

TUESDAY, 1ST SEPTEMBER, 1908.

E. BALCOMBE BROWN, Barrister and Solicitor, sworn and examined. (No. 10.)

1. *The Chairman.*] You know something about this Woodward Street and Wellington Terrace exchange of land inquiry?—Yes.

2. You have been called here by Mr. Fisher to give evidence?—Yes.

3. I think it would be better if you were to make a statement with reference to it?—The position with regard to Mrs. Williams is that she is the adjoining owner. As you perhaps know, a portion of the land in question was fenced in and was used as a garden. It was so used by the tenant of the adjoining house, called Chesham House. This property, as far as I can find out, was always rated to Mrs. Williams, and she paid the rates for it regularly. When a writ was issued against Mrs. Williams in 1902, claiming possession, she was advised that, there having been no Crown grant issued, she could not prove any title to it, and could not claim the land unless she could prove sixty years' uninterrupted possession. That period was as long as the colony has been settled, and it was quite impossible to do so, and we advised then that she could only confess judgment. About that time I noticed that Mrs. Williams's rate notices were altered, and that, instead of being assessed, as in 1895, for 77 ft. frontage, she was assessed for only 44 ft. She was only occupying about 33 ft., if as much, of the land now owned by Macdonald, but after that she was assessed for 44 ft.; and at the same time that she was assessed at 44 ft. she must evidently have been assessed for adjoining Crown land on the north side, and the authorities are getting the local taxes although she has no title to 14 ft. of the land. Most of the old papers have been destroyed; but here is an assessment valuation notice showing that she was assessed for this land under the Land and Income Tax Assessment Act. [Assessment notice produced.]

4. Would that cover the whole position?—Certainly. For Council rates she was always assessed for the whole property. She was certainly assessed, as far as she knew, for this piece—at all events, up till the Crown took it up. Mrs. Williams, when the claim was issued, consulted me to see if she could buy from the Crown. I advised her that she could only acquire under the Land Act, and that she would have the same right to it as the public would in the market. I thought she was satisfied, but she was a little grieved when she found that, without competition, the land had been sold to some one else. Of course, we know that when the Crown grants to local bodies it does not put the local bodies in competition with private persons, and if it had been a sale of ground to the local body of course she would have had no objection.

5. What is her objection now?—She would have liked to acquire it. She had occupied it for thirty years with the other land, and would have liked to have had an opportunity of buying it. She said she would have been very glad to give £25 a foot for it prior to the sale, but the position, of course, is altered now through the erection of the retaining-wall, and so on.

6. How many feet frontage are there?—37 ft. 3 in. She was not aware that it was that, because she did not occupy the whole lot. This building of Love's occupied part of the ground. She only occupies about 30 ft. I have always had to check her valuation lists, and she herself does not know what she has paid rates on. It was always her assumption that her area included this piece of land the subject of the inquiry, but after the issue of the writ her area of 77 ft. was reduced to 44 ft. That is according to the 1903-4 valuation.

7. Then it was put down to 33 ft.?—No. 33 ft. seems to have been taken off. She never occupied fully that. The reason why we never knew the exact frontage was that people in those days stepped the measurements. The property was never surveyed, and it was usual to step the properties. The old valuation up to 1895, or prior to 1900, would show how the Government measured up, but we have lost the papers.

8. What old papers do you allude to?—The valuations showing what the actual measurements were. That is the valuation of 1895, showing 77 ft. and the piece alongside. [Document produced.] Here the title is 30 ft. She has a title to Chesham House, of 30 ft., the strip between the pieces of land marked on the plan as belonging to the Crown. Yet she has been assessed in the old days for 77 ft., and now for 44 ft.

9. Did she make any complaint?—No, because she always looked upon the land as hers. She has a good title against all the world except the Government, and but for recent legislation her title would now be good.

10. Which legislation do you refer to?—The legislation which some time ago provided that if land which had not been Crown-granted was not claimed within a certain time the title should revert absolutely to the Crown. It was the Act limiting the time within which persons could send in their applications, and provided that, if they did not do so within the limit fixed, the land should belong to the Crown. It was after that Act came into force that this writ was issued against her, because this land was undoubtedly selected by some one in the old days. But the owner did not come forward. The land was all selected in the New Zealand Company's time.

11. Yes, but it might only have been applied for and the title not completed?—That is the difficulty. If the title had been completed it would have been all right, because we should have had twenty years' occupation; but as no Crown grant was issued it enabled the Government to come in.

12. You are assuming that you had a title when you had no title?—Only by occupation. Mrs. Williams is not claiming the land. She admits she has no legal claim, but if the land were put up under the Land Act, she claims that she would have the same right to purchase or to bid for it as the public has to bid for the land.

13. Did she make any claim to the Government to have that done?—No, because she was advised by me that the Government could only deal with the land under the Land Act. That is the position with other lands that have been taken up in the city, such as the reclaimed land opposite to Messrs. Levin and Co's.