

EXHIBITS.

MOKAU-MOHAKATINO INQUIRY.

SUMMARY BY MR. JOSHUA JONES ADDRESSED TO THE COMMITTEE.

THE application I made to the Committee was that you would see fit to recommend the passing of a short statute enabling the trial of action in this country upon the grounds that the English Chancery Court had held and made an order on the 1st November, 1907, that I was entitled to lay an action for redemption and accounts, but with the expression of opinion that the jurisdiction was in New Zealand, where the other side to the action obtained what title they possessed and where the property was located. I should state that one of the points relied on by counsel (Mr. Ashton) for the other side was that the jurisdiction was in New Zealand, and this is intimated in their statement of defence in the hands of the Committee that they intended to plead to that effect. The other side contended that the action was "frivolous," and that a title under the Land Transfer Act of New Zealand was unassailable, and that therefore the proceedings should be stayed, as prayed by the motion. His Lordship Mr. Justice Parker replied that he had knowledge of the New Zealand Act, and that he did not understand it to be the medium of legalizing transactions that might be open to question—as this one appeared to be—and certainly not intended to prevent the trial of an action to elucidate any facts that might be alleged; that the action was not by any means "frivolous," but, considering all the circumstances, a most important one, and should proceed. My recollection is that the facts of my being prevented carrying out my part of the compact under the mortgage by the other side putting out defamatory reports as to the value of the property and also as to my title (*Hansard*) were not in any pleadings or statements before the Court, but were incidentally mentioned by my counsel to the counsel for the other side. I think the Judge took higher ground: he examined the amount of the claim in comparison with the large value of the estate, and I am under the belief that his decision was prompted more by that consideration than by considerations for the New Zealand statute. And I may here point out that His Lordship's grounds were well foreseen when it is remembered that some £50,000 over and above the price paid for the property has already been netted out of the dealings with it by persons who had never even seen the property or expended a farthing in improving or creating a value upon it, and this with the aid of the Government—Sir J. Ward, Dr. Findlay, and the Hon. J. Carroll in particular—improperly and illegally, I submit—rendered in the form of an Order in Council that was never intended by the Legislature for such purpose. This named sum by no means represents a tithe of the value of the property, when it is borne in mind that only the surface value was, according to the evidence of the Secretary for Lands, estimated in the purchase, and not the minerals underneath. It is true that the purchase under the Order in Council included the freehold and minerals, but there is the statement in public of the Hon. Mr. Carroll as Minister that the value of the leasehold was greater than that of the freehold. That the fact of my having signed certain documents in England undertaking not to apply for extension of time in payment of the stipulated sums under the compact, and not to enter further caveat in New Zealand, was dwelt upon in London by counsel for the other side, when the Judge replied that the plaintiff would probably show reason why he ignored what he had signed. "If he does not," said His Lordship, "so much the better for you"—meaning the defendants in the action.

As I have informed the Committee, that, acting under the best advice I could obtain in England that the jurisdiction lay in New Zealand, I determined upon relinquishing the action then before the Chancery Court, and left for this country to bring it on here, informing the other side of my intention, and leaving instructions with my solicitors to either withdraw the action or consent to its dismissal. The latter course was adopted. That on my return to this country I lodged caveat at New Plymouth pending trial of the action against further dealings with the land, whereupon I was cited to that town to show cause why I should not be ordered to remove the caveat. Mr. Justice Edwards heard the case, and remitted it to the Full Court at Wellington for decision. The argument was heard before five Judges on the 20th July, 1908, my counsel, Mr. Treadwell, having filed affidavits showing grounds of action and for maintaining the caveat pending the trial. The Court unanimously, without calling on the other side, ordered the removal of the caveat, and gave heavy costs against me, thus giving a direct contrary judgment to that given by the English Chancery Judge. Upon application by my counsel for leave to appeal to the Privy Council it was unanimously scouted by the Bench; the President, Stout, C.J., putting the pertinent query to my counsel, "Can you cite where such leave to appeal has been granted in a case held by the Court to be frivolous?" My counsel and myself took this decision as a refusal of leave to maintain the action. One of the learned gentlemen on this Committee (Mr. Bell) a few days ago said, in reply to me, "But the Court could not refuse you leave to enter the action." The learned gentleman, however, was in error. The Chief Justice, on the 31st May, 1911, gave a decision refusing leave to serve process for a hearing in the Dominion Courts, the particulars of which decision are in possession of the Committee. This same Judge, however, that with the other Judges in 1908 held the case to be "frivolous" and refused leave to appeal to the Privy Council, in this case of 1911 gave leave to appeal, and there the matter rests as set out in the petition, as I have not the means to prosecute the appeal. Another extraordinary feature in the proceedings is this: the same learned gentleman of the Committee quoted the decision of each and every Judge of the Full Court in 1908 as showing that their judgment was,