

MINUTES OF EVIDENCE.

FRIDAY, 5TH OCTOBER, 1888.

THOMAS MACKAY sworn and examined.

1. *Dr. Giles.*] Mr. Mackay, what is the position or office you hold?—Government land-purchase officer.
2. Is that the office you held in 1885 at the time you were engaged in connection with this matter?—I have held that office, together with several other Government offices, for fourteen or fifteen years.
3. You recollect in 1885 an action being brought against the Government for trespass upon the property of Mrs. Kissling at Point Resolution?—Yes.
4. Were you employed by the Government in settling that matter or in reference to it?—I was sent up here to see how the matter could be settled.
5. You found that the Government had taken possession of part of the ground?—Yes; without having the power to do so.
6. Do you know whether or not Mr. or Mrs. Kissling had given any permission to the Government?—No; I was not aware of any permission being given.
7. What steps did you take in the matter?—I had several interviews with Mr. Kissling, and also with his solicitors, and while these interviews were going on the Government were at the same time getting an Act through the House to enable them to deal with the matter, and to take the land under an amendment of the Public Works Act, and provide for proper compensation to all the parties concerned. That Act was passed in the early part of August, 1885.
8. The defect was that a military work such as that which they had undertaken was not included under the terms of "The Public Works Act, 1882"?—Yes; under the interpretation of the words "public works" in that Act.
9. And in the Act of 1885 power was given to take land for military works?—Yes; and to provide the necessary machinery for granting compensation for lands taken for such works; and that Act was passed, I think, the day before the case was to be heard in the Supreme Court.
10. It was passed just in time for the Court to be informed of it, so that the action was brought to an end?—So that the action was stayed.
11. What steps did you take in reference to the taking of the land?—I was asked to give an opinion as to what compensation should be given to Mrs. Kissling for the 3 roods and 13 perches which had been taken—the net quantity of land taken for the purposes of the battery out of her leasehold.
12. Did you communicate with Mr. Kissling about that?—We had several conversations. I do not recollect that he named any specific sum, nor did I mention any specific sum to him on the part of the Government; but I wired the Government that I considered that a sum of £1,250 would be a fair compensation to Mrs. Kissling for the land taken out of the leasehold and for the consequential damages to the rest of the property. Being a residential property, and a valuable property, £1,250 would cover the value of her interest in the 3 roods 13 perches taken, and the consequential damages by reason of the battery being placed there in such close proximity to the house.
13. Can you tell us how you arrived at that?—I was taken quite unawares in regard to giving my evidence here. I am up here on a different mission, and until you called on me the other day I was not aware that I would be required to give any evidence: my notes and my own papers in connection with the matter are in Wellington. I have no means here of giving the data on which I made that calculation.
14. Have you any recollection whether it was done by any rule?—I have no recollection at all.
15. Sometimes these things are just a matter of instinct, skill, and judgment?—It is just a sort of instinct one has—at least, I find it so sometimes. I arrive at a sum I think will cover the two things.
16. Do you think it was done in that way?—I am not sure: of course, one must give a good reason for what his opinion is. I must have worked it out in some way, but how I did so I cannot recollect—that is, what were the different items that composed that sum. I was in communication with the head office by telegram, and in telegrams you do not go into the particulars you would otherwise do in a written memorandum or letter.
17. That was made on the supposition that the Government would take only what land they required?—Yes.
18. You made a different recommendation, did you not?—That is, outside of that?
19. I mean to say you recommended a different course?—Yes; I recommended that the Government (after giving that estimate) should take the whole of the land under Mr. Kissling's lease bodily, and settle with Mr. Kissling and with the Diocesan Trust each for their interest, and for the Government to hold the land entirely as their own property, and then lease the house and grounds that were not required for battery purposes either to Mr. Kissling or to any one else who would like to occupy them.
20. You were of opinion that if they did that they could get £100 a year rent?—At least £100 a year rent.
21. Notwithstanding the deterioration occasioned by the proximity of the battery?—Yes.
22. What were your reasons for thinking it was better to take the whole of the land?—There were two reasons: In the first place, there is a loop-line contemplated to be constructed between the present Auckland terminus of the railway and Penrose Junction, and that would necessitate,