

The ordinary removal of a restriction will not meet this case, for, as I have pointed out, the recommendation of the Native Land Court is for an absolute restriction. It is to the following effect:—

*Native Land Acts, 1865 and 1867.*

MAUNGATAUTARI NO. 1 BLOCK.

Upon hearing the parties, and upon evidence taken, it was ordered that the Presiding Judge do report the opinion of the Court that it is proper to place the following restrictions and conditions on the estate to be granted in the above-named block—that is to say, that the whole block be made by the Crown grant inalienable by sale, gift, or mortgage, or by lease for a longer period than twenty-one years.

Witness the hand of Henry A. H. Monro, Esq., Judge, and the seal of the Court, the 18th day of April, 1871.

(L.S.) HENRY A. H. MONRO, Presiding Judge.

MAUNGATAUTARI NO. 2 BLOCK.

Upon hearing the parties, and upon evidence taken, it was ordered that the Presiding Judge do report the opinion of the Court that it is proper to place the following restrictions and conditions on the estate to be granted in the above-named block—that is to say, that the whole block be made by the Crown grant inalienable by sale, gift, or mortgage, or by lease for a longer period than twenty-one years.

Witness the hand of Henry A. H. Monro, Esq., Judge, and the seal of the Court, the 18th day of April, 1871.

(L.S.) HENRY A. W. MONRO, Presiding Judge.

63. *Mr. Ormond.*] That is the ordinary form, is it not?—It is the ordinary form; but the words “except by and with the consent of the Governor” are struck out.

64. Are there cases similar to this?—Yes.

65. *The Chairman.*] What was the position of the Rumunga Block? Was it not like this?—I do not remember; that is the usual form which I have read, except that part of it has been struck out. If the Government and Mr. Clarke had been aware of the terms of this recommendation of the Court the letter quoted in the petition would not have been written in that form, for the proposed conveyance would have been useless.

66. Were they aware that the block was restricted in that way?—No.

67. *Mr. Carroll.*] What were the reasons for making the restriction absolute?—I do not know.

68. *Major Jackson.*] Did the Natives know the effect of the order when it was made? I know that when they heard of it next day they applied to have the restriction taken off?—I cannot say. This absolute restriction is, as a rule, put in the grant where there is a burial-ground, kainga, or some place that is sacred or desirable has to be secured against alienation.

69. Does the Court direct the names to be put in the grant, and the number of grantees, previously to making the recommendation?—Yes. The recommendation given by the Court is in accordance with clause 18, which I have read, and is distinct from the certificate and supplementary to it.

70. I want to know if the Court was aware who the grant was made to when the restrictions were put in?—Yes; the recommendation is a distinct instrument, which they make under this clause.

71. Where are the Court books connected with this case?—In Auckland.

72. Do I understand that this recommendation was absolute?—Yes.

73. Excluding the Governor from giving his assent?—That is so.

74. *Major Jackson.*] But it is only a recommendation: it does not deprive the Governor of any powers he may possess?—This was only a recommendation that there should be an absolute restriction against alienation by sale.

75. *Mr. Ormond.*] Are you aware that Sir Frederick Whitaker gives his opinion, in this memorandum of his, that the Court had no power at that time to do so under the Act of 1865—that in 1867 the power was vested in the Governor, and not in the Court?—I have explained to the Committee that the Court were entirely within their powers in making the recommendation; the power is conferred by the 28th section of the Act of 1865.

76. That is different from the powers afterwards given, to put an absolute condition in the grant?—What I said was quite correct. I said that if a grant in accordance with this recommendation were issued then nothing but an Act of Parliament would remove the restriction. As the matter now stands the recommendation is in abeyance.

77. It rests with the Government to act, if they think proper, in accordance with that recommendation?—Yes. I am not aware, however, of any case where the Government did not follow the recommendation of the Court.

78. Have you any evidence on this point which is stated by Sir Frederick Whitaker?—Inquiry has been made in respect of these Maungatautari lands, and no objection was raised by the grantees to alienation.

79. Do you know on what Mr. Clarke's statement is founded, that the Governor would be advised to remove the restrictions?—On a communication from Mr. Mackay, the Civil Commissioner for the district. Inquiry was made of Mr. Mackay, who explained that the Maungatautari Blocks were in a different position from the Puahoe and Pukekura lands, and stated that he saw no reason why the restrictions should not be removed.

80. Would not that be the ordinary course?—Yes.

81. The ordinary course taken by the Minister before making a recommendation to the Governor?—Yes.

TUESDAY, 13TH DECEMBER, 1887.

Sir JULIUS VOGEL, examined.

82. *The Chairman.*] You have seen this petition, Sir Julius. Will you be good enough to state what you know in respect of the subject of it?—My knowledge of this matter is through a representation having been made to me of Sir James Fergusson suffering a great injustice in that he