

## No. 55.

Mr. T. HEALE to Mr. J. A. WILSON.

SIR,—

Inspector of Surveys' Office, 22nd May, 1875.

Referring to your request "that the Deputy Inspector of Surveys in your district may be directed to cancel all orders and permissions to survey for private persons that have been granted on Native lands for which I am in treaty," &c., and which has been transmitted to me, I have the honor, at the earliest possible moment, to communicate with you, in the hope of settling the best manner of proceeding in a matter which threatens not only to be embarrassing to my representative on the East Coast, but which may become injurious to the public service.

I must premise by observing that neither I nor Mr. Baker know anything of the "persons" for whom lands are surveyed. Surveys are invariably required to be made by Government Agents, and we are governed by their authority only, knowing nothing of the destination of the lands, save that our work is the necessary basis for the action of the Native Lands Court.

The principle of the Native land legislation, and the practice of the Court, from the first, has always been to make clear to the Natives that the act of survey is merely ministerial to the Court, and can have no effect on the title to the land; and therefore that it cannot be to their interests to interfere with or stop surveyors, even where they are manifestly trespassing on their claims, since the only effect their work can have is to enlighten the Court in its subsequent investigations of the title. By the steady pursuance of this system, by contending claimants each getting their own survey made according to their own views, and the Court deciding upon them with all the facts before it, the jealousy and dislike of the act of survey which so embarrassed the settlement of the country in former years have to a very great extent died out, the discussions which used to take place over the surveyor's claim being transferred to the Native Land Court; and nothing is now more common than for surveys to overlap with the full knowledge of both parties, and with the full intent that the true boundary line shall be discussed before and decided by the Court. Now it appears to me that the case which you refer to as "encroachments" must be exactly of this nature—instances of disputed ownership—since no survey has been authorized without the express authority of yourself or Mr. Locke or Captain Porter; and I cannot but fear that if my department were to arrogate to itself the right to discriminate between the propriety of boundaries arranged by you, and others directed to be adopted by Mr. Locke, and were to insist on allowing only one of the rival claims to be surveyed, the effect would be to revive the old disastrous condition of making the survey the visible evidence of possession or of the supreme right of one party, and so to transfer the discussion of title from the Court to the field, with all the risk of stoppage and dispute with the surveyors; while, on the other hand, to allow both boundaries to be surveyed would, at the worst, only involve the loss of the cost of one of the two surveys of the disputed portion, which would probably be far more than repaid by the information thereby afforded to the Court as to the nature and extent of the conflicting claims.

I cannot, therefore, but suggest that when surveys are authorized by other Government Agents inconsistent with surveys directed by you, and the difference cannot be adjusted by conference between the two authorities, that both surveys should be permitted to be made, and the Court be called upon to decide upon the difference; at all events I must decline, without express directions from the Government, to attempt to discriminate between surveys authorized by one Government Agent and another, the duty of my department being simply to get each and every survey made when directed by competent authority, whether they happen in parts to overlap or not.

I transmit this through my deputy for his information, and I propose to forward a copy to the Hon. the Native Minister.

J. A. Wilson, Esq., Government Agent, Gisborne.

I have, &c.,  
THEOPHILUS HEALE.

## No. 56.

Mr. J. A. WILSON to Mr. T. HEALE.

SIR,—

Land Purchase Office, Gisborne, 3rd June, 1875.

I have the honor to acknowledge the receipt of your letter of the 22nd ultimo relative to my request to the Hon. the Native Minister that certain surveys in this district should be stopped, such surveys being carried out at the instance of a few European speculators on lands that I had previously leased and advanced large sums of money upon on behalf of the Government.

In reply, I beg to state, by way of explanation, that I was not aware, at the time I made the above-mentioned request, that the surveys in question had been authorized by Mr. Locke's authority, inasmuch as I had received no intimation to that effect, that gentleman having recommended me to obtain the land for Government.

In reference to the principle involved, I truly admit the force of all contained in your letter; yet at the same time I would urge that, from a land-purchasing point of view it is, I believe, very necessary that blocks of land on which the Government has advanced money, and over which it holds agreements, should pass through the Court on surveys coinciding with those agreements; for if the land should pass in another way, and be blocked out on other boundaries and in other blocks, then a fresh set of issues will be raised in Court; and when, with these circumstances, the history of the land is involved and intricate, and the Natives on the Government side are less intelligent, and the Government Agent is unable to explain, having no *locus standi*, the purchases of the Government will have a less favourable chance of ratification than if they had appeared in the form and on the tenure on which they had been negotiated.

Practically, the effect of private surveys on Government lands, to which Government has an equitable right through negotiation and by reason of moneys paid, is most injurious, as tempting the Native