

Macdonald, that where a recommendation is made, as here, until the Governor exercises his discretion by not adopting it, it is not proper to deal with these lands—that the Governor will follow the recommendation?—Here, in this case, there were no restrictions; the Court had no power to make them; it had only power to recommend, but power was left to the Governor to do as he pleased.

134. *Mr. Ormond.*] Would you say whether it is the practice for restrictions recommended to become effective?—It is different under different Acts: it is different under the Acts of 1865 and 1873, for instance.

135. *Mr. Carroll.*] Then the recommendation by the Native Land Court in this particular case had no effect at all, and would not prevent any one purchasing the shares?—I do not know that you could purchase shares, because you could not buy a few shares out of the number.

136. Could you look on these blocks of land as being restricted from sale?—I would not look upon them as restricted until the Governor, who has the power to do so, put on the restriction. The Court recommend the Governor to do so, but until the Governor acts upon the recommendation there is no restriction. He may act upon the recommendation or not as he thinks fit: it is within his discretion.

137. Then it is the Governor who would put the restriction on the grant?—He may do so or not, as he pleases.

138. Could he put on a restriction without the recommendation of the Court?—Yes; he could put on a restriction without the recommendation of the Court, under the Act of 1865.

139. *Mr. Hutchison.*] It is the same recommendation with the same powers as in the case of Seymour and Macdonald?—The cases are different. That was a certificate issued under a different Act—under the Act of 1867. The order was dated 1870, after two or three other Acts had been passed. In this case the purchase of the land was made by the predecessors of Sir James Fergusson, upon the authority of the Government foregoing any restrictions.

140. *Mr. Hutchison.*] They relied on the promise that the restrictions would be removed?—It is a mistake to say, until “the restrictions were removed;” there were no restrictions.

141. *Sir G. Grey.*] The Minister considered it necessary that the Governor should remove the restrictions?—There were no restrictions; you are mistaken about that.

142. *Mr. Hutchison.*] There is an inaccuracy running through the petition. Even the Minister appears to be under the impression that there was a restriction, and assumes that, as he promises to remove the restriction, until the Governor should issue the grant without restriction. It must be considered, according to that, that the land was inalienable?—The mistake was in thinking there was any restriction.

143. Your answer goes to this: that, although the certificate might be issued against alienation, until the Governor exercises his discretion the land must be treated as under no restriction?—Under no restriction.

144. Is not that opposed to the judgment of Mr. Justice Richmond [Extract from judgment read]?—I do not think that has anything to do with the case.

145. *Sir G. Grey.*] Suppose the Governor did not exercise his discretion for a month, but the land were sold within the month?—If dealt with before the Governor exercised his discretion no title would be conferred.

146. Well, at the end of two months, or any time?—Nobody could prudently touch it until the Governor dealt with the recommendation.

*Mr. Hutchison.*: But if they took the risk, and the Governor ignored the recommendation, they would be all right.

*Sir G. Grey.*: But would not that be unfair to the rest of the Queen’s subjects?

Mr. T. W. LEWIS, Under-Secretary, Native Department, further examined.

147. *The Chairman.*] You undertook, Mr. Lewis, to give the Committee some further information in respect to these Natives?—Yes.

148. *Mr. Ormond.*] Perhaps Mr. Lewis could tell us, first, between what dates Sir James Fergusson was Governor?—I read from the “Statistics of New Zealand (1883),” Blue Book, that Sir James Fergusson was Governor from the 14th June, 1873, to the 3rd December, 1874.

149. Have you any papers showing the date at which Sir James Fergusson became interested in this transaction?—Yes; that was one of the points which I undertook to look up for the Committee. Sir James Fergusson’s name appears for the first time in the correspondence of the Native Department relating to this block in a letter dated the 26th July, 1886, from Messrs. Chapman and FitzGerald to the Native Minister. Before the receipt of that letter, so far as I know, the department was not aware of Sir James Fergusson having any connection with this transaction.

150. *Mr. Carroll.*] In 1886, that was the first information the department had of Sir James Fergusson being connected with this block?—The clause in the letter is as follows: “We are applying on behalf of Sir James Fergusson, into whose hands the property has now come through Mr. R. H. D. Fergusson, who bought from Macleans on the faith of the correspondence with the Government which we have referred to.”

151. *Mr. Hutchison.*] Has a Crown grant been issued yet?—No.

152. *Mr. Ormond.*] Is there any mention of the consideration?

*Sir F. Whitaker.*: That will be found in the deed. [Deed read.]

*Mr. Lewis.*: Perhaps I might be allowed to say, in continuation of my answer to Mr. Hutchison, that, if the Crown grant issues in accordance with the recommendation made by the Court, it puts the Government and every one else out of Court. I mean, if the grant so issues the restriction is not removable by the Governor.

*Mr. Hutchison.*: Unless the grant were recalled or cancelled.

*Mr. Lewis.*: When under examination on this subject I received directions from the Chairman