

No. 53.

The Hon. Minister of Lands.

Department of Lands, Wellington, 10th July, 1907.

Mokau-Mohakatino Block.

THERE is a block of land situated between Waitara, in Taranaki, and the Mokau River, called the Mokau-Mohakatino Block, and, as no doubt you are fully aware, this block has been the cause of a great deal of litigation in the Courts of Great Britain. It has now reached this stage: that the mortgagees are selling, by order of the Supreme Court, all Mr. Joshua Jones's interest in the unexpired term of lease in the various subdivisions of the above block, and known as Mokau-Mohakatino No. 1F Block, of 27,500 acres; Mokau-Mohakatino No. 1G Block, of 2,969 acres; Mokau-Mohakatino No. 1H Block, of 19,567 acres; Mokau-Mohakatino No. 1J Block, of 4,169 acres: total, 54,205 acres.

I may state that the surveys were done at the cost of the Crown, and at a sitting of the Native Land Court at Otorohanga, held before Judge Sim on the 19th September last, the following areas were allocated to the Crown in liquidation of the survey liens: Mokau-Mohakatino 1c, 93 acres 2 roods 26 perches; Mokau-Mohakatino 1d, 12 acres and 26 perches; Mokau-Mohakatino 1e, 26 acres 1 rood 15 perches; Mokau-Mohakatino 1f, 2,410 acres; Mokau-Mohakatino 1g, 267 acres 3 roods 1 perch; Mokau-Mohakatino 1j, 667 acres and 8 perches; Mokau-Mohakatino 1h, 1,675 acres 3 roods 29 perches: total, 5,152 acres 3 roods 25 perches. Of course, these areas have not yet been partitioned off for the Crown, nor have they been proclaimed as Crown land, while, as the Court orders have not yet issued, nothing can be registered upon the title to the blocks.

It now becomes a question whether the Crown should not endeavour to secure the leases, which are to be sold by order of the mortgagees on the 10th of next month, so as to obtain possession of land fit for settlement purposes. The purchase of the leases might possibly be effected under the Land for Settlements Acts, unless the Law Officers of the Crown decide that the blocks are still Native land within the meaning of the Act. If so, the purchase could be made under the Maori Land Settlement Act, 1905.

I would therefore strongly urge that the Solicitor-General be asked:—

- (1) What the legal position of the Crown would be if it bids for and secures these leases at the auction;
- (2) Whether any payments made on account of the leases would strengthen the Crown's position when negotiating for the freehold of the land from the Maori owners; and
- (3) Whether the purchases could be charged and paid for out of the Land for Settlements Account.

WM. C. KENSINGTON.

Under-Secretary.

Hon. Attorney-General.

PLEASE obtain opinion of Solicitor-General on points submitted.

R. McNAB.

10/7/07.

Solicitor-General.—Please advise.—J. G. F.—11/7/07.

Opinion of Solicitor-General.

The leases cannot be acquired under the Land for Settlements Act, 1900, the Act provides only for the acquisition of land in fee-simple (section 26). That section deals, in terms, with compulsory acquisition, but in my opinion the same principle applies in the case of purchase or exchange. Moreover, the land itself is Native land, and therefore the fee-simple cannot be acquired under that Act (*Niniwa Here-mia and Others v. Minister of Lands*: 22 N.Z. L.R. 54).

Dealing with the three questions submitted, my opinion is as follows:—

(1.) If the Crown purchases these leases at auction it becomes the lessee, and will hold the land for the unexpired residue of the terms of the leases, subject to payment of rent.

(2.) No. I fail to see how any such payments could strengthen the Crown's position when negotiating for the freehold. Of course, if the Crown acquires the leases, and afterwards the freehold, the leases will merge and become extinguished.

(3.) No.

6/8/07.

FRED FITCHETT, Solicitor-General.

I understand that the Natives have always remained in possession or occupation, and protest against the leases. If so, the Crown, if it purchases the leases, will be brought into conflict with the Natives.—F. F.

No. 54.

[Extract from *Hansard*, 17th July, 1907.]

MOKAU-MOHAKATINO BLOCKS.

Mr. JENNINGS (Egmont) asked the Minister of Lands, Whether he was aware that the Mokau-Mohakatino blocks, totalling 54,205 acres, and known as "Mokau Jones's leases," are advertised to be disposed of by public auction on the 10th day of August next; and, if so, will he take the opportunity of securing the same on behalf of the Crown for settlement purposes?

The Hon. Mr. McNAB (Minister of Lands) replied, I am aware of the sale in question, but, as the titles to the land are in a complicated position, the opinion of the Crown Law Officers is being obtained as to the Government's position, in case they considered it advisable to acquire any interests in the land to be sold by auction.