

921. Those interviews resulted in the agreement between Kissling and you?—Yes—that the Government should purchase the whole of the land from the Trust Board, and then transfer the piece not actually required for battery purposes to Mrs. Kissling.

922. *Mr. Napier.*] Purchase?—I mean take, of course. The whole of the land was proclaimed. I mean that we should take it under the Public Works Act. I have prepared a statement here which, if you will allow me to read it, will state what actually took place. [Witness proceeded to read, but it was decided to resume and continue the examination in the ordinary way.]

923. *Dr. Giles.*] Who first made the proposal that Kissling should get a reconveyance of the freehold?—I think Kissling expressed a wish to me to get a portion of the freehold, and I think, as far as I remember, I said I fancied it could be done under the Public Works Act. I telegraphed to Wellington to ask if it could be done. The reply was from Sir George Whitmore, as follows: "To H. M. Brewer, Esq., Land Purchase Commissioner.—The Defence Minister, having referred your telegram of yesterday to the Law Officers, ascertained that we have full power under the Act, and you are therefore authorised, as you request, to act in the manner most conducive, in your opinion, to the interests of the Government."

924. Here is a telegram from you from Auckland: "17th November, 1885.—Defence Minister, Wellington.—*Re* battery at Point Resolution: This land belongs to the General Church Trust; and part of it is occupied by Mr. Kissling, who holds it on long lease. The area actually taken from him by Proclamation is 3 roods 13 perches, but the total area of the property occupied by him is about four acres. It would save the Government some £500 if the whole of the four acres could be taken. Have we power to do this under the Act lately passed, and, if so, will you authorise me to act in the manner I think most conducive to the interests of the Government?" This is the reply to it: "The Defence Minister, having referred your telegram of yesterday to the Law Officers, ascertains that we have full power under the Act, and you are therefore authorised, as you request, to act in the manner most conducive, in your opinion, to the interests of the Government." That, of course, only referred to the taking?—Yes.

925. The subsequent negotiations followed upon that, and you say you think Kissling expressed a desire to get the freehold?—As far as I remember, that was the way it commenced. We could not come to any terms for a long time.

926. At that time did you know what the state of the law was about the taking of land, compensation for it, and what was to be done with surplus land?—I did.

927. Then you knew this arrangement was illegal?—I did not know that arrangement was illegal. I overlooked that clause of the Act which said that it had to be offered to the original owner. The Public Works Act is a long one, and you cannot always carry all these clauses in your head. I did not think at the time I was acting illegally. I thought if there was anything illegal in it the Trustees would at once refuse and the matter would be at an end.

928. Was the question ever discussed between you and Kissling whether that arrangement had any illegal defects in it?—No. I think Kissling was under the impression it could be taken under the Public Works Act. Evidently Kissling was under that impression, because in a letter addressed to me on the 6th November he says, "If the above plan is adopted the land will, of course, have to be taken under the Public Works Act, and the balance conveyed to me."

[*Dr. Giles* read letter dated 6th November, 1885, as follows: "H. M. Brewer, Esq.—My Dear Sir,—Referring to your letter of this date, and to our subsequent interview on the subject of compensation to me for the portion of my property taken for a fort at Resolution Point, I beg to submit the following: The amount of compensation—£1,950—offered me for my interest in the lease of the portion taken I consider inadequate; but I am prepared to accept £1,750 and a freehold of the balance not taken, I having to settle the claim with the Trustees for the value of their freehold interest. By this means the Government will save £200 if I were to accept your present offer, which I am not disposed to do.—Yours faithfully, G. S. KISSLING. If the above plan is adopted the land will, of course, have to be taken under the Public Works Act, and the balance conveyed to me.—G. S. K."]

929. Then it did not occur to you at all during these negotiations that the Trustees ought to be offered the land back if any was offered back?—Well, it did not. I am quite prepared to say it was a mistake my not offering it back to them, but at the time it really did not occur to me. I was under the impression the Trust were sellers, not buyers, and that even if the land had been offered back to them they would not have taken it. The land is surrounded on all sides by a road, except a small piece. It did not strike me for a moment that they would require it, or wished it.

930. Did you limit your efforts in the matter to making as good a bargain as you could for the Government?—That was my sole idea. I saw a £5,000 or £6,000 claim, and the sole idea I had in the action I took was to make as good a bargain as I could, to get out of an awkward claim. In fact, I did not know how to settle the matter. When that mode of settlement was proposed I thought it was a very good way of getting out of a bad case for the Government.

931. You had nothing to do with the matter after this agreement was approved by the Government?—Nothing at all, except I received their commendation. I should like to read a telegram I received: "H. M. Brewer, Land-purchase Officer, Auckland.—Mr. Ballance approves your action—namely, purchase of Point Resolution on terms stated.—W. H. GUDGEON, Major."

932. Yes, we have that amongst the papers?—And I think you will also find a memorandum there approving of my action. [Telegram read as follows: "The Assistant Under-Secretary, Defence Office.—*Re* Point Resolution battery: With respect to conversation I had with Hon. Defence Minister at Auckland, will you inform him I have settled on the following terms: The Government to buy the whole of the property for £6,000. £1,750 will be accepted by Kissling and Church Trustees in full all damages. Kissling will retain balance of property, paying Government £4,250 for it. As Kissling's first claim was £2,500, Government will save £750 by this arrangement. Trust this will be satisfactory.—H. M. BREWER, Land-purchase Officer."]