

96. *Arini Tonore te Teira Tiakitai.*] There was a block called Matamahoa sold by Tareha—did you ever hear that the people objected to that sale?—No, but they may have done so.

97. Do you know whether the tribe objected to the sale of Te Matauamaui by Te Moananui?—I am not aware whether the people disapproved or not; but I know there was a general disapproval of the conduct of the *rangatiras* in selling the property of the tribe without their concurrence.

Mr. JOHN EDWIN MACDONALD, Chief Judge, Native Land Court, examined.

98. *Mr. Ormond.*] Can you tell the Committee whether the Native Land Court has any guiding rule on which judgment is given?—Yes; almost every case now would be provided with a precedent—that is, every case of Maori usage and custom, as distinguished from question of fact, would have a precedent, and they are mostly to be found in Judge Fenton's book—"Important Judgments."

99. In your opinion, are the Native customs, as regards guiding the Court, fairly laid down?—I think so. I can hardly conceive that any custom not subjected to previous investigation and decision could arise. Every question of custom or usage that would come before the Court would have been the subject of consideration before.

100. The last witness says that such precedents do not exist for their guidance?—Every Judge must have his own decisions in the first case to guide him, and then he would have the decisions of other Judges in a most handy form. Judge Fenton's book touches almost every subject.

101. That the Judges would have before them?—Yes; that and judgments reported in the newspapers is where I obtained most of the knowledge I possess.

102. Do you not think it advisable, considering the large interests the Native Land Court has to deal with, that the Judges should have fixed rules to guide the Court as regards Native customs?—I hardly think it is necessary to fix any such rules, for in almost every instance they would be guided by precedent, in the same way as the Supreme Court Judges are guided by previous decisions in common-law points.

103. Then, with regard to this particular case, the question has arisen as to the weight which the Court gives to mana. What would you say had been the former action of the Native Land Court in admitting mana as a right in the judgment of cases?—As to the admission of the right in respect of mana in the abstract, I never heard it questioned until this case. I never knew a case in which a right or established mana was disputed. The amount of value and weight to be given in respect of a particular mana was a question between the person who claimed mana and the persons at whose expense he claimed it, and has frequently been a subject of dispute between them.

104. But the principle has been acknowledged as something to be considered?—Acknowledged in every instance in which mana was set up. I never knew it questioned before.

105. Can you say whether, in the majority of the more important cases the Native Land Court has dealt with, mana has had a more or less bearing upon such cases?—In every case some one claims larger interests than others—that is, in respect of their position and *status* among the people who own the block—a sort of mana in the particular person. In point of fact, the land is very seldom equally divided among all; and when any man gets more than another it is by reason of his *status*, which is more or less an acknowledgement of his mana.

106. Do you not think the tendency has been of late years for mana to lose a great deal of the influence which attached to it a few years ago?—Yes; because the old chiefs, who would, no doubt, have the right to mana, are getting too old to care to assert it; and the young chiefs, on the other hand, rise up and say they are as good as the people who claim the mana. That is the feeling nowadays; but it has been very different years ago.

107. I put it this way: Supposing important cases were being heard in 1840, the year on which we start, would not mana have had such an influence as this, that no set of Natives could have disposed of their lands without the assent of the chief who exercised the mana?—Yes; most undoubtedly. That was the origin of Thompson's war, as I understand.

108. Do you know, personally, anything of the history of this particular case we are now inquiring about?—No; all the knowledge that I have is that Judge Mair gave a judgment in respect of which an application was made to me for a rehearing. I read his judgment; but, inasmuch as every person concerned in the judgment desired a rehearing, and the Judge recommended that it should be given, I gave it without much consideration.

109. *Mr. Hutchison.*] Is mana a Maori word or is it a word of long standing in the Maori language?—I do not know. I do not know more than five words of Maori, and that is one of them.

110. What does it mean?—I have often talked to people learned in Maori matters about it, and I came to the conclusion that it meant the position which I hope my ancestors held among their neighbours.

111. Does it not mean the getting of influence rather than rights?—Whenever the word has been defined precisely it is held to be a sort of influence that one man had over certain people and certain land in some cases, quite irrespective of any occupation of this land or proprietary title to it. You will understand that my knowledge is derived from a limited practice in the Native Land Court and sitting as Judge afterwards.

112. You asked the two Judges, Mr. Mackay and Major Scannell, to rehear this case?—Yes.

113. I suppose you were satisfied they were quite competent to deal with it, with the aid of the Assessor?—I had no doubt they were as competent as I was.

114. *Mr. Monk.*] Do the Natives understand the judgments of the Court, and have they such judgments for their guidance in bringing their cases before the Native Land Court?—It would be very useful to have them printed either in English or Maori, or in both languages. The judgments given are read over in Maori, and the Natives can have them copied. We generally get the newspapers to print them in English and sometimes in Maori.