

*Mr. F. A. Whitaker.* relating to any Native land, in respect of which a certificate of title shall not have been issued by the Court, shall be absolutely void?"—In reference to that question, and the signing of deeds before it was possible to comply with that section.

1st September, 1869.

30. Was it because you considered it illegal to make any treaty with the Natives before the issue of the certificate, that you did not do so?—It was.

31. Had you any opportunity of making any treaty with the Natives before the issue of the certificate?—Yes.

32. Why did you not avail yourself of the opportunity?—Because I held it on some of the best legal authorities, and on my own strong opinion, that any deeds signed before the issue of the certificate would be absolutely null and void.

33. Do you consider, as a lawyer, that any one who holds a conveyance or other instrument, affecting any Native land, executed by the Natives, and made before the issue of the certificate, has committed any breach of the Native Lands Act?—

On the motion of Mr. Creighton, it was resolved that this question be not put.

34. Are you aware of any other cases in which transactions have taken place between the date of the order and the date of the certificate being issued?—I am not.

35. So far as your interest in Lundon's is concerned, what would be the effect of any decision by which the date of the certificate should be made to be the date of the order?—The effect would be to invalidate our title, if the certificate were dated back to the order. I will explain it. The order might be provisional, as it was, I believe, in other cases, when certain conditions were complied with, and the certificate might be dated on the day on which the conditions were complied with.

36. I understand you to say that the transaction which took place before the issue of the certificate was illegal, and, in consequence, you did not make any transaction, which you might otherwise have done?—Yes.

37. Is the Committee to understand that you contend your course was in strict accordance with the law, in not making treaty before the issue of the certificate, and that the course taken by any one who made the treaty is contrary to the law?—Yes.

38. Then what would be the effect of any decision which should place the date of the certificate the same as the date of the order: would it, in your opinion, place you at a disadvantage, as a person who had not complied with the law?—Yes, it would place me at a great disadvantage, as depriving me of the results of my time and money.

39. Mr. O'Keefe states, in reply to question 72, "I was in possession at the time the lease was obtained by Whitaker and Lundon, and am now in possession. They had full notice that the land was occupied. I was in possession from the 9th September, 1868. They were fully in possession of the fact that large machinery was being erected on the property." Were you aware that, at the time you were making the treaty with the Natives, large machinery was being erected on Kauaeranga, No. 23?—There were, all over the land, batteries and houses standing; I was aware that machinery was erected on the property, and for that reason I signed the deed.

40. *The Chairman.*] You say you were satisfied that certificates had been issued before you executed the lease, but you did not see them?—I did not see them.

41. Do you know of any person who did see them?—No.

42. *Mr. Carleton.*] You have stated in reply to Mr. Bell that you had opportunities of making a treaty with the Natives before the issue of the certificate. Were you aware before the issue of the certificate that it did not bear the date of the order made by the Court?—I was not aware.

43. *Mr. Dillon Bell.*] You say you never saw the certificate; how were you aware that it was issued?—I received a letter stating that a certificate had been issued. I was always on the look-out for its issue, to confer with the Natives. I had inquiries constantly made as to when the certificates were issued, and I received a letter stating that they had been issued.

44. *The Chairman.*] Was it an official letter or a private one?—It was from no officer of the Court.

45. *Mr. Richmond.*] What reason have you for thinking a treaty for land with the Native owners to be illegal, before the issue of the certificate?—On account of the 75th section of "The Native Lands Act, 1865," where the word "issued" is used.

Cross-examined by Mr. Wynn.

46. Do you understand the distinction between the word "void" and the word "illegal"?—I have stated it before; I may be wrong, and it may be an error of judgment in saying that they are synonymous. They seem to me to be so, as far as they relate to that clause. It is absurd to say that because a man does a void act, he does an illegal act; but in a technical sense, I consider that in that clause they are synonymous.

47. When you obtained the lease of Kauaeranga, No. 23, from the Natives, you were aware that other parties had obtained leases, and were liable for rent to the Natives?—Yes, I was perfectly aware of it.

48. Who had possession of the lease; when you bought it a second time from them, who were the previous owners?—I understand that Mr. Horne and Mr. de Hirsch were the owners.

49. Were you in any way concerned as a professional man in preparing the previous lease to Mr. de Hirsch?—No, I was not.

*Mr. de Hirsch.*

Mr. James De Hirsch in attendance, and examined.

1st September, 1869.

50. *The Chairman.*] Where do you reside, and what is your profession?—I reside at Graham's Town, and have no particular profession.

51. You applied to be heard in connection with this subject. How are you interested? Will you make a statement?—I am the lessee from the Native proprietors of Kauaeranga, No. 24, at Graham's Town. The block of land was passed through the Native Lands Court on the 23rd of June, 1868, and the order for the certificate of title was issued on that day. I then instructed my solicitor, Mr. Macdonald, to prepare a lease for me from the Native owners for the said block, which he accordingly did, fully understanding at the time that the order for the certificate of title was the title required under the Native Lands Act to make it good. A few months afterwards, on examining the