

12. In addition to the block, Section 7, and such parts of Sections 9 and 10 as the Government may desire to purchase to make the block more compact, may afterwards be acquired on such terms as may be arranged.

We have, &c.,

KIRK AND ATKINSON.

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No. 3.

Colonel Humfrey, Under-Secretary for Defence.

I HAVE gone carefully into this matter, and also searched the titles of the several Native owners, and also Dr. Johnston and others, the intermediate lessees, and I consider that, if Messrs. Kirk and Atkinson will definitely carry out the matter for the sum mentioned—viz., £3,000—the Government will not be paying too highly for the fee-simple of the 36 acres. I would suggest, however, that before there is any further correspondence with Messrs. Kirk and Atkinson you should submit what has already passed to the Solicitor-General for his advice as to the proper form of agreement which should be entered into with them.

26th August, 1890.

THOMAS MACKAY.

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No. 4.

MEMORANDUM for SOLICITOR-GENERAL.

It is desired to acquire for a rifle-range certain Native lands in the vicinity of Polhill Gully. Some of the Native owners reside at Parihaka; and Messrs. Kirk and Atkinson are of opinion that if it is known the purchase is for Government that higher prices will be asked, and greater difficulties experienced than if the purchase was made by private individuals; and they make a proposition to acquire the land and transfer to Government for the sum of £3,000, including commission, &c.; and it is on this proposal your opinion is asked as to the manner in which it should be given effect to.

27th August, 1890.

C. HUMFREY.

Referred to Solicitor-General.—W.R.R., 27th August, 1890.

As to the form of agreement, a letter from either party setting forth distinctly what is to be done by the parties to such agreement, which letter is accepted by the other party, would be quite sufficient agreement in such a case. The essential thing is certainty as to the area and position of the land to be acquired, that the price is fair and reasonable, and that the terms set forth in Messrs. Kirk and Atkinson's letter are clearly understood.

I presume the Government is committed to this arrangement, else one would have thought that, as the Public Works Act of 1887, section 31, includes "rifle-ranges and butts" in the works which may be constructed or undertaken by Government, it would have been preferable for the Government itself to have taken the land under the Public Works Act. It is true there is Native title, and this may give difficulty, as it is not always prudent in such a case to assert rights strictly legal.

However, taking the proposal as it stands, No. 6 seems to be objectionable. If the land is not to be in fee it seems questionable how far a lease should be taken. Again, unless the whole block can be secured, the range will be possibly useless.

Clause 7, too, ought not to leave the option of deciding to go under the Public Works Act with the writers.

In such a case, too, are the proceedings to be conducted by Kirk and Atkinson, and are the costs included within clause 8?

In clause 10 the period for completion is too vague; "at least" a year and further time ought to be altered to something certain.

2nd September, 1890.

W. S. REID.

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No. 5.

The UNDER-SECRETARY for DEFENCE to MESSRS. KIRK AND ATKINSON.

GENTLEMEN,—

11th September, 1890.

I have the honour to acknowledge the receipt of your letter of the 20th August, and, in reply, am instructed by the Hon. the Defence Minister to state that in the main he is prepared to agree to the proposals made, with the exception of one or two points, which he has been advised should be more clearly stated or modified, so as to suit the requirements of the department.

The proviso in paragraph 6, that if portions of the land cannot be purchased, with the exception of Section 7 as referred to in your letter, a lease should be accepted, is one that cannot be acceded to, as, if such a concession was made, it would possibly defeat the object for which the acquirement of the land is proposed, and as by section 31 of the Public Works Act of 1887 rifle-ranges and butts come under the provisions of the Public Works Acts relating to land, it seems unnecessary that any lease should be accepted, when the land can be taken in the usual manner, as subsequently referred to by you in the succeeding paragraph of your communication.

In the latter paragraph it is also proposed that the decision whether the land should be acquired under the Public Works Act or not should be optional with you, but the Minister is of opinion that the decision on the point should rest with him.

It is accepted that paragraph 8 of your letter is meant to cover all and every expense in connection with the purchase, including expense of Compensation Court, &c., should the intervention of Government be found necessary to acquire any portion of the land under the Public Works Act.