

*Mr. Stewart:* In the interest of the Natives?

*Mr. Bell:* It does not use those words, but I admit that may be the intention. The report of the Commissioners (Parliamentary Paper G.-2, 1880, page 39, Part XII.) refers to what is called the abandonment of confiscated land. The Commissioners say that the land confiscated has never been abandoned, and that the reserves can only be made by the grace of the Crown. In the preamble to the Act of 1881 reference is made to the 4th section, and not to the 3rd section, of "The West Coast Settlement (North Island) Act, 1880." The preamble is in the following terms: "Whereas by the fourth section of 'The West Coast Settlement (North Island) Act, 1880,' the Governor in Council is 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 passed for regulating such disposal, and not otherwise: And whereas it is expedient to make provision accordingly." The Act of 1881 begins, then, by declaring that it is passed for the purpose of carrying out the provisions of the 4th section of the Act of 1880. The Crown has said, "We create these reserves; the management of them shall be in the Public Trustee; he shall lease them; he shall deal with them." The 8th section of the Act of 1880 provides that the Public Trustee shall have full powers of management. He may exchange, lease, or otherwise dispose of them in such manner as he, in his discretion, shall think best for the benefit of the Natives, and with a view to the promotion of settlement—with a view to both. It was to be the duty of the Trustee, as far as convenient in the exercise of the powers given him by the Act, to consult the Natives who might be in the grant, and to act in accordance with their wishes as far as possible. Section 5 provides that the Governor may make, alter, and revoke regulations for the proper management of the reserves.

*Mr. Stewart:* Looking through these Acts, it would appear that, with a view to the beneficial management of the reserves, the Natives were to be consulted.

*Mr. Bell:* Then we come to the 7th section—

*Hon. the Chairman:* Of the Act of 1881?

*Mr. Bell:* Yes, sir. No reserve which has been made alienable in any way shall be so alienated except with the concurrence of the Public Trustee. That is a clause referring generally, no doubt, to section 3 as well—he has not the management, but he has the power to prohibit any dealing. By section 8 of the same Act a Reserves Trustee was to be appointed. This is a different person altogether from the West Coast Commissioner. The Reserves Trustee is an officer of the Public Trustee. The West Coast Commissioner was, and is, an officer of the Parliament: he holds the West Coast Commission under the authority of Parliament. By section 11 of this Act of 1881 it was provided that the Trustee might lease for agricultural purposes to any person, for a period not exceeding twenty-one years, subject to such provisions in the lease as shall seem fair and reasonable. Now, I ask, what would any layman say who read that clause, or take it to mean but that the Public Trustee had full powers to make leases, including any provisions which he considered fair and equitable? I am not going into the questions of law which Sir Robert Stout has raised; I am quite prepared to meet him outside this Committee on that point. Sir Robert Stout admitted that the limitations of section 11 did not apply to the case of the confirmed leases being specially excluded by the last words of section 18. By section 18 of the Act of 1881 it is provided as follows:—

"And whereas certain Natives entitled, or who may become entitled, to reserves granted or to be granted under the said Act have already leased the same or portions thereof for specified terms of years to various settlers, who have entered into possession, occupied, and improved the same, and the validity of such leases is doubtful: Be it therefore further enacted,—The Governor in Council, on being satisfied by the report of any Commissioner under the said Act—(1) that any such lease was made *bonâ fide* and granted by the persons since shown to be entitled to the land described in the lease, or that, subsequent to the issue of a Crown grant for such land, the said persons have confirmed such lease; (2) that the terms of such lease were fair and equitable to the Natives at the time when the lease was granted; (3) that the rents and conditions have been duly paid and performed—may confirm such lease for the term for which it has been made, notwithstanding anything contained in section eleven of this Act.

"The power of confirmation hereby granted shall not extend to any lease which may have been granted since the passing of 'The Confiscated Lands Inquiry and Maori Prisoners' Trials Act, 1879.'"

Pursuant to this Act a number of leases were confirmed by Sir William Fox, but the confirmation was not of much use. A difficulty at once arose [G.-3, 1883, page 19]. The Committee will have to consider whether they will ask for the original of this document, a part of which has been omitted from the print in the Appendices. The Committee will judge whether they require to ask for the original. The date of the report is the 12th May, 1883. I had better read the whole of this paper:—

"A difficulty has presented itself in reference to a portion of the work of the West Coast Commission, the removal of which will probably require the action of Parliament.

"This difficulty is in connection with the position of a number of persons who have, during a period of several years previous to the appointment of the West Coast Commissions, obtained leases from Natives of lands which have now, on the recommendation of the present Commissioner, been made reserves, and been granted to the tribes or hapus which have been found to be entitled to them.

"The attention of the Commissioners of 1880 was called to the existence of these leases at an early period of their work, but as they were manifestly illegal transactions, and not in any way involved in the solution of the questions existing between the Natives and the Government of the colony (into which solely the Commissioners were appointed to inquire), they put the subject on one