

that the contents of the deed in respect of which he was acting as Attesting Officer and Trust Commissioner had been correctly interpreted by the interpreter. Many of the Magistrates, solicitors, and other officers empowered under the present law to attest signatures are, by reason of their ignorance of the Maori language, unable to tell whether a deed is correctly interpreted or not; consequently, such attestation is no safeguard against fraud.

*Native-land Duty.*—I consider that the present duty of 10 per cent. on sales and leases is exorbitant, and that, in the case of leases, levying this tax in one lump sum on the capitalised value is most impolitic and unjust, and tends to discourage dealings in Native lands. It should be reduced to 5 per cent. on the annual rental, and 3 per cent. on proceeds of sales. I believe the imposition of a small *ad valorem* rate on Native lands would have a beneficial effect in inducing the Natives to utilise large tracts of country now lying idle and unproductive.

There are other questions in connection with this subject I would have liked to touch upon; but I have already exceeded my limits. I have, &c.,

JNO. T. LARGE, Licensed Interpreter.

The Chairman, Native Land Laws Commission, Wellington.

#### No. 9.

A. J. COTTERILL, Esq., Barrister-at-Law and Crown Solicitor, Napier, to the NATIVE-LAND LAWS COMMISSIONERS.

GENTLEMEN,—

Napier, 11th May, 1891.

I have to acknowledge receipt of your circular of the 29th April, and regret that my absence from Napier prevented my giving evidence before your Commission. I have, however, much pleasure in availing myself of the invitation of Mr. Mackay to put into writing a few observations which suggest themselves to me after an experience in Native-land matters extending over a period of more than seventeen years.

1. The entire repeal of all existing Native-land laws appears to me to be indispensable, so that an intelligible system may be introduced. The present Acts constitute such a jumble that cases are very rare indeed where any lawyer of repute could advise a purchaser that he was taking a secure title until he became a registered proprietor under the Land Transfer Acts.

2. As to the second subject of inquiry, there is, I believe, an almost universal consensus of opinion that the constitution, practice, and procedure of the existing Native Land Court is eminently unsatisfactory. In my opinion more harm than good would result from the total abolition of the Court, as is proposed by some persons. Its reconstitution with a view to assimilate its practice and procedure to that of the Supreme Court would be a vast improvement upon the present system. The number of Judges could be reduced if the rules of evidence were in some degree to prevail in the Court. I do not mean to say that those rules should be adhered to in absolute strictness. But at present the greater part of the time of the Court is taken up with twaddle that has nothing to do with the business before the Court. A much smaller Court, composed of experienced men, would do the work much better and much more expeditiously than at present. To attain efficiency by the establishment of a strong Court, it would of course be indispensable that the Judges should be paid good salaries, and be independent of political control.

3. I apprehend that the classes of cases which exhibit the defects in the present system have already been exhaustively presented to the Commission. I shall therefore confine myself to the question of what remedy should be adopted in respect of defectively-acquired titles in the past. Two plans have been suggested: (a.) The establishment of a permanent Commission, having full power to deal finally with all such cases, and to issue indefeasible titles where fraud is absent. (b.) The validation by statute of all technical irregularities, leaving the Natives to attack fraudulent transactions through the medium of the ordinary law-courts. The latter plan would, I think, work far more satisfactorily than the other.

Experience in the past has not tended to create much confidence in the results of the labours of Commissions of the nature proposed. The constitution of such a Commission presents a difficulty to start with. Unless it were composed of members having a status equal to that of Supreme Court Judges, I should be very apprehensive of the experiment of creating such a Court without appeal. Unless so constituted the Commission would not be any improvement on the present Native Land Court, and I fear that the settlement of matters which are now retarding the progress of a large proportion of the North Island would be indefinitely postponed.

There is one very important consideration which I think should weigh very strongly in favour of the adoption of the proposal for validation by statute rather than by Commission—viz., that the latter course involves an inquiry into every case where technical irregularity may exist. The result of this would be that an immense amount of time would be spent upon the investigation of cases the *bona fides* of which had never been called in question. The mere fact that a case had to come before the Court or Commission would be an inducement to the Natives to fabricate grievances which would otherwise never have been thought of. There would not be wanting advisers to prompt them to repudiate equitable obligations. On the other hand, if titles not free from irregularities be validated by statute comparatively few in number will necessitate investigation. I have heard it objected to this proposal that it throws the onus of attack upon the Natives. It does not seem to me that there is any unfairness in this: it is in accordance with the spirit of English law that the party in possession should be the defender, and in the vast majority of cases to which the proposal is applicable I feel sure it will be found that the persons in possession have for years been under the *bona fide* belief that they had acquired a title in accordance with the law.

I am aware that there is great indisposition on the part of members of the Legislature to pass validatory measures in Native-land transactions. \* This is a political question, upon which I should