

1431. Yes; and should any one individual among the hundred owners desire to have his particular portion awarded to himself in severalty, it would be cut out for him. What do you think of that?—That would be a good arrangement.

1432. If any particular owner among the hundred desired to lease or sell, what is your opinion upon that point?—I think that in such cases the person should have his share partitioned off to him, and that he should be allowed to lease or sell his own share as he pleased. But there should be no individual dealing before partitionment. This is a plan of the Ngatihaupoto Block. This land is held by individuals in areas of ten acres each. This other seventy-five-acre block belongs to myself alone. On this side is a public-house; and the west side belongs to a European. Parihaka lies to the north. The nine persons who are named here are the owners of these 543 acres. The portion to the eastward—the Mount Egmont side—belongs to the Government, and they sold it in September last. It is not exactly sold; it is leased to Europeans. The portion to the west of the Government leases belongs to my hapu. There is no lease over the other portion at all; nor has the Public Trustee leased the portion either to the north or to the south. All that portion from Oaiti, and on to Opunake and Oeo, is leased. What I want to point out is this: that in any case such as that of the 543 acres held by nine persons, that if any of them wished to lease his undivided share, his share should be cut out. In case these nine persons wished to sell or lease this land, they should first call a meeting, and invite the Government officer to be present at that meeting. In the case of a particular owner wishing to lease or sell his interest, his portion should be cut out and surveyed; and he should pay the cost of the survey himself. Should the nine persons desire to lease the land, the same principle would be observed. If the nine owners wished to lease, well and good; let them do so, after discussing the matter amongst themselves. Here is a block of land of ninety-nine acres; I am the sole owner, and should have the right to lease or sell it—in fact, to do whatever I like with it. The only thing that is in my way at the present time is the restriction imposed by the Acts. I object to the power over it being placed in the hands of the Public Trustee. It debars me from dealing with my property as I should wish, and, that too, notwithstanding the fact that I am the sole owner of it. There are two ten-acre sections here that I have leased by way of experiment—Sections 128 and 129. I leased six months ago, to a European, the terms being 4s. an acre for five years, and 5s. 6d. an acre for six years thereafter; the full term of the lease being eleven years. I wish now to see if the Public Trustee will interfere with my lease.

1433. *Mr. Rees.*] If the man did not pay the stipulated rent I do not think you can recover in default of a proper lease; and if the man wished to sell his interest in the lease he could not do so.—The terms of the lease are that, if does not pay at the appointed time the lease will be cancelled, and that he has to improve the land.

WANGANUI, 27TH APRIL, 1891.

MR. SAMUEL THOMAS FITZHERBERT, examined.

1434. *Mr. Mackay.*] You are a barrister and solicitor practising in Wanganui?—Yes.

1435. I sent you a copy of the reference, in order that you might be enabled to lay before us your opinions upon the subjects contained in it?—Yes, I received the copy, and I have been considering the matter during the last two or three days, with the view of seeing whether I could give you any information on the different subjects that are referred to.

1436. Can you give us any information with regard to the first subject set out in the reference—viz., as to the operation of the existing laws relating to the alienation and disposition of interests in Native lands?—Before making any remarks upon that, I may say that I am not quite clear as to the scope of this question. It is a very general question. I do not quite know in which way you wish me to treat it. It opens up such a wide field that I might speak upon it for an indefinite length of time, and, therefore, if the Commissioners would give me some indication as to which particular points they desire information upon it would facilitate matters.

1437. Can you give us your opinion as to the present mode of disposing of lands by sale, or of alienating them by lease, as between Natives and Europeans?—Native land can now be conveyed or leased under the provisions of the Land Transfer Act, or under the Property Law Consolidation Act, where the land is under those Acts. In addition to that there is land in a transition stage, land which has been passed through the Native Land Court, and that can be dealt with by a provisional registration; and, where the whole land is dealt with, an absolute alienation can be obtained under section 4 of the Native Land Court Act of 1888. With regard to such land as is under the Land Transfer Act, or the Property Law Consolidation Act, there is not much to be said except with respect to the general question of alienation. So far as concerns land in the transition state, I think everything reasonable should be done to make the process of dealing as little cumbersome as possible. Take, for instance, section 4 of the Native Land Court Act Amendment Act of 1888. The Commissioners, of course, are aware that it provides, "Where one such deed, or several such deeds (that is to say, any conveyance of land held by memorial of ownership or certificate of title) together effect a conveyance of the entire area held under a certificate or memorial, it shall be a duty of a Chief Judge, assisted by an Assessor, after due notice and by inquiry in open Court, to ascertain the *bona fides* of the transaction; and, if it is found to be equitable, and not in contravention of any law in force at the time such deed or deeds were executed, to forward such deed or deeds to the Governor, with a recommendation that a warrant for land-transfer certificate should issue for the land conveyed." And if in the opinion of the Governor the report of the Chief Judge warrants it, he can issue a warrant for the certificate of title. I would point out that, practically speaking, this is the same inquiry as that gone through by the Frauds Commissioner; and a case occurred in our own office recently where it was, perhaps, still more marked, because the vendor was a European, a trustee for others, and he had first of all to go before the Frauds Commissioner, where all necessary inquiries were made; and yet he had to go through