

deny that the agricultural leases granted to these persons after the passing of the Act of 1884, containing Glasgow clauses, provisions for compensation for improvements, and protecting such improvements—that leases so granted, bearing the seal of the Public Trust Office, and purporting to be executed in pursuance of the statute and the regulations thereunder made in pursuance of an order of the Governor in Council—who can deny that the tenants who have made improvements on the faith of these leases must be compensated if that legislation is to be repealed? Why, sir, these leases have been dealt with, they have been assigned and mortgaged, money has been advanced on them, and spent on the faith of a title bearing the seal of a public officer of the colony. Is it to be said that because the words in the 8th section of the Act of 1884 are “regulations to be issued,” and because the regulations of 1883 were not issued after the passing of the Act of 1884, that these people are to lose their money, and that the Parliament, the Government, and the department who made the mistake are to be free from liability? There is a large number of these leases issued under the authority of the department, bearing its seal, and purporting to be issued under public regulations: is it to be said that the people who hold these leases shall have no compensation for the improvements they have made?

*Mr. Stewart:* How will that apply to the confirmed leases?

*Mr. Bell:* I have not come to them yet. What I now say is that, in respect of these leases granted since 1884, purporting to be in pursuance of the statute and the regulations thereunder, and bearing the seal of the colony, the colony is bound to hold these persons harmless. Here I shall apply the same argument to the case of my clients, the confirmed-lease holders. Whose fault was it that the regulations are invalid, if they are invalid? If the leases contain clauses which were not authorised, and yet the Government and the department executed leases containing such clauses, and if persons have advanced money on the faith of the public seal, whose fault is it that injury has been done? Who is to bear the loss?

*Mr. Stewart:* Did the Natives consent to the leases?

*Mr. Bell:* I do not know that they were asked. The Public Trustee was bound to consult with such persons as he thought were able to judge of the views of the Natives on the point.

*Hon. the Chairman:* What I understand you are contending for is that, with regard to these leases, if there has been any defect or any irregularity, the lessees are not to be held responsible.

*Mr. Bell:* I go further; if you are going to repeal the legislation on which we depend, we say that you will take from us that footing on which we are prepared to go to the Courts, and you cannot take it from us in any case without providing for what you give in every instance where you take a man's property away from him. I now proceed to the case of the confirmed-lease holders. I have produced the returns of these and they are now before the Committee. I may here state that I have been able to collect only nineteen of the confirmed leases. I would have been able to produce more if I had had time to make copies. I first ask the attention of the Committee to sections 3 and 4 of the Act of 1880, as follows:—

“3. The Governor is hereby empowered in such manner as he may think fit to make a final settlement of every claim or grievance of any nature arising out of any award, promise, or engagement howsoever made, by or on behalf of the Government of the colony, in respect of land situate within the confiscated territory, and, so far as it may be expedient, to do so in accordance with the said reports, and to issue Crown grants in fulfilment of such awards, promises, and engagements.

“4. The Governor in Council is hereby empowered to make and set apart reserves for Natives within the confiscated territory, to be inalienable by sale, lease, or other disposition, and to issue Crown grants for the same, subject to such terms, conditions, and limitations as he may think fit. Also to make and set apart reserves for the benefit of Natives, to be alienable, but which shall be disposed of under the authority of an Act of the General Assembly to be thereafter passed for regulating such disposal, and not otherwise.”

Now, Sir Robert Stout has led the Committee to assume that these reserves are reserves made in pursuance of awards made, and promises or engagements entered into with the Natives. On this point he is in error himself, and he has led my learned friends here into error. That is not the case. Awards, promises, and engagements are provided for by section 3, in respect of which awards, promises, or engagements Crown grants were issued to the hapus for lands set apart for the Natives. But I must insist on the distinction which I have already pointed out between land which has been reserved for the benefit of the Natives and land which has been granted to them in pursuance of some promise or engagement, in the latter case the land granted to them being their own property as much as the land of the European is his property. These reserves are granted out of lands of the Crown, which is confiscated territory, and not in pursuance of any promise or engagement but in pursuance of the policy of the country, and to make provision for the Natives living here.

*Hon. the Chairman:* Is there anything to identify these leases as having been made under section 4?

*Mr. Bell:* Yes; the Acts which were passed for regulating the disposal of these lands were the Acts of 1881, 1884, 1887. The grants to Honi Pihama and Manaia, for instance, and others are grants of land to the grantees in pursuance of section 3. Under the Act of 1881, I may remind the Committee, these reserves are to be dealt with, not as the Natives themselves may choose to deal with them, but as future legislation should direct. We have been told that the management of their own lands has been taken from the Natives. In the original Act, which authorised the making of these reserves, it is provided that they shall be dealt with and disposed of by authority of an Act of the General Assembly and regulations thereafter to be made for such disposal, and “not otherwise.” Is it not, then, unreasonable on the part of Sir Robert Stout to come here and say you are dealing with Native land and taking away from the Natives the rights of the Natives, when you find that the Act itself, which gives power to make the grants, provides that the lands are to be dealt with by authority of an Act of the General Assembly and the regulations thereafter to be made, and not otherwise?