

53. Were no applications whatever made for any part of this swamp before the arrangement with *Hon. Dr. Pollen.*  
Mr. Russell?—Not that I am aware of.

54. You are not in a position to say so positively?—I am not.

5th Oct., 1875.

55. Do you recollect the application of a Mr. Dilworth?—As I have already explained, Mr. Dilworth applied for a portion of swamp in the Waikato, in addition to the purchase he had already made, but I do not think any portion of that land was included in this purchase; it was on the other side of the river. The reason why the application was refused was, that I was advised there were some Native claims for compensation which remained unsatisfied, and the application covered the locality to which those claims referred. That is my recollection at present.

56. But you are not in a position to say whether Mr. Dilworth's application covered any portion of this land?—I cannot say. My interference with the disposal of the land was of a general character, and I am speaking now to the best of my recollection. As well as I can remember, that application could not have extended to the great swamp; it did not cross the river.

57. You have expressed your opinion that the spirit of the law under which these lands were sold require that regulations should be made before sale?—Yes.

58. But in point of fact have not the Government treated this as a sale before the issue of regulations? Have they not allowed the parties to enter into possession, and to spend money before the issue of regulations?—I must take a layman's view of the case. I cannot say exactly what is legal possession under an agreement with the Government, which was made on a number of grounds.

59. But did not the parties enter into possession with the knowledge and approval of the Government?—They entered into possession as a necessary condition to their bargain. If you mean entering upon the land to use it for road making and drainage, I answer certainly.

60. So that the Government is now in this position: No regulations have been issued for the purpose of completing the sale, although the parties are in possession, and have been spending a considerable sum of money in constructing this road?—Yes.

61. And therefore, in the event of the Assembly declining to validate the transaction, would not the Government be in the position of having to refund the money spent in these improvements?—I do not know whether the Assembly would desire to interfere with the discretion which the law gives to the Government; but, if they do so, I imagine it would only be right and equitable to recompense them for their outlay.

62. Do you think, as a matter of policy, that the law, as existing when this arrangement was first proposed, really meant to give to Ministers a discretion of the land to which you have referred, to complete transactions of this magnitude by private contract?—I am not in the witness-box now; you are cross-examining me.

63. Well, do you consider that the law, as it stood, allowed Ministers such discretion to deal with large blocks of land, by disposing of them by private contract, and of making regulations for the purpose of giving effect to a particular sale?—Nobody would say it was right to do that. I do not say so. The thing is not defensible upon any grounds, except expediency and public policy. It was undoubtedly a proceeding not authorized at the time, but also a proceeding competent for any Government accountable for their acts to take. There was no fundamental violation of the law. It was their duty to do it, if they thought the public policy of the country required it.

64. But it was strictly a private contract, was it not?—If you use the word in contradistinction to contracts that are made by public advertisement, it was.

65. I see here a proposal that, after the details had been settled, regulations should be framed and issued in the *Gazette* to enable the Governor to complete the contract with these details. "What is required, I think, is only authority to sell the swamp without the preliminary putting up to auction. The facts may be recited without mention of names. Whereas it is desirable that the particular land should be disposed of;" &c. So that, if that suggestion had been adopted, the public could have had no information on the subject?—Of course, it was understood that whatever forms were necessary to carry out the agreement should be gone through.

66. Then no notice would have been given to the public?—Certainly not, so far as competition was concerned. It would be absolutely and exclusively granted to Mr. Russell, on conditions which were specified in the agreement.

67. I see that a number of sections surveyed were also included in the sale?—Yes.

68. Have not others since been given in?—No. A number of these sections were found to be absolutely necessary for the completion of these drainage works—the drainage was actually required to run into them; and the other allotments were effectually drained by these operations.

69. My reason for asking you this is, that I am informed from Auckland that at a recent sale of Waikato lands which was attended by a client who was prepared to buy certain sections, he was told they were withdrawn at the sale, on the ground that they were required for the Waikato Swamp.—They were withdrawn for no such reason. The agreement with the Waikato Swamp Company was entire and complete. They were withdrawn at the sale because they had not applied to be put up. For a long time I have, as administrator, declined to put into the market more land than was absolutely required for the purposes of settlement.

70. Then if the officer who conducted the sale so stated to the public who attended for the purpose of buying, he stated what was wrong?—Certainly.

71. Might it not have happened that some lots originally agreed to be given to the Company may have been put up by mistake?—I think not; these were withdrawn long before.

72. Then the position of the matter is this: that while you were of opinion it would have been for drainage, yet, because Mr. Russell pressed for an immediate settlement, the Government prudent and desirable to have had some inquiry made as to the value and availability of the property completed the transaction without attempting to ascertain either point?—I understand Ministers thought, on the whole, it was desirable to sell the land for reclamation, and to get the money for it.

73. Has any portion of the cash consideration been paid?—No.

74. Has any agreement been made to allow any moneys awarded as compensation for surveys to be written off the purchase money?—I never heard of it.