

Question 10 : Whether the price paid was fair and reasonable ?

90. The price paid by the Crown to the General Trust Board—£1,000—was in excess of the Government valuation. It was not as high as the sum at which the property had been valued by special valuation made for the Board (namely, £1,070), but it was above the sum at which the property had been specially valued for the Crown (namely, £930). In my opinion, the price paid for the land was a fair and reasonable price, having regard to the value of the land at the date of the purchase.

91. Question 10 is, "Whether the price paid by the Crown to the General Trust Board of the Diocese of Auckland for the said land was a fair and reasonable price for the said land having regard to the value of the land at the date of its purchase." The answer is "Yes."

Question 11 : Whether the purchase-money has been applied as by law required ?

92. The yearly accounts of the General Trust Board of the Diocese of Auckland were produced, and the secretary gave evidence. The purchase-money (£1,000) has been invested in trust securities, and the income is being applied towards the maintenance of St. Stephens School for Maori Boys, Bombay, and the Queen Victoria School for Maori Girls, Auckland.

Section 7 of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1925, after reciting that the land was granted upon trust as "a site for a church and burial-ground and as an endowment for a school for the benefit of the aboriginal inhabitants of the Colony of New Zealand" empowered the Trust Board to sell, and provided that "the proceeds of such sale shall be applied by the said Board to the purchase of other freehold hereditaments in New Zealand, or to effecting permanent improvements to any other hereditaments held on the same trusts as hereinbefore mentioned, or may be invested in any securities for the time being permitted by lawful authority for the investment of trust funds." The £1,000 is, I find, so invested, and the income is being applied in accordance with the trust.

93. Question 11 is, "Whether the General Trust Board of the Diocese of Auckland has applied the proceeds of the sale of the said land as provided by the said section 7 of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1925?" The answer is "Yes."

Question 12 : Whether the Natives occupying the church-site have any valid reason for refusing to vacate and give the Crown vacant possession thereof ?

94. According to a count made in August, 1935, there were twenty-two people, being twelve adults and ten children, on the church land at Orakei.

The buildings upon the site comprise one house and three cottages and a small structure made of roofing-iron. The house referred to as the schoolmaster's is a very old building. It has reached the stage at which it should be demolished. The remaining three cottages are very roughly constructed and unpainted. The fifth structure, the shed made of roofing-iron, is of a very flimsy nature, unfit to be used for dwelling purposes. There is no provision for drainage or sewerage. The number of persons occupying the house and cottages is too great for such primitive structures with the complete absence of amenities. The schoolmaster's house seems to have been built by the church authorities. There is no evidence as to when the other structures were built, but they seem to have been built more recently, and from their appearance, in two cases, they may be less than twenty years old. One house is situated partly on the land originally granted to the church and partly upon what was formerly a road dedicated to the public.

95. No reason was brought to my notice why the Natives should remain in possession. There is, in my opinion, good reason why they should cease to occupy the present structures and why the buildings should be demolished or removed. At present the church-site, occupied as it is, without modern sanitation, is surrounded by modern cottages in a model suburb. The Natives cannot live their free life, and a neglect of proper sanitary precautions may involve in its consequences the surrounding residences. If those entitled to the cottages can be ascertained, they should be given a limited time in which to remove them.

Some of those from time to time occupying the church-site have moved from other places, to which they at times return. There is no evidence before me as to alternative accommodation, but, assuming such is available, then there is no justification, short of a legal right, for the Natives continuing to occupy the said land or any part thereof or for refusing to vacate the same in order that the Crown may obtain vacant possession. If there be no alternative accommodation, then the only justification for their remaining is necessity and that will cease as soon as there is accommodation to which they may go.

96. Question 12 is, "Whether the Natives now occupying the said land or any part thereof have any justification not in the nature of legal right for continuing to occupy the said land or any part thereof and for refusing to vacate the said land or any part thereof in order that the Crown may obtain vacant possession of the same?" The answer is, subject to alternative accommodation being available, "No justification at all." If alternative accommodation is not available, then their justification is necessity. That justification will cease as soon as accommodation can be found.

I have the honour to be,

Your Excellency's most obedient servant,

[L.S.]

R. KENNEDY.

Dated at Dunedin, this 14th day of November, 1938.