

*Hon. the Chairman*: I want to know what you consider would be the effect of that clause in the event of the existing lessee not being paid out.

*Mr. Levi*: As to whether he would have a further right of renewal?

*Hon. the Chairman*: No; how the rent would be assessed, supposing it did not pass into outside hands. What would be the basis for fixing the rent?

*Mr. Levi*: The lease provides as follows: "But in the fixing of the rents the arbitrators or umpire shall not be entitled to take into consideration the value of the improvements for which the lessee would otherwise have been entitled to payment." That must mean that the rent would be determined in the value of the land less these improvements. I do not see that it could mean anything else.

*Mr. Bell*: We do not dispute that.

*Mr. Sinclair* addressed the Committee.—My learned friend Mr. Bell, in referring to these reserves, seemed to think that the land is not the property of the Natives. He was pleased to put a peculiar interpretation on the word "reserves." I think he said that the reserves were allotted to preserve a foothold in the colony for the Native people. Granting for argument's sake that he is correct, the question then arises, whether the arbitration proceedings and the acts of the Public Trustee were beneficial to the Natives. Has the Public Trustee acted for the benefit of the Native people, or has he acted against the interests of the Native people, and in favour of the lessees? If Mr. Bell is correct, it was the more incumbent on the Trustee to exercise care in dealing with this land. Crown grants were, however, issued to individual Natives, in some cases with restrictions, in most cases the usual restriction against sale, and in some cases with none. Under section 14 of the Act of 1881 it was possible to have these restrictions removed.

*Mr. Wilson*: Only on conditions.

*Mr. Sinclair*: I think the case of these reserves is of a similar nature to those round about Wellington, where the Natives have obtained what is equivalent to a fee-simple, and in some cases they have sold the land. Thus, although these reserves were granted with these restrictions, the restrictions being removed, the lands, though called "reserves," became the property in fee-simple of the individual Natives to whom they are granted. The case might have been different if the Crown grants had not been issued. As regards leases issued by the Public Trustee, the bulk of which have been for lands north of the Waingongoro (there are a few north of the Tirotiromoana Reserve also), the leases were granted under the Act of 1881 and regulations of 1883. The validity of these regulations of 1883 has been seriously questioned. I am inclined to think, with Sir Robert Stout, that they are *ultra vires*; and if these regulations should turn out to be invalid, that fact would jeopardize the whole of these leases. But we are not asking that these leases should be declared invalid. That would be an act of great injustice to a large number of settlers. We say that the grants were issued to us with the restriction that the land should not be leased for a longer period than twenty-one years. We ask that these leases shall be brought back to their original status—that is, to a lease for twenty-one years—and that any doubt as to their validity should be cleared up.

*Mr. Stewart*: Both parties seem to have acted under these as regulations in operation: it would be a peculiar thing to say that, where both parties acted on a common footing, when you come for equitable relief, one side should take advantage of what at best is a technical difficulty.

*Mr. Sinclair*: If you mean by "both parties" the Public Trustee and the lessees, then both parties have concurred in accepting these leases; but the Natives never accepted them.

*Mr. Stewart*: But would the tenants have ever given the rents if it were not clear to them that they would get compensation?

*Mr. Sinclair*: If the Act does not give the powers that are contained in the regulations, and if regulations are made which extend those powers, it cannot for a moment be contended that because this is done the Natives must suffer: the maxim *caveat emptor* should apply. We contend that the powers given by Parliament to the Public Trustee and the other officers of the Government concerned in these leases are far exceeded by the regulations that have been framed with their concurrence and adopted by them. They have taken to themselves powers far in excess of what has been given by Parliament, and it is only right they should be responsible. I apprehend that the regulations are framed under section 5: that section sets out what powers the Trustee is to have in granting leases.

*Mr. Stewart*: You see that under section 13 it refers to all regulations made thereunder—that is, in the Act of 1881: were any other regulations *de facto* existing than those of 1883?

*Mr. Sinclair*: I think not. If it had been intended to validate those regulations the Act would have so stated.

*Mr. Wilson*: The regulations were never doubted until after the passing of the Act, 1887.

*Mr. Sinclair*: I maintain that those regulations have exceeded the powers which Parliament conferred on the Public Trustee: they gave him powers which he did not possess under any Act; he has acted on those powers in excess of his authority, and inasmuch as he has done so he has done wrong. With regard to the remarks which Mr. Wilson addressed to the Committee, and the meaning of the word "settlement" in the various Acts, I consider that, if Mr. Wilson had studied as carefully as I have done the reports of Sir William Fox, it would have prevented him falling into that error. It must appear to any one who reads the word "settlement," as there used, that the meaning is "settlement of all difficulties"—to clear up all questions, to settle all question as to legality of confiscating the lands of loyal and rebel Natives alike.

*Mr. Bell*: The language is, "to settle all difficulties."

*Mr. Sinclair*: Without going into the subject fully at present, I would like to make reference to the case of the Ngatirahiri and other Natives of Waitara, and the way in which Sir William Fox thought they should be treated (page 4, A.—5A, 1884). Sir William Fox says, "Reference to my