

interest in the land. There were men sitting there that I knew were owners; and I said, "Are there any more owners?" They said, "No." I addressed one, "Are you not an owner, Te Raihi? Are you not interested in this land?" and he said "No;" and so said many others whom I personally addressed. They were all interested, and were standing out on purpose to save expense in surveys of running dividing-lines.

1368. That case is clear; but that is not such a case as was in my mind at all. The case is whether the Court knew by evidence that there were other owners, but, nevertheless, issued to the restricted number? That case occurred, did it not?—Yes.

1369. Well, now I would ask you whether it occurred that the consent of all the owners—I mean to say, where there were owners who had not been made formal owners—known to the Court had not been put in the order?—Not where we knew of any dissentients.

1370. Perhaps they were not there to dissent—in a person's absence, I mean?—I know of no such case as that. They were all present to a greater number than ten, and they consented to their own exclusion. When we found out what the results of that were, and how mischievous it was, Sir William Martin and myself prepared a deed of trust. We collected all the cases where the mischief had occurred as far as we could, and Major Heaphy and some other person were sent all round New Zealand to get those ten who were in the orders to execute the deeds of trust. A great many of them are still in existence.

1371. The point in my mind, although I do not know how to bring it out, is that very possibly there are blocks of Maori land—I myself am aware of two—with very often a great many owners—far more than could be brought into Court—sometimes with a thousand owners. They could not be all present. What I want to know is, whether the Court knew there were more owners who were present, but who did not come in under a voluntary arrangement formally?—Under the Act of 1865?

1372. Yes. We are now confined to ancestral land?—I think the practice, from my own experience—I do not speak for the other Judges—I think I never passed a title in which every owner that I knew of was not either in the instrument or had voluntarily excluded himself.

1373. Is it common in this Island for any piece of land to have such a very small number of owners as ten?—Yes.

1374. It is common?—Yes. The numbers vary very much with the country. Up amongst the Ngatiwhatua the titles are very clear—sometimes two or three owners. The Ngapuhi titles are very clear too; but when you get down amongst the Arawas and Waikato, and in that direction, then they get very intricate indeed.

1375. I understand. If you were taking every case you would have to give different answers, according as to whether it was ancestral or conquered territory?—Yes. Most of the conquered territory has been divided; and in that case, if the division is recent, the titles are very simple. But if they have not been divided, as was the case of the Ngatihaua, then, of course, it must belong to the whole tribe. Sometimes they bring in allies, although I never allowed them to do so if I knew of it, because, in fact, it would be making the whole of New Zealand one vast estate.

1376. That is, some person in the tribe had some sort of claim to the piece of land?—Yes. There is no such thing as title in our sense. Te Waharoa was the man who brought in his allies and acquired all this Ngatihaua territory, and he and the other military leaders could have apportioned it as they liked. And, to my mind, here is one of the most ruinous results of our Native Land Acts. These old men, who enlarged the tribe and preserved the existence of it, are treated when they get into these titles of the Native Land Court as a returned slave from Ngapuhi is treated. That has been most disastrous, I think. Being to a certain extent a philo-Maori, if I had seen in 1865 what the result of our Acts would have been, I do not think I should have assisted in their introduction. I should have said, "Let colonization go to the wall."

1377. I agree that the effect of these Acts has been very levelling?—Yes, very much. It has destroyed the race.

1378. *Mr. Stewart.* Can you state what were the grounds on which you recommended a rehearing?—I do not remember.

1379. When the rehearing came on I suppose the Act of 1880 was in force?—Yes.

1380. The rehearing was on the 20th October, and this Act was assented to on the 30th August, 1880. It came into force on the 1st October?—Yes.

1381. Now, was there any similar provision under the Act of 1873 to section 48 of the Act of 1880—that is, as to orders?—No, there was no such provision.

1382. That section says, "Every order made or certificate granted by the Court on a rehearing shall bear date on such day as the Court thinks fit to fix not being earlier than the day on which the order of the Court was made on the hearing of the original application." So that, if a solicitor applied to you to fix an earlier date than that on which the Court actually sat for the rehearing, and you saw that it would prejudice some parties, would you still accede to his request? Suppose those circumstances that there were two parties to the case?—If there were two parties, of course I should not fix a date without hearing parties and considering; but if there was only one party, I should take whatever he gave me, so long as it did not go beyond the date of the original hearing.

1383. Now, I notice the Supreme Court order says, "It is certified and adjudged in cases of rehearing under section 58 of the above Act, where an order has been made for the rehearing, and the applicants subsequently abandon their application, the Native Land Court has power to affirm the original decision." Would it have made any difference to you—altered your opinion in any way? You see, the Supreme Court holds that when the applicants "subsequently abandon their application the Native Land Court would have power to affirm the original decision"?—Yes.

1384. Would it make any difference in your mind where persons who are not applicants, but claim to have an interest in the land, wish the rehearing gone on with?—These are people, I have