if the purchase-price had been fixed at say £5 per acre it would not have been an unreasonable price to give, and would have been fair to both parties. But some 11 acres have to be deducted in respect of the interests referred to in section 11 of the Thermal Springs Act, 1910, the value of which interests was ascertained as at 1910 and paid for. The total cost of the township to the Crown is said to have been £10,834. This would no doubt include the expenses of purchase which should not fall on the seller. The amount of purchase-money mentioned in the deeds is said to be £9,138 7s. 2d. In addition to this it is known that a sum of £451 3s. 6d. was paid out to certain Natives in connection with the sale. There are some reserves given to the Native sellers—about 20 acres in area. If, then, we take 2,755 acres at £5, equalling £13,775 and deduct say £9,775 from it, we get a balance of £4,000 and the Court recommends an *ex gratia* payment of that sum to be made to the Natives.

If any amount is decided to be paid to the Natives it should not be distributed upon the basis of 1,100 shares, but should be distributed to the persons and upon the relative interests as found by the Court in respect of the 20 acre reserve granted to Ngatiwhakaue, or it might be paid to the Waiariki District Maori Land Board on their behalf.

Some question has been raised as to the legality of the sale to the Crown. Seeing that the transactions have been validated it seems useless to come to a formal finding on that subject. It ought to be said, nevertheless, that the Department prior to purchasing took care to obtain legal advice, and was advised that under the peculiar wording of the Act of 1881 the Crown was legally justified in undertaking the purchase from the Natives. There has been no objection to the actual sale. It is the inadequacy of the consideration for the purchase that is really in dispute as well as the smallness of the rental collected by the Crown for the Natives.

In conclusion the Court wishes to place on record that it received ready assistance from the Lands and Survey and the Native Departments by having all the records obtainable placed before it. Seeing that the transactions complained of date back over fifty years, it was impossible to trace all records, but the best has been done under the circumstances. A word of appreciation is also due to counsel, conductors, and officers in placing material before the Court.

Dated the 21st May, 1936.

For the Court—
R. N. JONES, Chief Judge.

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