SESS. II.—1891.

NEW ZEALAND.

REPORT

OF THE

COMMISSION

APPOINTED TO INQUIRE INTO THE SUBJECT OF THE

NATIVE LAND LAWS.

WELLINGTON.
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COMMISSION.

To all to whom these presents shall come, and to WILLIAM LEE REES, Esquire, of Auckland, in the Colony of New Zealand, a member of the House of Representatives for the said colony; JAMES CARROLL, Esquire, of Gisborne, in the said colony, also a member of the said House; and THOMAS MACKAY, Esquire, of Wellington, in the said colony: Greeting.

WHEREAS, for the purpose of affording information to the General Assembly of New Zealand as to the present state of the law affecting the alienation and disposition of interests in Native lands, and for the other objects and purposes hereinafter mentioned, it is expedient a Commission should be issued to make the inquiry and suggestions hereinafter particularly referred to:

Now, therefore, know ye that I, William Hillier, Earl of Onslow, the Governor of the Colony of New Zealand, reposing trust and confidence in your knowledge, ability, and integrity, and by and with the advice and consent of the Executive Council of the said colony, do hereby constitute and appoint you, the said

WILLIAM LEE REES,
JAMES CARROLL, and
THOMAS MACKAY,

to be Commissioners for the purpose of making inquiry into and suggestions upon the following matters: that is to say,—

1. The operation of the existing laws relating to the alienation and disposition of interests in Native lands within the colony.
2. The general constitution, practice, and procedure of the Native Land Court, so far as may be necessary to ascertain the operation of the existing laws, and in what respects the constitution, practice, and procedure of the said Court could be simplified, or amended, or whether the same should be reconstituted.
3. What class or classes of cases have arisen which exhibit the defects in the present system of alienating or disposing of interests in Native lands, or in which non-compliance with existing laws has created or complicated defective titles where such lands have been equitably acquired or dealt with after the titles thereto have been investigated by the Native Land Court, and where such complication or defect still exists, and what remedy, if any, should be adopted in respect thereof. Provided that the said Commissioners shall not have power to inquire into any particular case within the terms of this clause unless the parties interested shall consent to such case being brought before the Commission, nor shall the Commissioners inquire into any such matter where the existing title to any such land is directly or indirectly the subject of legal proceedings in any Court or before any authority empowered to deal with or investigate the same.
4. The principles on which interests in Native lands should in future be alienated or disposed of by or on behalf of the Native owners, and the manner, terms, and conditions in which the same can be carried into effect.
5. And generally to inquire into any other matter or thing necessary to elicit full information in the premises.

And for the better enabling you to carry these presents into effect you are hereby authorised and empowered to make and conduct any inquiry at such place or places in the North Island of the colony as you may deem expedient; and to call before you and examine on oath or otherwise, as may be allowed by law, such person or persons as you may think capable of affording you information in the premises. And you are also hereby empowered to call for and examine all such records, books, deeds, instruments, accounts, plans, maps, or other documents, as you shall judge necessary for the purposes aforesaid, or any of them. And, further, that, using all due diligence, and not later than two calendar months from the date hereof, you do report to me, under your hands and seals, your opinion resulting from the said inquiry in respect of the matters hereby referred to you, and stating in such report or annexed thereto what suggestions and recommendations you offer or make for remedy of all or any of such matters as aforesaid, and the manner, terms, and conditions in and upon which the same should, in your opinion, be carried into effect. And it is hereby declared that this Commission shall continue in full force and virtue although the inquiry be not regularly continued from time to time or from place to place by adjournment. And, lastly, that the powers, authorities, and duties hereby conferred and imposed upon you, the said Commissioners, may be exercised and performed by any two of you sitting and acting together.

In witness whereof I, the said William Hillier, Earl of Onslow, the Governor of the Colony of New Zealand, have hereunto set my hand, and have caused these (L.S.) presents to be issued under the seal of the said colony, at Wellington, in the said colony, this eleventh day of February, one thousand eight hundred and ninety-one.

ONSLOW,
Governor

Issued in Executive Council—

ALEX. WILLIS,
Clerk of the Executive Council.

REPORT.

To His Excellency the Right Honourable William Hillier, Earl of Onslow, of Onslow in the County of Salop; Viscount Cranley, of Cranley in the County of Surrey; Baron Onslow, of Onslow in the County of Salop, and of West Clandon in the County of Surrey; Baron Cranley of Imbercourt; Baronet; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George; Governor and Commander-in-Chief in and over Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same.

MAY IT PLEASE YOUR EXCELLENCY,—

In accordance with the powers and instructions contained in your Excellency's Commission, we have considered the matters committed to us, and now have the honour to present our report thereon:—

In the performance of our duty we have traversed nearly the whole of the North Island. We have held sittings in Gisborne, Auckland, Cambridge, Kawakawa, Waimate North, Te Ahuahu, Whangarei, Otorohanga, New Plymouth, Parihaka, Hawera, Wanganui, Palmerston North, Danevirke, Waipawa, Napier, Greytown, Otaki, and Wellington.

We have examined a large number of persons, both Europeans and Natives, whom we thought likely to give useful evidence. The leading Native chiefs have met us in the presence of their people, and have generally spoken freely and openly upon the different subjects submitted to them. All the principal tribes, or representatives from them, the Ngapuhi, Ngatipaoa, Waikato, Ngaiterangi, Te Arawa, Te Urewera, Ngatituwharetoa, Ngatimaniapoto, Ngatiporou, Rongowhakaata, Ngatikahungunu, Ngatitama, Ngatiawa, Taranaki, Ngatiruanui, Ngarauru, Ngatihau, Ngatiraukawa, Ngatiapa, Muaupoko, Rangitane, and Ngatitoa have thus given expression to their own wants and wishes, and their ideas concerning the Native-land laws and the Native Land Courts. A map of the North Island is appended, showing the route pursued and places visited by the Commissioners, and the respective boundaries of the original tribal lands of the Natives; also a copy of the Treaty of Waitangi, and of sections 71 and 72 of "The Constitution Act, 1852" (15 and 16 Vict., c. 72), relative to Native lands and Native local self-government.

We were everywhere received with a cordial welcome. Each tribe was eager to express their gratitude to the Governor for thus sending Commissioners to visit them and to ascertain their wishes. This entirely new departure filled them with hope, and they spoke always as men who believed that the Government really desired to ascertain their grounds of complaint, in order to apply a remedy.

Those Europeans who are now most conversant with the history of Native-land administration, and many of the leading members of the legal profession, have given their testimony and assistance.

Recognising the very great importance of the task we were called upon to perform, and the magnitude of the interests, moral, social, and material, which are at stake, we have endeavoured to exhaust all available sources of information and to elicit opinions from those qualified by experience to speak with authority. We have also searched the records of Parliament for information. Conscious of much that is imperfect in our work, and knowing the wide diversities of opinion existing upon the question of Native administration, we yet trust that the results of our labours may commend themselves to your Excellency's judgment, and may be found useful by the Legislature of the colony.

TWO QUESTIONS.

There are, by your Excellency's Commission, five questions given to us to answer, which we submit may be fairly condensed into two, thus:—

1. What are the origin, nature, and extent of the present defects (*a*) in the Native-land laws, (*b*) in the alienation of interests in Native land, and (*c*) the Native Land Courts?

2. What are the principles on which the Native lands should henceforth be administered, so as to benefit both Natives and Europeans and promote settlement?

In discussing these questions it is necessary to consider the various methods of dealing with the Natives for their lands, and the legislation which has taken place for the purpose of determining the Native title, and of controlling the mode of alienating lands when the title is so determined. A statement of the historic facts and a summary of the evidence will contain clear and explicit answers to the questions contained in the first category.

The Olden Style of Purchase.

In the early days of settlement, both before and after the Treaty of Waitangi, land was purchased from the Natives by private individuals or by the Crown in a manner at once simple and public. The proposal to purchase was made to the head chief in the presence of at least some of the lesser chiefs; the boundaries of the lands to be dealt with were described; the price to be paid was agreed to; a day was fixed upon which, in the presence of the tribe, the bargain was to be completed. The purchaser then counted the purchase-money in the presence of the chiefs and people, and placed it in a bag or bags before the principal chief, who would then distribute the money among the other chiefs, leaving them to share their portions among their own hapus and families. Frequently, great chiefs thus disposing of extensive territories would give all the purchase-money to their people, leaving nothing for themselves, and, when the gold was thus bestowed, would shake the empty bag which had held it, upside down, to show that nothing remained. "Those were the days," said Chief Judge Fenton, in describing such a scene, "when the Maori chief was a gentleman."

No such sales were ever disputed. Disputes as to the correct boundaries might arise, but the contract itself, thus made in public with the tribe, was held irrevocable. One danger, however, always existed prior to the institution of the Native Land Court—the same land might be claimed by two tribes, or two hapus of the same tribe. No purchase from one of such contending parties was held binding by the other. On the contrary, the assumption of title by one of several claimants, emphasized by such a sale, made the other claimants more fierce and determined in the assertion of their rights. Thus the early settlers were continually embroiled with different tribes in every part of the colony. All the wars in New Zealand were, either directly or indirectly, caused by contentions arising from the disputed ownership of land. The Wairau massacre, Hone Heke's war in the north, the Waitara and Waikato wars, dying out after a long intermittent history comprised in the ten years from 1860 to 1870—all had their origin either in particular instances of disputed title, or, as in the case of Hone Heke's attack upon Kororareka (Russell, Bay of Islands) and the repeated cutting-down of the flagstaff, in the fear of a general claim being made to the lands of the Maoris.

Land-purchases of a very extended character took place in this open and public manner prior to 1865. Nearly the whole of the South Island and large districts of the North were purchased by the Government. Only a few of these purchases were ever questioned, and then only on the ground of disputed Native ownership.

Necessity for Determination of Tribal Ownership before Sale.

After the commencement of the Waitara war in 1859 it became evident that if lands were to be peacefully acquired from the Natives some competent tribunal must be set up which should, in cases of disputed titles, decide the question of Native ownership prior to the sale or leasing of the lands themselves.

The first Act was passed in 1862. By this statute the Crown waived the right of pre-emption which had been secured by the Treaty of Waitangi and "The Constitution Act, 1852." Henceforth all subjects of the Crown were authorised by law to deal under certain restrictions with the Natives for their lands after the titles had been ascertained by the Native Land Court. "The Native Land Act, 1862," was, however, practically a dead-letter. The first operative law was "The Native Land Act, 1865."

Act of 1865.

For the purposes of ascertaining the ownership of Native land, there was constituted a Court called the Native Land Court. The first three Judges of that Court are still alive, and the Commission has had the great advantage of receiving their testimony at length. To F. D. Fenton, Esq., first Chief Judge, and to Messrs. John Rogan and James Mackay, the first two puisne Judges of the Court, the Commission has to express its gratitude for the very valuable historical evidence and practical suggestions given by them.

Under this Act, after all inquiries had been made regarding a block of Native land, and a decision had been arrived at, a certificate of title was to be issued by the Court, which could be converted into a Crown grant by a specified process.

Lands the titles to which were thus investigated and determined could be declared to be the property of a tribe by its tribal name, or, if the owners did not exceed ten in number, their individual names could be placed in the certificate without the name of the tribe to which they belonged.

Without doubt, all lands in New Zealand were held tribally. The certificates of title should have been issued to the tribes and hapus by name, and some simple method of public dealing with the land provided, analogous to that which had always been recognised and acted upon in the early days, and which, in the ownership of land and dealings of all corporate bodies, had been practised from time immemorial by civilised nations. Had this been done the difficulties, the frauds, and the sufferings, with their attendant loss and litigation, which have brought about a state of confusion regarding the titles to land, would never have occurred.

In only two or three instances were lands certified as belonging to tribes; but even in these cases no method of corporate or tribal dealings with such lands was instituted.

There then arose a strange course of procedure. The law provided that no more than ten individual names should be placed in a certificate of title. Instead of issuing certificates of title in favour of the tribe, the Native Land Court adopted the habit of issuing certificates to individuals by name, causing the Native owners to choose ten, or a lesser number, from among themselves for the purpose.

It thus happened that the lands of tribes composed of numerous hapus and hundreds of individuals, became vested by the certificate of the Court, and afterwards by grant from the Crown, in ten or some lesser number of the vast body of owners. It was believed that these ten were trustees for the whole body. It was so stated in many cases to the Maoris by the Judges of the Native Land Court. There can be but little doubt that it was intended that they should hold that fiduciary position. The certificate, however, erroneously alleged that they were the absolute owners of the land according to Native custom, and the Crown grants, which were issued to them by name, vested an absolute estate of freehold in possession, unencumbered by any trusts or conditions whatever. Thus, in Hawke's Bay 569,220 acres of the finest land in New Zealand, partly surrounding and running inland from the Town of Napier, which belonged to nearly four thousand Natives, who were living upon and cultivating small homesteads, were vested in about two hundred and fifty grantees, without any trust being declared in favour of the vast majority of the persons ascertained by the Native Land Court to be its owners according to Native custom. The history of this land, as it appears in the report of the Hawke's Bay Commission of 1873, illustrates the practice with remarkable force. The property of the people other than the grantees was in all such cases taken from them, under this misinterpretation of the statute, in direct violation of the Treaty of Waitangi, and by evasion of the provisions of the statute itself.

It is a fact worthy of remark that this proceeding of the Native Land Court has never been made a distinct subject of litigation. It is difficult to believe that the Colonial Courts or the Privy Council would have permitted the Treaty of Waitangi and "The Native Land Act, 1865," to be so summarily overruled. In view of possible disputes upon this point, we would respectfully suggest that the question should be settled by legislation.

So soon as the title became vested in these individuals, Europeans commenced to deal with them by purchases, leases, and mortgages. Vast areas of land were thus acquired by Europeans in many districts; and thousands of Native people saw the lands which in reality belonged to them passing, in many cases without their concurrence and against their will, into the hands of strangers. Moreover, oftentimes the moneys received by the ten were appropriated and spent by them without reference to the people for whom they should have been made trustees. This state of things gave rise to many serious complaints.

"The Native Land Act, 1867."

To afford a remedy Parliament passed "The Native Land Act, 1867."

By the 17th section of this Act certificates could still be issued to ten of the owners, but the names of all other owners were to be registered in the Court and indorsed upon the back of the certificate. Under this 17th clause, also, the land comprised in any such certificate could be neither sold nor mortgaged until the land had been subdivided; but it could be leased for a term not exceeding twenty-one years by the ten whose names appeared upon the face of the certificate.

Large areas of land were dealt with under the Act of 1867, and leased by the ten certificated owners; but in most instances the ten received the rent, and appropriated it as the ten owners under the Act of 1865 had done with the purchase-money arising from their sales. This Act was, however, useful by preventing the absolute alienation of these estates from their real owners.

Act of 1873.

In 1873 the Legislature again interfered. It had become evident that as long as the heads of the hapus were permitted to deal in private with the lands of their people, and receive the purchase-money or rents without the knowledge of the co-owners, and without restrictions upon their power of appropriation, frauds and malversation of such funds would be the rule. In the Native Lands Act of 1873 the system of individual ownership was carried to its furthest limits. From granting land to a tribe by name, as intended by the Act of 1865, the whole people of the tribe individually became the owners—not as a tribe, but as individuals. Every Maori man, woman, and child was declared to be an owner of land. This carries the right of property in individuals far beyond any law hitherto made. Amongst Europeans, the father of a family—the head of the household—is the proprietor during his life. So far was this new doctrine extended that children yet unborn were included in the lists of owners. To meet contingencies, both male and female names were bestowed upon these embryonic landholders. All the evidence, both Maori and European, unanimously proves that individual ownership of land is, as a rule, a thing unknown among the Maori tribes.

One or two instances only could be named where such a title existed. Invariably these cases arose from some personal reward granted to an individual chief, or some *utu* or recompense given to him for a wrong which he had suffered. Even in these instances the rule was ultimately established, as lands so given became the family or tribal property of all the descendants of the individual chief after his death, and gradually merged into the hands of the tribe or hapu (a subdivision of a tribe). By the Act of 1873 the certificate of title granted under the former Acts was changed into a memorial of ownership. This memorial contained the individual names of every member of the tribe or hapu interested in a particular piece or block of land. As it was impossible to tell what part or proportion of the common inheritance belonged to each man, woman, and child, it was enacted that no contract or agreement, no lease, sale, or mortgage, could be valid or effectual unless it were executed by every person named in the memorial, and every such execution attested and accompanied by the strictest formalities in the Act contained. This Act, having established the principle of individual title where no such title by nature existed, has been the foundation and source of all the difficulties which have since arisen, not merely in the transfer of land from Natives to Europeans, but in the settlement of the North Island of New Zealand.

The whole of the evidence, and especially that given by those witnesses who were able to testify of their own knowledge of the different stages through which Native-land legislation has run from the commencement, shows that this erroneous principle has been the pregnant cause of mischief and confusion.

The continual attempts to force upon the tribal ownership of Maori lands a more pronounced and exact system of individual and personal title than ever obtained under the feudal system among all English-speaking peoples has been the evil of Native-land dealings in New Zealand.

The Act of 1873: its Principles and Results.

While deliberating upon the provisions of "The Native Land Act, 1873," the Legislature had ample means for obtaining knowledge of the then existing law. It had also before it the opinions of the most experienced men upon the whole subject. During his second term of government Sir George Grey had set up the runanga system, under which Native lands were leased by a committee after the agreement of the people in open council. In 1868 Chief Judge Fenton had decided beyond question the non-existence of individual ownership of Native land. In the Kaitorete case, concluded by one of the ablest and most important judgments ever delivered in the Native Land Court, the learned Chief Judge thus laid down the law: "The Court cannot recognise individual ownership of Native land. The strength of the tribe, before the arrival of the British Government, was required to maintain the title of a tribe, and the land belonged to the tribe. The contrary doctrine was endeavoured to be set up by the Government in the celebrated Waitara case, but all aboriginal New Zealand protested against it, and a long and expensive war ensued. We cannot allow Heremaia to set up a doctrine, because now it suits his interest, against which all his fellow-countrymen have so energetically protested. 'Qui sentit commodum sentire debet et onus' is the maxim; and the Maori custom is that the individual must (as regards Native lands) be bound by his tribe in their external relations." The accuracy of that decision has never been questioned. It is unassailed and unassailable.

"The Hawke's Bay Native Land Alienation Commission Act, 1872," appointed Mr. Justice Richmond, Judge Maning, of "Old New Zealand," Wi Hikairo, and Major

Te Wheoro, as Commissioners. That Commission commenced its sittings at Napier on the 3rd day of February, 1873. The report bears date the 31st July, 1873. The report was not unanimous. Although Mr. Justice Richmond, as well as Judge Maning, disagreed with the opinions of the Native members as to the alleged frauds, yet he spoke without hesitation upon the method of individual land-purchase then and since in vogue. The learned Judge strongly disapproved of direct individual dealings between Maoris and Europeans. He advised that all conveyances made to Europeans should be by grant from the Crown. "It would be well," he writes, "that (1) the principal Natives should be required to sign on behalf of the community an instrument of cession into the hands of the Crown, for the purpose of making the proposed grant. A very brief memorandum on the Court's certificate would suffice." (2.) "This is only a legal form of enabling the chief men to act for the community as they have always done." (3.) The learned Judge unhesitatingly condemns the then existing law, especially as to individual dealings with common lands. (4.) He favours the appointment of trustees in every block. (5.) He advocates the ascertainment of tribal and hapu boundaries in every case by the Natives and the aid of some official before the Court is invoked. "The Court," he writes, "needs tentacula, wherewith to seek out and grasp for itself all the facts of the case. It would not be well to throw upon the Judges of the Court the duty of investigations which to be effective should be made on the spot. This is rather an administrative than a judicial function, and might be committed to some officer of the Native Department in each district, appointed for this duty by the Governor's warrant. A report of this officer in every application for a certificate of Native ownership, or of succession, should be presented to the Court. This report should be open to inspection by the parties interested, and should be confirmed, overruled, or remitted for amendment to the reporting officer, as the Court might think fit. *But there should be no jurisdiction to proceed without such report.* There is another reason for connecting an administrative department with the Court. The work of individualising Native titles, or, in other words, of partitioning the estates of the Native tribes, cannot be properly performed by a Court which initiates nothing, but proceeds, as the Native Land Court has hitherto done in most cases, only on application of some particular claimant." Wi Hikairo inferentially points out the advantage of public dealings and of the unanimous consent of the people to all sales or leases of Native land.

Mr. Justice Richmond's report was made on the 31st July, 1873, as was that of Hikairo. They were soon afterwards presented to Parliament. At that time "The Native Lands Act, 1873," was passing through its various stages. The 71st section of the Constitution Act provided for the maintenance of the customs and laws of the Natives among themselves. Sir George Grey had long before this given his opinion that individual dealing should not be permitted with tribal lands—as before stated, when Governor he had eulogized the runanga system as suited to the genius and customs of the Maori people; yet in August and September, 1873, Parliament deliberately passed a Native Land Act which established as the law of the land the individual system which Chief Judge Fenton had declared to be unknown and illegal, which Sir George Grey had inferentially condemned, and which Mr. Justice Richmond, appointed by Parliament, impeached in the strongest terms. It may be that Parliament intended that the tribe should act—indeed, the statute itself from one point of view bears out this contention; but the wording of the law makes it imperative that every individual in the community shall specifically enter into every contract.

The late Sir Donald McLean was peculiarly unfortunate, both in the wording of this Act and its administration. It is evident from the clear statement of Mr. Curnin, who, at the request and under the instructions of the then Native Minister, drafted the Bill, that Sir Donald McLean never intended individual interests, save where held in severalty, to be the subject of transfer. While believing that the disposal of the tribal title would be fettered by internal disputes, he was convinced that hapus or families would deal with their lands freely. His idea was to compel division of tribal estates into hapu or family holdings, and then push on to individual titles. He incorporated in the Act several of the recommendations made by Mr. Justice Richmond. Districts were to be created; District Officers were to be appointed, whose duty it was to ascertain the tribal and hapu boundaries, being assisted by the Maori chiefs, and to report to the Native Land Court. It was the duty of the Court to see that reserves of at least 50 acres were made for each man, woman, and child of the Maori race in the district, which reserves should be strictly inalienable. He contemplated a Domesday Book of the New Zealand Native estates being compiled whilst yet the old chiefs remained who could bear testimony to their ancestral rights.

All this was vain. The tendency in the Act to individualise Native tenure was too strong to admit of any prudential check. Neither Parliament, nor Government, nor even the Court itself, paid attention to the above-mentioned principles of the Act. No District Officers were appointed; no reports were made; no Domesday Book, founded upon evidence fast dying out, was prepared; no reserves were set aside; no division of tribes into hapus before dealing was attended to: the desire to purchase Native estates overruled all other considerations. As the Native Land Court had, in 1865, misinterpreted the first Act, so now it allowed the intention of Sir Donald McLean to remain a dead-letter, and only helped to establish and perpetuate the system of individual dealing with tribal lands. The evil consequences were neither foreseen nor aimed at by Sir Donald McLean.

Having thus adopted a principle and a system so strongly condemned by all competent authorities, it is not surprising that evil effects followed. Thus the Legislature, by the Act of 1873 and all the amendments, repeals, and alterations thereto—and their name is Legion, for they are many—has with one exception—the Administration Act of 1886—for many years striven to establish, contrary to Native custom, a system of individual title to tribal lands.

The first effort made by the Government to establish individual title, as pointed out by Judge Fenton, led to a long and bloody war. The last has given rise to confusion, loss, demoralisation, and litigation without precedent. Several witnesses used the same term—"The result is chaos."

Evil Effects of Our System.

For a quarter of a century the Native-land law and the Native Land Courts have drifted from bad to worse. The old public and tribal method of purchase was finally discarded for private and individual dealings. Secrecy, which is ever a badge of fraud, was observed. All the power of the natural leaders of the Maori people was undermined. A slave or a child was in reality placed on an equality with the noblest rangatira (chief) or the boldest warrior of the tribe. An easy entrance into the title of every block could be found for some paltry bribe. The charmed circle once broken, the European gradually pushed the Maori out and took possession. Sometimes the means used were fair, sometimes they were not.

The alienation of Native land under this law took its very worst form and its most disastrous tendency. It was obtained from a helpless people. The crowds of owners in a memorial of ownership were like a flock of sheep without a shepherd, a watch-dog, or a leader. Mostly ignorant barbarians, they became suddenly possessed of a title to land which was a marketable commodity. The right to occupy and cultivate possessed by their fathers became in their hands an estate which could be sold. The strength which lies in union was taken from them. The authority of their natural rulers was destroyed. They were surrounded by temptations. Eager for money wherewith to buy clothes, food, and rum, they welcomed the paid agents, who plied them always with cash and often with spirits. Such alienations were generally against the public interest, so far as regards settlement of the people upon the lands. In most of the leases and purchases effected the land was obtained in large areas by capitalists. The possession of wealth, or that credit which obtained it from financial institutions, was absolutely necessary to provide for Native agents, interpreters, and lawyers, as well as to distribute money broadcast among the Native proprietary. Not only was this contrary to public policy, it was very often done in defiance of the law.

Not that the men whose names were used and money expended were always to be personally blamed. Often ignorant of the means employed, they simply entered into the purchase of Native lands from a natural desire to become the owners of beautiful or fertile estates. To their agents was committed the task, always disagreeable and sometimes disgraceful, of completing the title. It was, and is, the result of the bad system which Parliament determined to enforce, that it exercised a baneful influence on all those who had anything to do with it. Other mistakes in legislation have produced disasters, but it is difficult to find a parallel to the evil consequences which have resulted in New Zealand as the fruit of a mistaken system.

Of all the purchase-money paid for the millions of acres sold by the Maoris not one sixpence is left. Their remaining lands are rapidly passing away. A few years more of the Native Land Court under the present system, and a few amended laws for free-trade in Native lands, and the Maoris will be a landless people.

But it was not only in the alienation of their land that the Maoris suffered. In its occupation also they found themselves in a galling and anomalous position. As every single person in a list of owners comprising, perhaps, over a hundred names had as much

right to occupy as anybody else, personal occupation for improvement or tillage was encompassed with uncertainty. If a man sowed a crop, others might allege an equal right to the produce. If a few fenced in a paddock or small run for sheep or cattle, their co-owners were sure to turn their stock or horses into the pasture. That apprehension of results which paralyses industry cast its shadow over the whole Maori people. In the old days the influence of the chiefs and the common customs of the tribe afforded a sufficient guarantee to the thrifty and provident; but when our law forced upon them a new state of things, then the lazy, the careless, and the prodigal not only wasted their own substance, but fed upon the labours of their more industrious kinsmen.

Still further evil effects followed the persistent legislation in reference to the Native Land Court. The Natives, being compelled to enter the arena of the Court and contest the title to land, which they could with ease have settled in their own runangas, learned to look upon our method of getting land as merely another form of their old wars. Formerly they fought with guns, and spears, and clubs; now, to accomplish the same end, the defeat of opponents and the conquering of territory, they learned to fight with the brain and the tongue. As in the olden time all means were fair in war, so, pitted by our laws against each other in the Courts, they held all stratagems to be honest, all testimony justifiable, which conduced to success. Captain Preece, the Trust Commissioner at Napier, and Judge Ward, at Waipawa, both gentlemen well versed from youth in Native character and Native customs, expressly make this allegation, while many other witnesses inferentially prove it to be correct.

So utterly unreliable have many of the Maoris become during late years that it is now the fashion amongst some of them not only to spoil the living, but to plunder the dead. The fabrication of spurious wills has, in the words of several witnesses, like the false swearing in the Native Land Court, "become a fine art." Natives who, speaking in their own runangas, will testify with strict and impartial truth, often against their own interests, when speaking in the Native Land Court will not hesitate to swear deliberately to a narrative false and groundless from beginning to end.

The pernicious consequences of Native-land legislation have not been confined to the Natives, nor to the Europeans more immediately concerned in dealing with them for land. The disputes thence arising have compelled the attention of the public at large, they have filled the Courts of the colony with litigation, they have flooded Parliament with petitions, given rise to continual debates of very great bitterness, engrossed the time of Committees, and, while entailing very heavy annual expenses upon the colony, have invariably produced an uneasy public feeling.

In one year—1888—there were eight Acts passed, and in 1889 nine, especially dealing with Maori lands and Courts, besides others partially touching them; and, again, others were introduced but thrown out or abandoned. There were in ten years, from 1880 to 1890, more than a thousand Native petitions presented for consideration to the House of Representatives.

Native Land Court.

Numerous witnesses bear testimony to the gradual deterioration of the Native Land Court. It takes a longer time now to hear a case than formerly. Its fees and charges are greatly in excess of what they were. Its adjournments and postponements are more frequent and inconvenient. The applications for rehearings are greatly increased. It has gradually lost every characteristic of a Native Court, and has become entirely European—as Hone Peeti said, "only the name remaining." It has brought into existence a regular system of concocting false claims, by which the real owners are often driven out, and their land given to clever rogues of their own race. It no longer visits the land, nor guides and advises the Natives in friendly settlements. Its demand for excessive daily fees is so imperious that Natives not able to pay are refused a hearing, and thus in many cases the real owners are compelled to stand by and see their land given to strangers. Its decisions are never final. Even after years of occupation under a certificate, Crown grant, or transfer title, the occupier is liable to litigation, ejectment, and ruin owing to the numerous methods available for setting them at nought, or, at any rate, interfering with them through the ever varying conditions of the law.

So complete has the confusion both in law and practice become that lawyers of high standing and extensive practice have testified on oath that if the Legislature had desired to create a state of confusion and anarchy in Native-land titles it could not have hoped to be more successful than it has been. Were it not that the facts are vouched upon the testimony of men whose character is above suspicion and whose knowledge is undoubted, it

would be well-nigh impossible to believe that a state of such disorder could exist. Among the members of the legal profession who have thus testified to the Commission are Messrs. Whitaker and Russell, Hesketh and Richmond, Theo. Cooper, E. T. Dufaur, C. A. DeLautour, H. D. Bell, M. Chapman, Ernest Bell, Wilson and Cotteril, Carlile and McLean, Sainsbury and Logan, Heathcote Williams, Oliver Samuel, H. Howarth, and Sir Robert Stout.

Complaints by Natives were universal, especially upon the following points in regard to the Native Land Courts :—

(*a.*) Delay.
(*b.*) Expenses, fees, and duties.
(*c.*) Enforced attendance of claimants at distant places, inducing poverty, demoralisation, concerted perjury, injustice, false claims, uncertainty, and ruinous loss.
(*d.*) Rehearings, and applications for prohibition to Supreme Court.
(*e.*) Political, Government, and other interested influence, which is brought to bear upon decisions and proceedings.
(*f.*) The itinerant nature and non-local residence of the Judges.
(*g.*) Excessive cost of surveys, especially for subdivisions.
(*h.*) Insecurity of title after adjudication.

Consequences of Legislation.

It is impossible, within reasonable limits, to follow the windings and intricacies of those laws by which the Legislature from the outset has been vainly attempting to continue an unsatisfactory system. Every year has seen some attempt to amend the existing confusion. During some sessions half a dozen Bills have been introduced, and three or four have become law. The pages of *Hansard* are filled with discussions upon Native lands. The Natives have been surrounded with innumerable safeguards and restrictions, all of which have been unavailing to protect them, but which have been signally effectual in providing pitfalls for the honest but unwary purchaser of Native lands. Courts with costly procedure have been created; the sanctity of oaths and affirmations has been invoked; examinations by Judges and Commissioners into the *bona fides* of every transaction have been compulsory. The results are to-day partially known. In numerous instances frauds have been perpetrated successfully both upon Natives and Europeans; the most honest and straightforward dealing has not been sufficient to protect purchasers from loss and injury, while the Courts have been imposed upon and the true owners defrauded by conspiracy and perjury. So heavy have the burdens become which the successive laws have placed upon the ascertainment of Native title that before the individual interests of Natives can become vested in them by order of the Court the whole value of the land is often expended. When the title is ascertained, and Natives and Europeans commence to bargain for sale and purchase, then, in addition to the array of purchase-money, costs, and fees and duties which the purchaser has to meet, in addition to the examinations and certificates which he has to undergo or obtain, he is met by the absolute uncertainty of the title thus laboriously secured. Evidence has been given by lawyers of repute that, owing to the many conflicting provisions of the statutes, and to the decisions of the Supreme Court and Court of Appeal, not only is a large number of titles destroyed, but it is doubtful whether a single title resting upon the Native Land Act of 1873 and its many amendments can be upheld. Hundreds of these titles rest upon grants from the Crown. Great numbers are registered under the Land Transfer Act. Enormous sums of money are invested or secured upon lands which have thus passed from Natives to Europeans. Yet so unstable is the foundation upon which they rest, so mistaken the principle which legislation has compelled the people to submit to, that the most sacred rights of property are jeopardized, and the welfare and means of subsistence of large numbers of the community endangered. It is no consolation to find that the same laws which thus injure the innocent and unfortunate in too many instances protect the wrong-doer.

Many of the intricacies and contradictions of Native-land legislation arise from the occasions which have called that legislation into existence. Persons wishing to deal with Natives have found certain legal restrictions existing which effectually barred their progress. Determined to acquire a title, they have proceeded, trusting to the power of political parties in Parliament to alter the law so as to validate their illegal bargains. They have then gone to the Assembly, and laws have been passed which met, or partly met, their particular cases. In doing this, other cases and other circumstances have been involved. Thus a network of in-

congruous legislation has been evoked piecemeal, out of which it is impossible to produce a certain law.

Testimony, gathered from all quarters and from both races, shows that from the commencement of the surveys, when a Native applies to have land brought under the operation of the Native Land Act and the Native Land Court, down to the period when the European purchaser registers his title under the Land Transfer Act, every step is burdened with unnecessary cost, and offered inducements to many species of fraud; while the whole proceeding tends to demoralise both Natives and Europeans, to frighten away capital, to paralyse industry, to turn the Courts of justice into theatres of oppression, and to hinder the settlement and prosperity of the country.

The statement given by Mr. Ernest Bell of the different steps by which an ordinary investor in Maori lands has possibly to proceed before he procures a title to the property is at once ludicrous and pathetic. The serious impediments, burdens, expenses, and perils which beset the direct individual dealing between Europeans and Natives in regard to lands not held in severalty, and the imperious necessity for an absolute change, both in the method of ascertaining title and in the ultimate alienation for utilisation of the common lands of the tribe or hapu, stand out distinct and clear in the whole mass of evidence given by both races. It began with the statements of Mr. E. F. Harris, Raniera Turoa, and Wi Pere, at Gisborne, and it ended with the striking words used by Mr. Ernest Bell and Sir Robert Stout, at Wellington.

The Supreme Court and the Court of Appeal are frequently occupied with Native-land cases. In the history of Native-land legislation and administration since 1873 there is no redeeming feature save the inoperative Native Land Administration Act of 1886. It is a long period of unsatisfactory legislation.

The evidence is startling. Every question, by its answer, disclosed fresh abuses; every subject of discussion revealed some skeleton hitherto concealed. The actions of Judges, lawyers, and conductors; the adjournments, fees, and rehearings of the Courts; the demoralisation and ruin of the Maoris while attending distant Courts, were all commented upon. Every district also, beside its contribution to the general complaint, had its own particular grievance.

Complaints against the Government.

We were told at nearly every meeting of the Natives that the Maoris had from time to time suffered serious injuries at the hands of the Government. They alleged that the Native Department and its officers, especially of late, had interfered in many ways with the surveys of land, the actions and decisions of the Judges in the determination of titles, and the sittings of the Court. So far had this feeling been engendered in the minds of the Natives as to cause large numbers of them to distrust the Court.

Besides the complaint of undue interference, it was stated by many influential chiefs that the Government had in the North—especially in the Ngapuhi country, and both on the East and West Coasts—taken land to which it had no right by purchase, cession, or conquest, and dealt with it as Crown lands. The evidence shows that this accusation was made not generally, but with the utmost particularity. Names of blocks are given in every district, and, so far from these exhausting the number, the chiefs offered to name very many other cases if the Commissioners desired it. And, further, it was made a subject of grave complaint in the Wairarapa that the contracts of the Government with the Natives, by which large blocks were ceded to the Crown, had been broken in many ways—reserves not made, money not paid, and other breaches of faith which call for reparation. The Native Land Titles Court hereafter mentioned should have jurisdiction to inquire into all such complaints, and report to Parliament, which alone can do justice, as in many of such cases it would be impossible, or, at least, inconvenient, to give back the land, which has been Crown-granted to Europeans during past years.

In some cases the Government has omitted names of owners from grants made to those who ceded land under an agreement for reconveyance of part. This was the case with the Mohaka-Waikari Blocks. A number of Natives are thereby injured. Lists of owners and boundaries were prepared by the agent of the Government, without reference to the residential owners. As a natural consequence, grave errors were made. Lands belonging to one hapu were awarded to another; names which should have been inserted were omitted. In one block of 31,000 acres only one name was inserted, and large numbers of owners excluded. These facts were brought before Parliament some years since.

Parliament attempted to grant redress, but the attempt was not effectual. These cases should be left with plenary power to the Native Land Board hereafter mentioned to examine and decide. A very grave accusation is made concerning the land comprised in the Thermal Springs Act. A thousand square miles of territory is governed by that Act. Not only did the Government restrict the Natives from dealing with that land, they took upon themselves its management as trustees for the Native owners. It is alleged on behalf of the Natives that the only part of this huge estate utilised by the Government was the Rotorua Township. Land was leased there in one day for rentals amounting to nearly £3,000 per annum. For years the Natives have received no rent. Recently they sued the Government, after waiting for six years, for accounts and payment. The Government it is said has admitted the justice of their claim, but pleaded the Crown Suits Act in order to bar it. Is it wonderful, in the face of such conduct, supposing these allegations to be correct, that the Maoris are too doubtful of the Government to intrust to it either their land or their money?

In other cases the Maoris complain that many persons having undoubted rights in land have been omitted from the lists furnished to the Native Land Court. In one of these—the Ngarara Block, Waikanae—an Act was passed to rectify these mistakes; but its sections are too narrow, and the Courts so construe them as to leave the tribunals still unable to rectify the errors originally made. In all such cases, as already suggested, the Native Land Board should have full power to do substantial justice.

Questions also of surveys, of undeclared titles, of delayed hearings of particular blocks long promised, and a host of other troubles, were continually brought before us, which all demand investigation.

The Maoris of the East Coast allege that they were greatly injured by the action of the Government in making all the grantees under "The Poverty Bay Grants Act, 1869," joint tenants instead of tenants in common. Certainly, to confer a title upon the Maori which did not descend to his heirs or successors upon his death was a grievous wrong. It may be that it is too late to effect a remedy, but it should be tried.

On the same day on which this report was executed, May 23, 1891, the Court of Appeal unanimously declared the awards and leases mentioned in this paragraph *ultra vires* and void. The judgments are included in the Appendix.

In one class of cases the complaint is directly against Parliament. The Natives of the West Coast had leased their lands to Europeans on certain terms which were fair between the parties. These leases were confirmed in or about 1882 by Sir William Fox and Sir Dillon Bell, as Commissioners. Some of the Maori lessors were then living upon land which the Commission gave to others. The only land left to them was the land which they had leased. It was stated that the Commissioners had promised fifty acres per head of inalienable reserves. Such a promise, if made, was not fulfilled. After 1880 many applications were made by the European lessees to the Maoris to renew the leases which would expire during the ten years from 1890 to 1900. The Maoris refused, many of them wanting the land as homes for themselves, as they were living as tenants-at-will upon land belonging to their friends. In 1884 an Act was passed providing that, with the Maoris' consent, fresh leases might be made. For the reasons already given the Maoris still refused. The European lessees were persistent, and in 1887 they obtained the passage of "The West Coast Settlement Reserves Acts Amendment Act, 1887." By the 7th section of that Act new leases for thirty years could be granted to the lessees without the consent of the lessors. Reduced or increased rentals could be fixed by arbitrators. The Maoris did not, except in a few cases, appoint arbitrators, because they refused to agree to extended leases on any terms; so arbitrators were appointed for them, in accordance with the Act. The rentals were generally reduced very largely. The whole section is arbitrary and strong-handed. It took away, in one line, the rights of the Maoris to all improvements. The improvements, according to the Maoris' testimony, had been taken into consideration when the original leases were made, and lower rents agreed upon in consequence. Those leases had been confirmed by the Commissioners. The Maoris' rights were confiscated by one dash of the pen, and, at greatly-reduced rentals, new leases for thirty years were given to the lessees. The general public was shut out; the Maoris were plundered. The evidence given before the Joint Committee of both Houses in September, 1890, shows that twenty-six European lessees obtained new leases for terms of thirty years of nearly 18,000 acres of land, and that the value of the improvements taken from the Maori owners by the 7th section of the Act of 1887 in those lands alone amounted to £19,821 4s. 9d. Some of these Maoris are now obliged to live where they can, having, according to their own testimony, no other available land of their own. In one extreme instance the rent was reduced from £358 per annum to £80. It would be difficult to imagine a more flagrant case of legislative robbery. To this point, also, the attention of the Native Land Board should be directed, for we respectfully submit to your Excellency that at this time every

allegation of wrong or injury, whether by European or Maori, should be dealt with, and an end put for ever to the unhappy state of things which has for so long a time existed.

One difficulty which presented itself arose from the efforts made by the Natives to escape from the individual ownership forced upon them by law. This came forward in the shape of a desire for assistance in the matter of certain trust deeds of Native lands.

Native Trust Deeds.

The troublesome nature of the individual system has been often recognised by the Judges of the Native Land Court. The Natives have still more frequently made efforts to absorb the several titles of Maori owners in deeds made by way of trust. Thus, where the Government or private purchasers have obtained conveyances from a number of owners, but not the whole, agreements have been made whereby the remaining Maoris have assigned their interests to the purchaser, so as to make a complete title in him, upon condition that he would reassign to the persons so conveying their interests, when he had become possessed of a complete title. On some occasions, the agreement to reconvey not being in writing, the Government, as well as private subjects, have refused to reconvey.

The Native Land Court held that, under the Act of 1873, the Native owners, once registered and declared, could not convey by way of trust. This contention was upheld by the Supreme Court in the Pouawa case. The decision in this case brought into existence the New Zealand Native Land Settlement Company, which was formed for the purpose of providing a machinery by which the Natives might advantageously deal with their estates. But before the lists of owners had been handed in and registered the Court permitted, and, indeed, sometimes advised, the Natives to take the titles to valuable blocks of land in the names of a few of their number, for the purpose of economy and ease in dealing therewith.

Two cases of this sort were brought to the especial notice of the Commissioners, the Mangatu No. 1 Block, containing 100,000 acres, in Poverty Bay; and Te Ngaire Block, near Stratford, Taranaki, in which the land was declared the property of two chiefs on the express advice of the Court. It was stated that other cases existed. In regard to these, the Commissioners suggest that the Native Land Board hereinafter mentioned should have power to distribute all proceeds arising from such lands among all those who are, or ought to be, beneficially interested; due care being taken to ascertain the proper recipients, and in all respects to treat such beneficiaries as if their names, or the names of those to whom they succeed, had been originally placed in the list of owners.

West Coast Trusts.

The history and circumstances of the West Coast reserves are especially interesting. The laws governing these large estates, and the methods which rule the giving of title in them, are, although imperfect and cumbrous, eminently satisfactory when compared with the ordinary Native-land laws. Created and controlled by different statutes, one part of these reserves, which in the aggregate amount to 235,000 acres, is managed by a Trustee appointed by the Government, the whole practically vested in the Public Trustee. We venture to suggest that the Public Trustee is not likely to give such attention to this important matter as it demands, nor to possess that knowledge of Native character or local requirements absolutely necessary to successful management of this vast property. He is far away from the West Coast. He is fully occupied with the proper business of his department. The Natives distrust a chief whom they never see, and a power which they cannot call to account. From this cause complications arise both as regards Maori lessors and European lessees. Moreover, during the last eighteen months the Public Trustee, having reason to believe that fresh legislation was imminent, has declined to execute any leases. This has brought settlement upon a large part of these reserves to a standstill, and the people murmur bitterly.

Another difficulty arises from the unwillingness of the Natives to assent to leases of lands which they do not use, and which continue in a state of nature. On these lands gorse and other weeds are increasing rapidly, and they are year by year deteriorating in value. Concerning them also the European settlers complain justly that they bear no part of the cost of roads and other public improvements, and that the owners cannot be compelled to fence or pay a portion of the cost of fencing.

Another grievance is alleged: Large portions of these reserves, existing under "The West Coast Settlement Reserves Act, 1881," had been leased in past years for various terms by the Maoris claiming to be owners of the respective lands so leased, directly to Europeans. In these leases there exists no right on the part of the tenant to a renewal at

the end of his term of years, nor to the value of his improvements. It has also been alleged that persons in authority have assured the tenants that such rights would be secured to them by legislation, and that they could with safety expend labour and money in improvements. No such legislation has taken place. Many of the leases will soon expire.

In all these cases, and in others of a cognate nature, the Native Land Board should have full power to act as owners of the land, due regard being had both to the welfare and reasonable wishes of the Natives.

Notwithstanding these and other deficiencies and imperfections, the condition of things in relation to titles in Taranaki and the north-western portion of Wellington contrasts most favourably with that of nearly every other district where Native lands exist to any large extent. While Native titles in all other parts of the North Island are a source of endless litigation and extreme danger, those in the reserves of the confiscated territory are secure. The reason is obvious. The title is given by an officer acting under statutory authority, and not by the individual Natives to whom the land belongs. Other advantages also exist. The heavy expense and trouble attendant upon the execution and examination of Maori deeds are avoided. The delay invariably happening in the completion of a Maori title does not harass the intending settler.

As Mr. Thomas Mackay, one of our number, is Commissioner of the West Coast, it would ill become us to speak of the management of these lands.

Subsequent Legislation: Restriction Act of 1884; Committee Act of 1883.

In 1883 and 1884 Parliament seemed doubtful of the individual and free-trade policy. By "The Native Committees Act, 1883," Maori Committees were formed which could make inquiries as to owners, successors to owners, and boundaries of lands, and report; but the report was not binding. By "The Native Land Laws Amendment Act, 1883," counsel, solicitors, and all agents were banished from the Court; and by "The Native Land Alienation Restriction Act, 1884," the centre of the North Island—the so-called King-country—was absolutely shut up from purchase or lease save by or on behalf of the Crown. Fine and imprisonment were the penalties for the infringement of the provisions of this Act.

The Native Committees Act is a hollow shell, the object of which it is difficult to see. It mocked and still mocks the Natives with a semblance of authority. They wish it to be turned into a living Act, giving them power to do something for themselves.

Native Land Acts to 1890.

While the amendments of the Act of 1873, and the numerous Acts carrying out the same principle, were in full operation, and lessees and purchasers were attempting to complete their titles, the Act of 1886 put a stop to all further proceedings, and brought everything except some particular cases to a standstill.

"The Native Land Administration Act, 1886," is the one effort made by the Legislature to stay the individual dealing with Native lands. That Act was misunderstood because no action was taken to clearly explain its object to the Natives, so as to counteract other influences that militated against its favourable reception by them. No lands were brought under its jurisdiction. In consequence of this, after two years of quiescence, it was repealed.

The Native Land Administration Act of 1886 was inoperative owing to two reasons, the first of these being that the total control of their lands was taken away from the Maoris and placed in the hands of persons not in any way responsible to them; the second, that the Act was made optional and not imperative. The Natives objected to being totally deprived of all authority and management of their ancestral lands, and therefore they refused to bring those lands under the Administration Act.

The Native Land Act of 1888, section 4, repealed "The Administration Act, 1886," and revived free trade in individual interests in Native lands.

"The Native Land Court Amendment Act, 1888," section 16, professed to render transferable land or shares in land, and to validate former transfers; but this did not apply to land restricted, or recommended to be restricted, or thereafter to be restricted. On this came the case Poaka *v.* Ward. As Mr. Justice Richmond said, section 16 "had created a new puzzle for the Courts." Two Judges were on each side. The profession was also much divided in opinion. This state of things under the present system is unavoidable, although intolerable. The case is typical of the normal condition of Native-land legislation since 1873. Parliament

has been creating puzzles for the Courts, and the Courts have been trying to solve them, too often guessing in vain, and giving many and different solutions.

The Acts of 1888 were intended to revive the old law, and to produce "free trade in Native lands;" but it was evident that the days of the old method of proceeding were numbered. The difficulties had increased. Cases decided in the Supreme Court and Court of Appeal revealed dangers hitherto unthought-of. Seymour *v.* Macdonald, Seymour *v.* Apiata and Others, Paraone *v.* Matthews, and, lastly, Poaka *v.* Ward, 8, N.Z.L.R, 338, cut away the foundation of vast numbers of titles which had been looked upon as absolutely safe. Seymour *v.* Macdonald, N.Z.L.R., 5, C.A., 172, and Matthews *v.* Paraone, N.Z.L.R., 6, S.C., 746, overruled the accepted decision in the Kotarepaia case, N.Z.L.R., 3, S.C. p. 56. In that case it was stated that a conveyance by a majority of Native owners, though inoperative before division, became valid after the order of the Court dividing the land was made, and completed the title in the European purchaser. It was stated by counsel that Mr. Justice Richmond said that he had been misunderstood in that judgment, and the report of it was practically erroneous. Innocent purchasers of valuable properties who had relied upon the words of the Act of 1873, and the reported interpretation put upon them by the Supreme Court in the Kotarepaia case, thus found themselves in a trap from which there was no extrication.

To meet all cases of this description, and those where the dealing had been suddenly stayed by the Act of 1886, the Legislature in 1890 created a Commission consisting of Mr. Edwards and Mr. Ormsby. That Commission finally revealed the hazardous condition of Native title under the Act of 1873. In the Whatatutu case it was decided that, though the dealing was fair and just, though the Natives had received the purchase-money agreed upon and signed the necessary deeds, though the Trust Commissioner had affixed his certificate, though the European had been in peaceable possession for fifteen years, and after notice not a solitary Native objected on any ground to the sale, or deed which gave it effect, yet, because some minor details of the statutory requirements had not been complied with, the deed was null and void.

This decision, which in itself seems correct and unimpeachable, spread dismay throughout the East Coast. No further deeds were brought before the Commission. It sat no more in that district, and was finally cancelled in the early part of this year.

Subdivision.

In the Native Land Court Act of 1888 the climax of absurdity was reached by Parliament. The Legislature was in truth consistent, but it was consistent in a system as impotent for good as it was powerful for harm. The 21st section of that Act provided that the Court in every case where an original order of ownership or of partition was made, the respective individual interest of each Native should be defined in such order. How was the Court to decide the individual interest of those who held no individual interest at all? By what principle of partition was it to be governed? In all the range of experience there was not a solitary precedent to follow nor a solitary rule to guide.

In the North Island there are certainly thirty-five thousand Natives owning land in common. On an average, every name will be found in at least two certificates of title. Thus seventy thousand cases have to be decided. In addition to this colossal number, deaths are occurring at the rate of at least fifteen hundred a year. To these there will be certainly three thousand successors. Even now the undecided claims to succession are exceedingly numerous. Frequently the applicant dies before his claim to succeed is heard.

The task of Sisyphus is here set to the Native Land Court many times multiplied. It is indescribably hopeless. It is almost more easy to believe that Parliament was playing a gigantic practical joke than that it was in sober earnest calling upon a Court whose work is already notoriously in arrears to commence a new duty such as this. To show more clearly the impossibility of success, we would point out the fact that, even if all those titles were defined, they would then, under the present system, have to be located, and the Maori lands cut up, in the midst of an universal scramble, into a hundred thousand allotments of varying size, character, and location, all made at the absolute will of the Native Land Court Judges. In truth, the task of arranging the individual interests of the Native owners is nearly always done by the Natives themselves. It is a matter of mutual arrangement, and not of law. The evidence of Mr. Rennell, of Judge Mackay, of Judge Ward, and others is conclusive. It is notorious also that in large blocks like Porangahau and Tahora the people have met and agreed upon the interests which each should take. To call upon the Court to decide that which is subject to no gauge or measure is to call upon it either to perform an impossibility or to decide according to its own arbitrary will.

An analogous proceeding would be found in calling upon the Supreme Court to define the respective interests of every man, woman, and child in New Zealand in the waste lands of the colony, and then to proceed to partition, or, in the alternative, to make every person in the colony sign each lease or conveyance of a part of the public lands. When the colony was founded the Natives were already far advanced towards corporative existence. Every tribe was a *quasi*-corporation. It needed only to reduce to law that old system of representative action practised by the chiefs, and the very easiest and safest mode of corporate dealing could have been obtained. So simple a plan was treated with contempt. The tribal existence was dissolved into its component parts. The work which we have with so much care been doing amongst ourselves for centuries—namely, the binding-together of individuals in corporations—we deliberately undid in our government of the Maoris. Happily, there is yet an opportunity to retrace our steps, to get back into the old paths.

The evidence shows that both races are anxious to return as near as possible to the old system. What they require is that the principle of tribal, or corporate, dealing and action shall again rule, but that it shall be regulated and assisted by law.

During the constant stream of legislation some few attempts have been made to establish a different plan. Although Sir George Grey's runanga system was obliterated by the Native Land Acts, the principle which it contained still claimed adherents. In 1880 the East Coast Settlement Bill fell stillborn. Later on a Bill for dealing by committees was drafted by Judge Fenton, but it elicited no response. Mr. James Mackay drew an elaborate measure in 1887, which met the same fate. A memorandum was presented to the House of Representatives in 1885–86, by order of His Excellency the Governor, in which the question was shortly discussed. The Administration Bill of 1886 has already been alluded to. During the last two years of his life the late member for the Northern District, Mr. Sydney Taiwhanga, was indefatigable in his efforts to establish a Maori Council and to abolish all individual and direct dealings between Maoris and Europeans. The scanty knowledge possessed by the majority of members of the Legislature upon the subject of Maori lands necessarily caused considerable hesitation in interfering with a matter so little understood.

Native Land Court giving Two Distinct Titles.

Titles given by the Native land law are indistinct and uncertain. In many instances Natives have sold to Europeans, and the title of the purchaser is registered under the Land Transfer Act. Then the property is divided in the Native Land Court, and a fresh title given to the Natives who have already sold. Thus two titles to the same land exist. The consequences are obviously disastrous.

Native Agents.

There has arisen during the past few years a race of Native agents, or Maori lawyers, whose influence generally seems to have been pernicious. It may be that they are the necessary outgrowth of the existing system. Subject to no examination, governed by no laws or rules of procedure, controlled by no authority, known as "agents," "conductors," or "managers"—in Maori, *kaiwhakahaere*—they have established an almost complete control of the Native Land Court proceedings. Receiving in some instances under private arrangement fees as large as, sometimes larger than, those given to the leading counsel at the bar, it is felt that they are prone to prolong the cases in the Courts indefinitely. These gentlemen often give valuable assistance to the Courts, but still more often cause delays and expense. That many of these are men of integrity and talent is beyond question, but others are alleged to be unscrupulous and cunning.

Necessary Foundations for New Legislation.

Before submitting to your Excellency our advice and suggestions, several considerations present themselves. We are advising legislation affecting the land of great multitudes of a semi-savage race of whom the majority, including women and children, and old and ignorant people, are incapable of prudent management; yet this race comprises not a few intelligent and industrious persons, competent to act in all things upon their own responsibility. It is our opinion that, while the safety and welfare of the many should be insured, the independence of the minority ought to be encouraged, and inducements and assistance offered to others to enable them also to act for themselves. The young also should be taught not merely the ordinary school-tasks, but the industrial knowledge necessary to a useful life. For this purpose reserves should be made on an extensive scale.

We are proposing to render available for settlement an area of land greater in extent than some kingdoms and independent States. It behoves us to advise that all dealings with this land, and all titles bestowed for it or parts of it, should be—

(1.) Safe, certain, and easily understood;
(2.) Obtained by a speedy and simple process;
(3.) Economic in cost;
(4.) Permanent in character;
(5.) On terms mutually advantageous to both parties; and
(6.) Subject to the interest of the public.

Crown's Pre-emptive Right.

The opinions of some of the most experienced witnesses are identical on the point that the abandonment of the Crown's pre-emptive right was a grave and serious error.

Mr. Carroll does not concur in the paragraphs concerning the Crown's pre-emptive right. A note by him is hereinafter appended.

Unanimity of Natives as to the Future.

The unanimity of the Natives was not merely negative, and condemnatory of the past and present—it was also displayed in their wishes for the future. Everywhere they gave substantially the same evidence as to the desire of the tribes regarding the future management of their land. Titles they believe can be found and determined, boundaries can be settled, and lists of owners prepared, by the Maoris themselves, leaving only a few disputed cases to be determined by the Court. The respective interests of the owners they think can be arranged by the Committees, with the aid of the District Commissioner and District Judge hereinafter mentioned.

This is strongly confirmed by the experience of Mr. Rennell on the West Coast, and of Judge Ward at Waitotara, and of Judge Mackay at Wellington; and by well-known cases, such as Porangahau, Tahora, and Kaiti, in which last case most valuable land at Gisborne was partitioned by consent into upwards of three hundred sections.

Those remarkable instances prove conclusively that the task of partitioning tribal lands and individualising the respective interests can be made easy by proper management and clever men, whose integrity commands the confidence of the Maoris. The Natives unhesitatingly state their aversion to individuals being allowed to sell or lease lands unless subdivided and held in severalty. They think that a Committee chosen from the owners, with a Government officer, could arrange for leasing, and that the Government officer should distribute the rents among the owners. They are averse to selling, but willing and anxious to lease their lands. They desire in some localities liberal reserves for the education of their children and the establishment of industrial schools. They wish that, where any of their numbers are able and willing to manage for themselves, then they should by friendly arrangement receive a fair share of the tribal land in severalty for farming or other purposes, of course relinquishing by so much their claims upon the rent of the whole block. They are unanimous in desiring a competent Commission to settle all existing disputes. Where the European is blameless, he should have his title made good; where there is no dispute the Court should settle it for ever. They wish in certain cases to effect improvements upon their lands.

The Europeans examined were almost equally unanimous, and in all principal points generally coincided with the Natives.

Among members of both races there were diversities of opinion upon minor points and matters of detail, but on the main principles the agreement between them was remarkable and striking. It would seem that men of every shade of party and of different rank and race were irresistibly forced to the same conclusions.

Constitutional Right of Parliament to Legislate.

The right of Parliament to legislate for the lands of the Natives cannot be doubted. By the Treaty of Waitangi the Natives were guaranteed the full possession of all their rights in the soil of New Zealand. An attempt was made in the very early days of the colony to restrict the meaning of the treaty entered into on behalf of the Crown within very narrow limits.

Urged by the New Zealand Company and the numerous and powerful supporters whom Mr. Edward Gibbon Wakefield had gathered round him, Earl Grey, in his despatch to Governor Grey which enclosed the Constitution and Charter of 1846, laid down the principle that the Natives' rights existed only so far as the lands which they actually cultivated or could cultivate, and no further, and that all the lands of New Zealand beyond this were waste lands of

the Crown. To this doctrine Sir George Grey, the Governor; Sir William Martin, the Chief Justice; and Bishop Selwyn offered strenuous opposition. The Governor suspended the proposed Constitution, and Earl Grey and the Imperial Parliament reconsidered the position and indorsed his action. It was the fear of this claim already hinted at that had inspired Hone Heke's hatred to the flagstaff at Kororareka, and driven that chief and Kawiti into war.

See Mr. Carroll's note as to pre-emptive right.

The Constitution Act of 1852 followed the Treaty of Waitangi, and tacitly acknowledged the rights of the Maoris in all their territories, while it set out the pre-emptive right of the Crown. This right, abandoned by the Act of 1862, was partially resumed by Parliament in 1884. So far as the King-country is concerned, the pre-emptive right of the Crown was re-asserted by the Restriction Act of 1884, and still prevails.

There are four parties to be considered—the Natives, the Crown, the Parliament, and the people. So far as the Natives are concerned, it is clear that the rights assured to them are contained in the Treaty of Waitangi and the Constitution Act. In both these the pre-emptive right of the Crown to purchase the lands of the Maori is absolute. The Natives can in no sense claim the abandonment by Parliament of this right as abrogating the provisions of the Treaty and the Constitution. The same power which enacted the abandonment can again place pre-emption upon the statute-book. The question is beyond dispute. In the King-country it has already been done.

The Crown, believing that it was consenting to legislation for the benefit of the colony, waived its right. If the Parliament of the colony, seeing that the new system has broken down, legislates upon the old lines, and returns to the pre-emptive right, the Crown can undoubtedly consent. The Maoris have no claim to bar the Crown from purchase. Parliament may prohibit private subjects from purchase; but the Maori, in the presence of the Treaty of Waitangi and Constitution Act, cannot prohibit the Crown. Free use and enjoyment of their lands, only controlled by just laws—this the Natives can indeed claim. The right to sell to whom they please is contrary to the treaty by which New Zealand became part of the Empire. The right to lease still under wise laws they may urge as proper. Upon this middle ground between occupation and sale Parliament may well act.

In the interest of the Natives, of the Crown, and of the whole people, for the fulfilment of the Treaty and the Constitution, the right of purchase should still be vested in the Crown, and in the Crown only.

In the case of Wi Parata *v.* the Bishop of Wellington, N.Z. Jur., N.S. 3 S.C. 72, it was decided by the Supreme Court that all Maori lands were waste lands of the Crown, subject to the rights of the Natives. That judgment is clear, but the facts and the law warrant even a broader utterance. By the law of nations, English occupation vested the ultimate title to all lands in the Crown. The Maoris at the moment of annexation became tenants; but they did not hold the highest form of tenancy—that of a simple fee. The Maori title is that of occupation, but occupation by an indefeasible right.

Parliament can legislate regarding the future administration of the Maori lands and the resumption by the Crown of the pre-emptive right. Parliament has both claimed and exercised extensive powers. It has confiscated Native lands. It has vested them in trust. It has prescribed ways and methods of alienation. It has appointed Commissioners, created Courts, and decided titles. There are no limits to its jurisdiction. In truth the Maoris were never the owners of the legal estate since the Treaty of Waitangi: they were the beneficiaries, and could not deal with their lands without the consent of the Crown and Parliament.

While the rights of the Crown and of the Natives, and the authority of Parliament, claim attention, the rights of the general public must not be forgotten. The land of the Maori is untaxed. While the European population are called upon to pay heavy interest on loans partly spent in improving the value of the Native lands, and partly in Native wars, the Native people pay comparatively little taxation; while local rating falls with great weight upon the European, but not to the same extent on the Native. In this context, however, it is but just to refer to the abnormally heavy stamp duty levied upon Maori lands.

Immense areas of idle territory existing while an industrious population are leaving the colony because they cannot get land to settle on is an injury to New Zealand and to its people.

And, finally, the public as a whole claim the right to participate in any advantages to be derived from the opening of the Native lands, and are strongly adverse to any state of the law which may restrict such advantages to a small class.

Still more forcibly does the legal authority and the duty of Parliament appear regarding the unhappy confusion and contentions which surround the former dealings with Native land.

The chaotic state of things found in this department of society is almost entirely due to erroneous legislation. Parliament is responsible, and Parliament alone can apply the remedy.

Validation of Incomplete Titles.

The weight of opinion is decidedly adverse to direct validation by statute of any special cases, even the most deserving. On the other hand it is agreed, both by Maoris and Europeans, that, where no question of merits arises and no contention exists, the Native Land Titles Court to be created should have full power to validate titles. It is equally decided that such Court should inquire into all cases of dispute, and, where neither fraud nor illegality is alleged or proved, give judgment on the merits—not referring the matter to Parliament, but giving a final decision in accordance with the facts and the law. Where evidence of fraud or illegal practices is tendered, the Court shall give no decision, but shall report the whole matter to Parliament, with its opinion thereon. And it is a belief, strongly expressed, that the members of the Court should be appointed by name for a certain term of office, in the statute creating it.

In closing our remarks upon the authority of the Parliament, and the propriety of that authority being exercised, we desire to emphasize our opinion that the assent and assistance of the Natives is absolutely essential to the final success of our proposals.

In addition to the many and serious difficulties which evidently exist, complications beyond human foresight must and will occur, demanding patience and tact on the part of the Europeans, and voluntary aid and self-denial on the part of the Native people. To secure this aid the Government and the Legislature should, we suggest, inspire the Maoris with confidence both in their justice and judgment. If a ready redress be afforded to their just complaints, a generous sympathy be shown to their proper aspirations, and a wise selection made of officials to act with and for them, no reasonable fear need exist as to the result. If the confidence of the chiefs and people of the Native race be gained and built upon a strong foundation, success will, no doubt, attend the effort.

CONCLUSION.

Framework.

Past.

1. Native Land Titles Court for dealing with past disputes.

Future.

2. Committees for each block.
3. District Committee or Tribal Committee.
4. District Judge and District Commissioner, who shall be also Chairman of every Committee, and responsible for distribution of moneys among owners.

Native Land Board corporate body with common seal, to give all titles, to act where owners or Committees refuse or neglect to act, with same power as owners or Committees.

Generally to act for Maoris. All rights of possession and ownership to be exercised on behalf of owners by Native Land Board.

To be supported by a percentage charged on all Maori lands.

For Ascertainment of Title.

1. Native Committee of claimants.
2. Native Committee of district.
3. Judge and Commissioner of district, with Assessor from other district.

For Alienation.

1. Committee of block to decide.
2. Commissioner to examine and report.
3. Native Land Board to give titles.

It will be here convenient to remember that the Commission is appointed for the purpose of making inquiry into and suggestions upon the following matters: that is to say,—

1. The operation of the existing laws relating to the alienation and disposition of interests in Native lands within the colony.

2. The general constitution, practice, and procedure of the Native Land Court so far as may be necessary to ascertain the operation of the existing laws, and in what respects the constitution, practice, and procedure of the said Court could be simplified or amended, or whether the same should be reconstituted.

3. What class or classes of cases have arisen which exhibit the defects in the present system of alienating or disposing of interests in Native lands, or in which non-compliance with existing laws has created or complicated defective titles where such lands have been equitably acquired or dealt with after the titles thereto have been investigated by the Native Land Court, and where such complication or defect still exists, and what remedy, if any, should be adopted in respect thereof. Provided that the said Commissioners shall not have power to inquire into any particular case within the terms of this clause unless the parties interested shall consent to such case being brought before the Commission, nor shall the Commissioners inquire into any such matter where the existing title to any such land is directly or indirectly the subject of legal proceedings in any Court or before any authority empowered to deal with or investigate the same.

4. The principles on which interests in Native lands should in future be alienated or disposed of by or on behalf of the Native owners, and the manner, terms, and conditions in which the same can be carried into effect.

5. And generally to inquire into any other matter or thing necessary to elicit full information in the premises.

It is now for us to suggest first the remedy we propose for the difficulty and suffering produced by the existing laws and those which have preceded them, and then to place before your Excellency our proposals for the future.

ANSWERS TO QUESTIONS IN COMMISSION.

(The first and third must be read together.)

I. All cases under these sections may be thus classified :—

(*a.*) Cases in which contracts have been made, and titles have been supposed to be completed with satisfaction and fair dealing on both sides, but where some technical or formal omission in the fulfilment of a provision of the statute, not essential in its nature, renders the deed invalid, but where there is no allegation of illegality or fraud or other contentious matter.

(*b.*) Cases in which there is a contention or contentions between the Native and European, or where the common or statute law has been broken by the European or his agent in the acquisition of the land or the title thereto.

(*c.*) Cases where titles have been partially acquired under some existing law, but their completion has been prohibited or delayed by a subsequent Act. And these may be subject either to the conditions of (*a*) or (*b*).

II. The remedy proposed :—

(*a.*) The establishment of a Court to be called "The Native Land Titles Court," having both judicial and administrative powers, as well as the powers and authority of arbitrators in all cases, and who shall have power to give titles in every case except those where fraud or illegality are alleged.

(*b.*) Such Court to consist of three Judges to be appointed by Parliament, who shall hold office for a specified period—two to be Europeans and one of the Native race. Term and salary to be fixed by the Act.

(*c.*) In class (*a*), and cases under both (*c*) and (*a*) combined, the Court shall, after due inquiry, confirm the title of the purchaser, lessee, or mortgagee respectively.

(*d.*) In class (*b*), and (*b*) and (*c*) combined, the Court shall hear and decide every case upon the merits; but where fraud or illegality is alleged the Court shall report to Parliament, with its opinion.

(*e.*) The Court shall validate and carry into effect any agreement come to between the Natives, or a majority of them, and the Europeans, where such agreement is, in the opinion of the Court, fair and proper.

(*f.*) In all cases where necessary or advisable, subject always to the former clauses, the Court shall act as arbitrators, and give such decisions as to it seem just.

(*g.*) All decisions of the Court to be final, and to be carried into effect by the Court. In all cases where necessary the Court shall have full power to make partitions as the parties, or some of them, may desire, and as the Court shall deem advisable and just; to execute deeds; &c.

This suggestion is by no means original. In addition to the many Commissions which, by Royal warrant and Act of Parliament, have been created, one was suggested by Sir George

Grey in 1877. Sir George Grey proposed a powerful Commission to deal finally with all such cases. He requested Mr. George Higinbotham, of Melbourne, now Chief Justice of Victoria, to preside at a Court to be constituted; and that gentleman consented. When the Grey Government were defeated, and resigned, in 1879, their successors did not proceed with it. Parliament has, indeed, of late years rather expressed a desire that reports should be made, leaving all decisions with the Legislature. We would respectfully suggest that there must be finality in these important and distressing proceedings. And we are of opinion that, if a wise selection of Judges be made, their determination upon all points is likely to be more impartial than a vote of Parliament, save where fraud or illegality is alleged.

The costs of this Court and of all proceedings in it should be a charge upon the lands brought before it.

QUESTION NO. 2, AND REMEDY SUGGESTED.

Native Land Court.

The constitution of the Native Land Court is too formal and cumbrous, while its practice and procedure is unsatisfactory, and as at present constituted is condemned both by Maoris and Europeans.

Remedy suggested.

The Native Land Court should be remodelled. (1.) It should consist of a Chief Judge, five District Judges, and five District Commissioners or administrative officers. (2.) All lands brought before it, either for original hearing or partition—partial or complete—should be first reported on by the District Committee and the Commissioner. (3.) The report should contain the tribal and hapu boundaries of the block, and the lists of owners. (4.) If the report be not objected to, the title to be entered in accordance therewith. (5.) If objected to, the District Judge and two Assessors, one for each side, to determine the points in dispute. (6.) If the parties be not satisfied with the determination of the District Court, the Native Land Board may, if it think fit, order a rehearing, which shall be held before the Chief Judge, one other District Judge, and two other Assessors. (7.) The Commissioners shall be Chairmen *ex officio* of every Committee in the district, and shall generally act with and for the Committees. (8.) The Commissioner shall pay all rents or other moneys arising from dealing with lands in his district to the parties entitled to receive the same. (9.) All questions of law affecting the Maoris only should be decided by the Native Land Court and Native Land Board. (10.) No Judge or Commissioner should be removed from office without the sanction of the Native Land Board, and then for cause assigned.

QUESTION NO. 4.—REMEDY OR PROCEEDING SUGGESTED.

I. A Native Land Board should be created as hereafter provided.

II. The Board should be a corporate body with a common seal, and plenary powers in regard to Native-land matters, save where the rights of Europeans come in question.

III. The Board should have full power to act in all things as trustee of the Native lands for the Native owners.

IV. A Committee should be appointed by the owners of each block, who should choose sufficient reserves for the people, and instruct the Native Land Board to lease or sell the balance as the case may be.

V. No individual or direct dealings should be permitted between Europeans and Maoris for or relating to land, save where land is held in severalty, or by two or more Maoris in partnership.

VI. All lands owned by Natives otherwise than in severalty or partnership should be leased under regulations somewhat similar to the Waste Lands Regulations, and titles given by the Board.

VII. All rents shall be paid into the Native Land Court of the district in which the land is situate, and shall be distributed, after proper deductions being made, by the District Commissioner among the owners of each distinct block, in accordance with schedules to be filed in the Native Land Court, showing the respective interests of the owners.

VIII. The Crown should be the only purchaser of the fee-simple.

These proposals would necessitate the repeal of the existing laws in so far as they are proposed to be altered.

NATIVE LAND BOARD.

To provide machinery for carrying into effect the leasing of lands and the many duties arising under the proposed system of management, a Board, to be called the Native Land Board, should be created.

The Native Land Board should be a corporate body, having pepetual succession and a common seal. It should be composed of six members, of whom three should be appointed

by the Governor and three elected by the members of the whole tribal committees of the North Island.

In this Board should be vested all the Maori reserves of this Island, including those reserves now administered by the Public Trustee. It should have the sole power of leasing all Maori tribal lands, under directions from the Native Committees of the various blocks. It should have power to perform the duties incumbent on owners of appointing Committees, where, after suitable notice such owners neglect to appoint; and in cases where Committees neglect to perform their work the Board may perform it for them. It should have power to call upon the Committee of the district or the Native Land Court to determine the title to any block required, or suitable for settlement, and which the Native owners, after notice, fail to bring before the Committee or the Court. It should act for all Natives requiring assistance before the Native Land Titles Court, and give leases of minors' shares when requested so to do by the trustees. It should have sole power and authority over Native lands the title to which may not have been determined in the Native Land Court, and, with the consent of the apparent owners, give licenses from year to year to cut flax or timber from, or graze upon, such lands. It should have full power, with the advice and consent of the District Committee, to erect schools for the education of Maori children; to exchange lands, and, in the interests of the Natives, and with the consent of those interested, to compound claims upon Native lands, or buy interests or shares in the same; and generally to act in all things for the welfare of the Maori people, making all such contracts with the Government or private individuals, as may be necessary in the premises. It should arrange for surveys, improvements, roads, &c., in conjunction with the District Committees for the different blocks. It should examine and report from time to time to Parliament on all the endowments for educational purposes made by the Natives in New Zealand. It should be authorised to compromise with the Government and with private persons in any claim made by the Crown or such private persons to any land or interest in land belonging to, claimed by, or standing in the names, of Maoris, not held in severalty; but this last power should only be exercised when assented to by at least three-fourths in number of the Natives affected by it, and approved after examination by the Native Land Titles Court. It should have power to make regulations and by-laws, which, being approved by the Governor in Council, should provide for the leasing of Maori lands and for their management, as well as for the general performance of the duties and powers of the Board.

To this Board could be relegated most of the matters now coming before Parliament by petition. To this Board all applications for rehearing might be referred. By its existence Parliament would be materially relieved, and the best interests of both Maoris and Europeans be advanced. Not only would the Native Land Board relieve Parliament of the bulk of the Native work now cast upon it, and which it cannot understand—it would also relieve the Courts of much labour. The Maori real-estate management would practically devolve on the Board. The Trust Commissioners' Courts, the Supreme Court and Court of Appeal, the officials of the Stamp and Registration Offices, the Survey Department, the Native Department, and the Native Land Court would be more or less relieved; while the Public Trust Office would be delivered from the burden of administering the large reserves which now embarrass it. The public would be able to obtain land in many districts now locked up, in suitable areas, at inconsiderable cost, with perfect titles, and without delay.

Finance.

The Government should advance to the Board all necessary sums for expenses, surveys, improvements, &c.; such sums to be recouped out of a percentage to be charged by the Board upon all Maori lands.

In the future administration of lands not held in severalty we suggest a return to the ancient and simple plan of open and tribal dealings. Elective Committees will restore much that is useful in the authority of the chiefs. The old system reduced to law, and accompanied by such safeguards and restrictions as are deemed necessary, and aided by competent machinery, will, in our opinion, be found infinitely preferable to the present. It will be economic, simple, and safe, and it will invite settlement.

If it should be urged that the Maoris have not sufficient intellectual power to bear so large a part of the management of their own affairs, we would point to the evidence of mental capacity contained in all the statements and speeches made before us by members of the Native race. Especially is this the case in the long and logical list of resolutions passed by the large meeting at Wairoa, where for eight days the assembled Natives debated, and, with-

out any assistance, arrived at conclusions eminently practical and wise. The adaptability of the Native mind is patent, and it will be a tardy act of justice to a noble race if at last it is aided in developing its capacities for the proper administration of its own estates and the guidance of its own destiny. In short, the Natives need advice and assistance for management—not useless litigation.

The Committee of each block should have power to set aside necessary reserves, as fixed on by the owners in runanga assembled. The balance should be leased under regulations to be made by the Native Land Board, and approved by the Governor in Council; the Government alone to have power to lend money to the Board or to individuals.

The District Commissioner should be *ex officio* Chairman of every Committee, responsible for the conduct of business and for the distribution of all moneys.

Improved State of Affairs under Proposed Legislation.

The Native Land Court and a Native-land law must still exist, because it is necessary that there should be a tribunal powerful enough to decide cases of dispute as a last resort, and a law which shall be binding upon all. But, as now constituted, the Native Land Court and the Native-land laws should cease to operate. The expensive and elaborate surveys now made will be unnecessary under the plans here proposed. The divisional and subdivisional surveys will also be much simplified. The principal surveys required will be for occupation, as Crown lands are now treated. Tribal boundaries will be defined by natural features, and placed upon the plan by surveyors not for a division of the land, but of the proceeds. So with the boundaries of hapūs. The interminable hearings of Native cases in the Native Land Court, with the innumerable attendant evils, will also practically cease. The Maori Committees and runangas will be able generally to decide both as to boundaries and ownership, and the Court will only be called on to decide in extreme cases, and upon the evidence already given before the runanga. As the land can be leased and utilised without having to wait for more than the most general proof of ownership, this need not be hurried. Titles being given by a corporate Board, under regulations having the force of law, there will be no examinations by the Judges into the transaction, no Native Lands Frauds Prevention Courts, no Native deeds, with their necessary accompaniments of fraud, mistake, heavy cost, and much uncertainty. The Maori race may thus be saved, and their lands utilised for the public benefit.

Objections to Act being Optional.

Several witnesses have intimated an opinion that the operation of a new law should be made optional. We do not consider such a course to be either wise or politic. Should a new law be passed it should be imperative, and in no sense optional. The Native character is essentially simple. The principal tribes have given an unmistakable expression of their wishes. To frame a law so that they might or might not come under its jurisdiction, as they pleased, would at once suggest to them that Parliament itself was in doubt as to the wisdom of its Acts. And the influences at work to continue the present system are both numerous and powerful. The law must be simple, but it must be binding.

Appointments to the Legislative Council.

In proposing legislation of a drastic character we are confronted by the danger which will threaten the passage of a Bill absolutely reversing the policy of nearly thirty years. In the House of Representatives the Maori race are, if not fully, at least more adequately represented than they are in the Legislative Council. Of the two Maori members in the second Chamber, one, the Hon. Mr. Taiaroa, although an intelligent and painstaking Councillor, is not held among the Natives of the North Island generally as representing them; but the Hon. Major Ropata stands alone as representing forty thousand Natives owning a large portion of the North Island. Seeing that the whole destiny of the Maori race for good or ill is to be determined; that the laws which affect Maori land are to be discussed, and probably completely changed; the Natives think that they ought to have further and more skilled representation in the Council. They also urge that the European members of that House may, and probably will, require to be advised as to the feeling in the minds of the Natives in regard to the proposed radical changes in the law. They therefore desire us to suggest that two Maori chiefs, selected specially for their knowledge and experience in relation to the Courts and land-laws, might, with great propriety and advantage, be called to the Upper House.

Although it is with diffidence that we venture to make this suggestion, we do not hesitate to express our opinion that such a step would be extremely advantageous at the present time. It would give great confidence to the Native people, and it would afford considerable assistance to the members of the Legislative Council both in debate and in Committee.

We have ventured to speak without hesitation upon all the matters which fall within the scope of our Commission. It may be thought that in condemning so strongly the actions of that Parliament in which two of our number have each the honour to hold a seat we have gone beyond our duty. We do not so read your Excellency's commands. Mindful of the honour of the Crown, pledged so frequently to the Natives of New Zealand, we have endeavoured neither to aggravate nor to diminish the weight and effect of the evidence given before us, and the history of the Colony in regard to Native matters.

We have educed for your Excellency's information the opinions of the most illustrious men who have borne part in making that history. Governor Grey, Bishop Selwyn, Mr. Justice Richmond, Chief Judge Fenton, and a host of witnesses examined by us have borne testimony. To their reasonings all the Native chiefs give a willing assent. Without exception, all the tribes have in the main points of argument joined with the Europeans. There never was a more general consensus of opinion upon any subject of public comment. From Te Whiti, the man of peace, to Te Kooti, the man of war, all are of one mind. The cry of all, from the North Cape to Wellington, is this: "The past was bad: make a new and happier future."

We do not conceal from your Excellency that both Europeans and Natives, disappointed during so long a period by delusive hopes, are doubtful as to the result of this last effort. The Maoris are suspicious, the Europeans dubious. So many anticipations have been destroyed that to achieve any good result seems to many improbable.

We have not performed our duty in any perfunctory manner. Traversing this fair Island from end to end, brought into contact with both races of its people, we have recognised the wonderful possibilities with which New Zealand is endowed. It needs but the pacification of Native titles and the proper settlement of Native lands to produce a condition of great contentment and prosperity. We venture, therefore, to hope that your Excellency's Advisers will deal with this great question in a firm and impartial spirit. Thus, acting upon the lines which we have taken upon ourselves to project, laws may be enacted which will add to the honour of the Crown and insure the safety and welfare of both races of Her Majesty's subjects in New Zealand.

Final Remarks. Other Commissions.

In framing our report we bear in mind that many Commissions have sat in the past years to report upon the subject of Native lands and Native-land disputes. From the day when Mr. Commissioner Spain, in 1843–44, commenced his labours until now questions have continually arisen demanding inquiry.

Twice during a comparatively recent period have Commissions been appointed. In 1872 Parliament, in consequence of many complaints and disputes by and with persons of the Native race as to the manner in and under which the alienation of Native lands in Hawke's Bay which had passed through the Native Land Court had taken place, created a Commission by statute. That was the Hawke's Bay Alienation Commission. Mr. Justice Richmond and Judge Maning, of "Old New Zealand," with the two well-known Native chiefs Hikairo and Te Wheoro, acted upon that occasion. The subjects of inquiry were limited to the alleged unfair dealing with Natives in Hawke's Bay. That Commission sat for many months, and elicited much valuable evidence; but its labours were not practically utilised. It is to be regretted that the earnest work performed and the valuable suggestions made by Mr. Justice Richmond did not lead to adequate practical legislation. A very serious state of affairs was revealed, but no adequate effort seems to have been made to find a remedy.

In 1880, roused by the excited and dangerous state of the Natives on the West Coast, another Commission was appointed to examine and report. The West Coast Commission enjoyed the services of Sir Dillon Bell and Sir William Fox. Their task was to find out the true state of the claims of the friendly Natives living in the confiscated territory, and the wants of those who, though once in arms against the Crown, had returned to their old homes and were living there in peace. The long and exhaustive reports made by the West Coast Commission led to action on the part of the Legislature and the Government. Although in our opinion alterations should be made, we are convinced that the original legislation

consequent upon the reports of that Commission is eminently useful, and worthy both of the Commissioners and the colony. Unhappily the subsequent amendments made in that legislation are not so satisfactory.

To these Commissions, mainly composed, as they were, of men of great knowledge and the highest character, were intrusted questions which affected comparatively small sections of both Maori and European races, which regarded only one class of cases in each Commission, and which were limited in extent to restricted localities.

To the labours of those who have thus preceded us we are indebted, nor do we scruple to use the information and experience which with great care and toil they gathered together. But when it is remembered that the scope of our work is wider in extent; that the questions submitted embrace all the North Island, and the interests of both races who now inhabit it or who shall hereafter do so; that we have to recommend a remedy for past wrongs, and principles for the conduct of Courts of justice and the future management of land which is in extent a kingdom; we feel we are entitled to ask your Excellency's favourable consideration in the estimation of our work. The task committed to us was one of no ordinary magnitude. It might well have taxed the extreme skill and wisdom of men superior to your Excellency's servants. We have attempted to fulfil our duty. Our report speaks for itself. It is offered in the hope that it may aid in producing lasting peace and prosperity in the North Island, to which it more immediately refers. Its merit must be judged by results. Time and experience will decide its value. If it accomplish but a portion of the good we wish both races of our countrymen in New Zealand, it will amply justify the confidence which it pleased your Excellency to repose in us.

We cannot conclude without expressing our gratitude for the assistance rendered to the work of the Commission by all classes of the community. Especially are our thanks due to Mr. J. M. Geddis, shorthand writer and secretary to the Commission, and Mr. M. J. Gannon, interpreter, for the great skill and unwearied energy displayed by them in the performance of continuous and heavy work.

Given under our hands, and sealed with our seals, at Wellington, this twenty-third day of May, 1891.

W. L. Rees, (L.S.)
Chairman.

James Carroll. (L.S.)

DISSENT.

As I dissent from many portions of this report while I assent to others, and as the separation of the one from the other would be difficult, I have deemed it advisable to draw up an independent report, which is subjoined. Thomas Mackay.

NOTE BY MR. CARROLL.

Upon the question of the Crown resuming the right of pre-emption over lands owned by the Maoris, I dissent from the views expressed in the foregoing report. I cannot help feeling that such a step would be unwise and impolitic, while the legality itself of such a proceeding is, I believe, open to grave doubt. The Crown bases its title to land in New Zealand not on the right of discovery or conquest, but on the Treaty of Waitangi. By that treaty the exclusive right of pre-emption over such lands as the Native proprietors might be disposed to alienate was yielded to Her Majesty from the period of signing the Treaty of Waitangi until the sanction of Her Majesty was obtained to "The Native Land Act, 1862:" over twenty years that right remained in full force. Thus it will be seen that ample opportunity was afforded for testing the efficacy, wisdom, and justice of the prerogative so assured. In some

vague way the Europeans have always regarded themselves as having an undefined reversionary interest in Maori lands; the Natives, on the other hand, have always failed to cordially acquiesce in the administration of their territorial estates by the various Governments that have from time to time controlled the destinies of New Zealand. And so, for the long stretch of time the Government retained the right of pre-emption over the Native lands, the period was one fraught with many acts of injustice to the Natives. They called to mind the words used to them by Captain Hobson when the Treaty of Waitangi was signed—that the two races had become united under one sovereign; but, in strange contradiction to this harmonious union, they saw millions of acres of their land passing from them, in some instances at a farthing an acre, secured nominally by the Government, but in reality for the more favoured subjects of Her Gracious Majesty. So unjust, indeed, were many of the Government purchases that they were condemned in Parliament by men holding exalted positions, and who were in every way capable of forming an unbiassed judgment.

Parliament at length was no longer able to conceal from itself that great wrongs upon the Native race were being perpetrated. It saw, as it expressed itself in the preamble to the Native Land Act passed at the time, that it would greatly promote the peaceful settlement of the colony and the advancement of the civilisation of the Natives if their rights to land were ascertained, and defined, and declared, and if the ownership of such lands when so defined and declared was assimilated as nearly as possible to the ownership according to British law. With a view to giving effect to the foregoing objects Her Majesty waived in favour of the Natives so much of the Treaty of Waitangi as reserved to Her the right of pre-emption over their lands.

I entirely fail to understand how, as set forth in the preamble to the Act of 1862, the Government of New Zealand, having renounced the right of pre-emption over Native lands, can again acquire that prerogative without the assent of the Natives. Upon equitable grounds alone the Parliament should not attempt to regain the prerogative it abandoned about thirty years ago. Such a proceeding on the part of the Legislature would in my opinion intensify the mistrust the Native population too long have had in Colonial Governments. They would immediately discern an intention on the part of the Government to enrich the European colonists at the sacrifice of the territorial interests of the Maori subjects of the Queen.

To the Native mind, unversed in the subtleties of the law, such a proceeding would be regarded by the present generation of Maoris as simply confiscation. They would feel themselves thrown back in the onward march of progress, hampered and shut out from the many advantages of civilisation that they now look so hopefully forward to, and regard as being within their reach. I think the resumption by the Crown of the pre-emptive right restricting the Natives to but one market in which they could dispose of their lands would retard instead of promoting the settlement of the country. Many of the more intelligent and prudent of the race are turning their attention to sheep-farming and stock-raising generally. They are possessed of the wholesome idea of becoming producers, and laudably desire to emulate their more experienced European neighbours in the art of agriculture and profitable stock-rearing.

To attain this end they fully recognise that it would be wise for them to dispose of such areas of their surplus lands as they are not likely to require for themselves, and from the disposal of such lands to obtain the necessary funds for clearing, fencing, and stocking the land retained for their own profitable occupation. With the Native mind running in this groove, dominated with the desire of becoming thoroughly useful settlers, and adding to the productive powers of the colony, it may be reasonably expected that, with legislation of a judicious character afforded them such as will fairly meet their aspirations, little apprehension need exist as to their willingness to place the lands not needed for their own use in the public market. Evidence adduced before the Commission proved conclusively that, where the Government interposed with its pre-emptive right, as was the case in the King-country, the Natives could not obtain a fair price for their land. The Government offered 3s. an acre: at the same time private purchasers were in constant communication with the owners, and willing to pay them £1 an acre.

Need one wonder that a deadlock in Native-land transactions in that part of the country occurred. The inevitable result arising from such a condition of things is that, if the Natives cannot sell to the purchaser prepared to give them a larger sum than the Government, they will not sell at all; and it will be observed that not even the Treaty of Waitangi itself, or any law passed by Parliament, assumed the power of compelling the Natives to alienate their land.

So it comes to pass that large areas of excellent country, well adapted for settlement, remain locked up, because, forsooth, the Natives refuse to accept the 3s. an acre offered by the Government, when private parties are prepared to give them more than six times that amount. While still on the question of the pre-emptive right, perhaps I may be permitted to quote the words of Mr. Alfred Domett: "In governing masses of men we must look upon a wrong really felt as a real wrong. It mattered not that on abstract principles of justice or theories it ought not to be considered a wrong—if it was really felt by them, then it must be treated as a real wrong. And this was the case with the Maoris, and their feeling about the Crown's right of pre-emption." It is nearly thirty years since those words were uttered in the New Zealand Parliament, and they are as pregnant with truth now as they were then.

Not only in regard to the exercise of the pre-emptive right should Government interference with the Natives be avoided, but in many other respects. A race that has been in contact with the most civilised nation on earth during the past half-century, a race admittedly intelligent, and possessed of great territorial estates, may in reason be expected to have sufficient discernment to distinguish between governmental treatment properly and improperly bestowed.

For the special purpose of meeting the requirements of the aboriginals, the Native Office, I understand, was constituted. This was to be the avenue open to the Maoris for communicating their desires to the pakeha world.

When the Imperial Government relinquished its control of Native affairs, it was a condition precedent, I understand, that a sum of £7,000 was to be devoted annually to purposes of a character deemed specially beneficial to the Natives.

This sum is and has been for years annually expended. It is understood that it is exhausted in maintaining the Native Office; but for what specific purposes remains shrouded in mystery. Efforts have been made, even by Parliament itself, to have some light thrown on the matter; but without success. Of this, however, no doubt need exist: that the Native population, who presumably may be regarded as primarily interested in the disbursement of that annual sum, are thoroughly dissatisfied. So far from the Native Office being to them an institution to look up to, or view in a favourable light, they regard with the utmost suspicion and undisguised dread its questionable operations. Scarcely is there a portion of the North Island where the Natives have any experience of the Native Office but they remember it with feelings of regret. Everywhere one hears complaints of its deceitful practices, overreaching, unfulfilled promises, and treachery, in all of which the Natives are, of course, the helpless victims.

As to these grievances, some of them are of a serious character. It will not redound to the honour of a possession of the British Crown if those grievances are not impartially investigated. With experience so gained, can it be wondered at that proposals emanating from a source so tainted—the channel of communication between the Government for the time being and the Natives—are regarded as new devices for still further victimising them? Deceived and misled, can it be a matter of surprise that Governments, as they have known them, together with the Native Office, are jointly viewed with the profoundest suspicion? The situation has been so forced upon the Natives throughout the Island. Partly in despair and partly in hope they have now sought a way out of the difficulty. The mysteries of the Native Office they cannot penetrate; the policy of past Governments they have learned to mistrust: their only hope and outlook is centred in the prospect of the Legislature granting them the power they ask for to control their own affairs. After all, what they ask for is only a species of local self-government, exercised in a manifold degree by their European neighbours.

A strong desire exists among them to become useful settlers, and contribute to the productive wealth of the country. I believe they are capable of doing so if unimpeded by obstructive legislation. Too long has it been the fashion to regard the Native race as one rapidly becoming extinct. This idea has permitted the sentimental nonsense to be indulged in that the duty of the Legislature was, as some one has expressed it, "to smooth down their dying-pillow." For my own part, and after careful observation, I am forced to the conclusion that it is a mistaken theory to assume that the Native race will rapidly decrease. The abnormal state of affairs that prevailed during and some time after the wars with the Natives to some extent, perhaps, warranted such a conclusion; but that turbulent period in their history has happily passed away, never to return. Where they have adopted European habits and followed industrial pursuits a steady increase is perceptible. This, I think, will be borne out by the recent census returns.

Even the casual traveller through the portions of the country more particularly inhabited by Natives can scarcely fail to observe the many Maori children growing up, healthy-looking, well fed, and well clad. This condition of things follows a peaceful and industrious mode of living. But is it not a somewhat melancholy reflection that, during all the years the New Zealand Parliament has been legislating upon Native-land matters, no single *bonâ fide* attempt has been made to induce the Natives to become thoroughly useful settlers in the true sense of the word? No attempt has been made to educate them in acquiring industrial knowledge or to direct their attention to industrial pursuits. Whatever progress they have achieved in that direction is owing entirely to their own innate wisdom and energy. In that respect they are essentially self-taught, and have had to rely entirely upon their own powers of observation. Parliament will add one more to its many blunders in administering Native affairs if, in its shortsightedness, it omits to devise means for encouraging and assisting the Natives to become useful settlers. This can be done if they are afforded facilities for rendering productive the lands they already possess. The Natives need no great incentive. Why not encourage them to take up land under special-settlement conditions? They are quick to learn, and at the present time surrounding circumstances are very favourable. In former times many opportunities presented themselves that were allowed to pass unheeded, unregarded. If similar Parliamentary neglect again asserts itself, the day may be nearer at hand than many expect when the Legislature will find itself face to face with the difficulty embodied in the question, "What shall we do with our Maoris?"

Future Legislation.

It should be borne in mind, when legislating for the future, that the antipathy that existed in the Native mind in many parts of the colony in the early days against the occupation of Maori lands by Europeans has wholly disappeared. The Commissioners, in their recent travelling through the North Island, had ample testimony afforded them of this fact. While difference of opinion prevails among the Natives as to the relative merits of leasing or selling, there is a consensus of opinion amongst them upon the advisability of throwing their lands open, at all events, for leasing. They have openly and publicly enunciated their views upon this point, the sole difficulty, apparently, being as to the legislative machinery to be employed to attain this end. The Natives, in unmistakeable terms and with singular unanimity, have made known to the Commissioners the *modus operandi* to be adopted in the furtherance of their views. It cannot therefore be alleged that by Parliament conforming to the expressed views of the Natives any obstacle is raised to the settlement of the country.

It is not as if the Natives were taking up a sullen attitude against what might be regarded as the general welfare of the colony. No; on the contrary, they earnestly entreat Parliament to afford them substantial legislative aid to deal with their lands in a manner best understood by themselves, at the same time compatible with justice, and in no way inimical to the best interests of the colony. Imbued with such desires, they naturally look to Parliament to aid them. I feel assured that Parliament will be acting wisely in acceding to their request, and affording them the co-operation they so earnestly hope for. Certainly, without the thorough co-operation of the general body of the Natives, no scheme that any Government may propound, no legislation that it may pass, can be expected to succeed. An exceptional opportunity now presents itself for introducing judicious legislation for enabling the Natives to deal intelligently and justly with the large areas of land now held by them in an unproductive or only partially-productive state. They themselves are willing to assist in carrying out the laws they ask to be passed, and thus, while promoting their own racial interests, feel that they are being dealt with as intelligent beings, willing to bear their proper share of the obligations of the State.

By Parliament meeting the Natives now in the same spirit of frankness that the Natives have come before the Commissioners, much may be done to redeem the bitter recollection of the past, and a harmonious system be brought about whereby true settlemnt and genuinee progress of the North Island, as well as the colony as a whole, may be largely promoted, to the advantage and lasting prosperity alike of the European and Maori races.

James Carroll.

THE TREATY OF WAITANGI.

English Version.

HER MAJESTY VICTORIA, Queen of the United Kingdom of Great Britain and Ireland, regarding with her Royal favour the Native chiefs and tribes of New Zealand, and anxious to protect their just rights and property, and to secure to them the enjoyment of peace and good order, has deemed it necessary, in consequence of the great number of Her Majesty's subjects who have already settled in New Zealand, and the rapid extension of emigration both from Europe and Australia which is still in progress, to constitute and appoint a functionary properly authorised to treat with the aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any part of those islands. Her Majesty, therefore, being desirous to establish a settled form of civil government with a view to avert the evil consequences which must result from the absence of the necessary laws and institutions alike to the Native population and to her subjects, has been graciously pleased to empower and authorise me, William Hobson, a captain in Her Majesty's Royal navy, Consul and Lieutenant-Governor of such parts of New Zealand as may be, or hereafter shall be, ceded to Her Majesty, to invite the confederated and independent chiefs of New Zealand to concur in the following articles and conditions:—

Article the First.

The chiefs of the Confederation of the United Tribes of New Zealand, and the separate and independent chiefs who have not become members of the confederation, cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of sovereignty which the said confederation or individual chiefs respectively exercise or possess, or may be supposed to exercise or to possess, over their respective territories as the sole sovereigns thereof.

Article the Second.

Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand, and to the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession; but the chiefs of the United Tribes and the individual chiefs yield to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.

Article the Third.

In consideration thereof, Her Majesty the Queen of England extends to the Natives of New Zealand her Royal protection, and imparts to them all the rights and privileges of British subjects.

Now, therefore, we, the chiefs of the Confederation of the United Tribes of New Zealand, being assembled in congress at Victoria, in Waitangi, and we, the separate and independent chiefs of New Zealand, claiming authority over the tribes and territories which are specified after our respective names, having been made fully to understand the provisions of the foregoing treaty, accept and enter into the same in the full spirit and meaning thereof; in witness of which we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi, this sixth day of February, in the year of our Lord one thousand eight hundred and forty.

W. HOBSON,
Lieutenant-Governor.

EXTRACT FROM "THE CONSTITUTION ACT, 1852" (15 AND 16 VICT., C. 72).

Her Majesty may cause laws of aboriginal native inhabitants to be maintained.

71. And whereas it may be expedient that the laws, customs, and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves in all their relations to and dealings with each other, and that particular districts should be set apart within which such laws, customs, or usages should be so observed:

It shall be lawful for Her Majesty, in and by any letters patent to be issued under the Great Seal of the United Kingdom, from time to time to make provision for the purposes aforesaid, any repugnancy of any such Native laws, customs, or usages to the law of England, or to any law, statute, or usage in force in New Zealand or in any part thereof, in anywise notwithstanding.

Power to General Assembly to regulate sales of waste lands.

72. Subject to the provisions herein contained, it shall be lawful for the said General Assembly to make laws for regulating the sale, letting, disposal, and occupation of the waste lands of the Crown in New Zealand; and all lands wherein the title of Natives shall be extinguished as hereinafter mentioned, and all such other lands as are described, in an Act of the session holden in the tenth and eleventh years of Her Majesty, chapter one hundred and twelve, to promote colonisation in New Zealand and to authorise a loan to the New Zealand Company, as demesne lands of the Crown, shall be deemed and taken to be waste lands of the Crown within the meaning of this Act.

Saving as to the lands of aboriginal native tribes.

73. It shall not be lawful for any person other than Her Majesty, her heirs or successors, to purchase or in anywise acquire or accept from the aboriginal natives land of or belonging to or used or occupied by them in common as tribes or communities, or to accept any release or extinguishment of the rights of such aboriginal natives in any such land as aforesaid; and no conveyance, transfer, or agreement for the conveyance or transfer of any such land, either in perpetuity or for any term or period either absolutely or conditionally, and either in property or by way of lease or occupancy, and no such lease or extinguishment as aforesaid shall be of any validity or effect unless the same be made to or entered into with and accepted by Her Majesty, her heirs or successors: Provided always that it shall be lawful for Her Majesty, her heirs and successors, by instructions under the Signet and Royal Sign-manual, or signified through one of Her Majesty's Principal Secretaries of State, to delegate her powers of accepting such conveyances or agreements, releases or relinquishments, to the Governor of New Zealand or the superintendent of any province within the limits of such province, and to prescribe or regulate the terms on which such conveyances or agreements, releases or extinguishments, shall be accepted.

MINUTES OF PROCEEDINGS.

GISBORNE, 2ND MARCH, 1891.

THE Commissioners (Messrs. William Lee Rees, M.H.R., James Carroll, M.H.R., and Thomas Mackay) met at 2.30 p.m. in the Native Land Court room, and adjourned till 4.30 p.m., when the Commission was read. Mr. Rees was appointed Chairman of the Commission, and the order in which the various leading centres of population in the North Island would be visited was settled.

The Commission adjourned at 5.30 p.m.

GISBORNE, 4TH MARCH, 1891.

The Commission sat in the Public Hall at 2.30 p.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

It was decided to instruct John Brooking, Registrar of the Native Land Court at Gisborne, to furnish the Commissioners with a return showing the lands adjudicated upon in the Poverty Bay district by the Native Land Court, the survey districts, the subdivisions (if any), to what extent completed, the time occupied in the sittings of the Court, how long the Judges presided over each case, and the names of the tribes and hapus ascertained as owners; similar returns to be obtained from the Registrars of the other Native land districts in the colony.

The Commission adjourned at 3.30 p.m.

GISBORNE, 5TH MARCH, 1891.

The Commission sat in the Public Hall at 10 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

An adjournment was made till 2.30 p.m., when all the Commissioners were present.

The Commission adjourned at 3 p.m.

GISBORNE, 6TH MARCH, 1891.

The Commission sat in the Public Hall at 10 a.m.

Present: Messrs W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Edward Francis Harris, licensed interpreter; Frank Westbrook Skeet, barrister and solicitor; Wi Pere; and Cecil Albert de Lautour, barrister and solicitor, were examined on oath.

The Commission adjourned at 4.30 p.m.

GISBORNE, 7TH MARCH, 1891.

The Commission sat in the Public Hall at 10 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Lieut.-Colonel Thomas William Porter, Native agent and interpreter; John Brooking, Registrar of the Native Land Court; and Raniera Turoa were examined on oath; and Wi Pere was further examined with special reference to the Mangatu No. 1 Block.

The Commission adjourned at 1 o'clock p.m.

AUCKLAND, 10TH MARCH, 1891.

The Commission sat at 3 p.m. in the Customhouse building.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Paratene Ngata, Native Assessor, was examined on oath.

The Commission adjourned at 5.5 p.m.

AUCKLAND, 11TH MARCH, 1891.

The Commission sat in the Customhouse building at 10.30 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Hamiora Mangakahia, Native Assessor, and Laurence Marshall Grace, Native agent and interpreter, were examined on oath.

The Commission adjourned at 1 p.m.

AUCKLAND, 12TH MARCH, 1891.

The Commission sat in the Customhouse building at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Edward Fawkner Tizard, settler, and Oliver Mason Creagh, land-surveyor, were examined on oath.

The Commission adjourned at 1 p.m.

AUCKLAND, 13TH MARCH, 1891.

The Commission sat in the Customhouse building at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
Arrangements were made for obtaining the evidence of experts, and for visits to Maori centres.
The Commission adjourned at 12 noon.

AUCKLAND, 14TH MARCH, 1891.

The Commission sat in the Customhouse building at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
James Baber, civil engineer and surveyor, was examined on oath.
The Commission adjourned at 12.30 p.m.

AUCKLAND, 16TH MARCH, 1891.

The Commission sat in the Customhouse building at 11 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
James Mackay, licensed interpreter and land agent (formerly a Judge of the Native Land Court), was examined on oath, and Hamiora Mangakahia was further examined.
Thomas Power appeared, and made the following statement to the Commissioners: That, being the husband of Rahapa te Hauata, and she being the grantee of Allotments 178 and 179, Parish of Pukete, in the Alexandra Survey District, he was unable to get a title to the said land after his said wife's decease, though it had been devised by will of the said deceased to her said husband (Thomas Power) and their two daughters. He desired the Commission in its report to consider the case, with a view to remedial legislation. Mr. Rees explained that the Commission could report that in all such cases the Crown Lands Commissioner or a Native Land Court Judge should have power to issue a title, for it was clear that the deceased desired that her land should pass to her husband and her two daughters. As the law stood, the land was barred from passing to the European husband of the deceased.
The Commission adjourned at 3.45 p.m.

AUCKLAND, 17TH MARCH, 1891.

The Commission sat in the Customhouse building at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
It was decided to print the orders of reference in English and Maori, and to circulate them among persons of both races from whom valuable testimony might be expected, the prior circulation of the orders of reference being designed to apprise such persons of the scope of the inquiry, and of the particular matters upon which information was sought.
The Commission adjourned at 12 noon.

AUCKLAND, 18TH MARCH, 1891.

The Commission sat in the Customhouse building at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
Francis Dart Fenton, ex-Chief Judge of the Native Land Court, was examined on oath; also Hone Peeti, Native Assessor.
The Commission adjourned at 1 p.m.

AUCKLAND, 19TH MARCH, 1891.

The Commission sat in the Customhouse building at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
John Rogan, ex-Judge of the Native Land Court, was examined on oath, and Francis Dart Fenton was further examined.
The Commission adjourned at 1 p.m.

CAMBRIDGE, 24TH MARCH, 1891.

The Commission sat in the Public Hall at 7.30 p.m., a large gathering of chiefs and people of the Ngatiraukawa, Ngatituwharetoa, and Ngatimaniapoto Tribes, together with one or two members of the Arawa Tribe, being in attendance.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
Speeches of welcome were made by Pepene Eketone, Arakatera Rongowhitiao, Hemopo Hikarahui, Karanama te Whareheke, Okiwi Ngatara, Aperahama Patene, Tureiti te Heuheu, Hitiri Paerata, Te Rangikarapiripia, Huirama Tukariri, and Hauraki Tonganui. Mr. Rees then replied at some length, fully explaining the objects for which the Commission was appointed. At the request of the Natives, the proceedings were then postponed till 2 p.m. next day, in order to enable them to deliberate amongst themselves.
The Commission adjourned at 9.45 p.m.

CAMBRIDGE, 25TH MARCH, 1891.

The Commission sat in the Public Hall at 10 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
Edward Walter Puckey, Judge of the Native Land Court; John Gwynneth, civil engineer and authorised surveyor; and William Moon, farmer, were examined on oath.

The Commission sat again in the Public Hall at 2 p.m. to receive the statements of the assembled Natives upon the subjects set forth in the Commission.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Speeches were made by Karanama te Whakaheke, Pepene Eketone (spokesman for the chiefs), Aperahama Patene, Te Rangikarapiripia, Hokiri, Arakatera Rongowhitiao, Hori Patene, Hipirini te Whetu, and Hemopo Hikarahui. Mr. Rees replied to Pepene Eketone.

The Commission adjourned at 4.45 p.m.

The Commission sat specially at 7.30 p.m. in the Criterion Hotel for the purpose of meeting the chiefs of the Ngatituwharetoa Tribe.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Mr. Rees explained in detail the scope and objects of the Commission, after which Tureiti te Heuheu, Tokena Kerehi, Waraki Kapu, Ngakurute te Rangikaiwhiria, Te Rangikarapiripia, Hitiri te Paerata, Hemopo Hikarahui, Takiwa te Momo, Te Roera Herua, Wiari Ngatai, Hauraki Tonganui, and Wereta Hoani laid their views before the Commissioners.

The Commission adjourned at 10 p.m.

KAWAKAWA, 1ST APRIL, 1891.

The Commission sat in the Star Hotel at 1.30 p.m.

Present: Messrs. W. L. Rees M.H.R. (Chairman), and Thomas Mackay.

Mary Tautari, Native school-teacher and licensed interpreter, was examined on oath.

At 2 p.m. the Commission sat in the Resident Magistrate's Courthouse, in order to meet a number of Ngapuhi chiefs and people. Mr. Rees made a short explanatory speech, and the Rev. Wiremu Pomare, Hori Winiana, Wiki Moehana, Hoterene Maihi Kawiti, and Te Atimana Wharerau were then heard in reply and examined.

The Commission adjourned at 3.30 p.m.

WAIMATE NORTH, 2ND APRIL 1891.

The Commission sat in the Resident Magistrate's Courthouse at 10.30 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

A number of chiefs and people of the Ngapuhi Tribe were in attendance. Mr. Rees fully explained the objects for which the Commission had been appointed, and subsequently Wi Katene (ex-M.H.R.), Hiramai, Hoani Ngapua Tuhirangi, Karina Puhi, Tareha te Hehe, Hori Whiu, Tane Haratu, and Kingi te Nahuru were heard and questioned. Hone Peeti, Native Assessor, was also examined at length in continuation of the sworn testimony which he had commenced at Auckland on the 18th March.

The Commission adjourned at 4 p.m.

TE AHUAHU, 3RD APRIL, 1891.

The Commissioners (Messrs. W. L. Rees, M.H.R., Chairman, and Thomas Mackay) sat in the Travellers' Rest Hotel at 9.50 a.m., and heard a statement from Hiramai, who was accompanied by two other Natives. Hiramai was also examined upon certain points in his statement.

The Commission adjourned at 11 a.m.

KAWAKAWA, 4TH APRIL, 1891.

The Commission sat in the Resident Magistrate's Courthouse at 5 p.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Mr. Rees reminded the assembled Ngapuhi chiefs and people that the Commissioners had returned in fulfilment of their promise to hear the result of the Natives' deliberations. Speeches were then made by Te Atimana Wharerau, Hoterene Maihi Kawiti, Kaka te Hakiro, and the Rev. Wi Pomare, and they were subsequently examined on various points.

The Commission adjourned at 6 p.m.

WHANGAREI, 6TH APRIL, 1891.

The Commission sat in the Commercial Hotel at 2 p.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

As the matters brought before the Commission referred to particular cases, no evidence was taken on the questions submitted.

The Commission adjourned at 2.30 p.m.

AUCKLAND, 7TH APRIL TO 12TH APRIL (INCLUSIVE), 1891.

The Commission sat daily in the Customhouse buildings, in furtherance of their work, but took no evidence.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

AUCKLAND, 13TH APRIL, 1891.

The Commission sat in the Customhouse building at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Edwin Thomas Dufaur, barrister and solicitor, was examined on oath.

The Commission adjourned at 12.30 p.m.

OTOROHANGA, 15TH APRIL, 1891.

The Commission sat in the Native Land Courthouse at 10.30 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

There was a large assemblage of chiefs and people of the Ngatimaniapoto Tribe. Messrs. Rees and Carroll (the latter in Maori) fully explained the objects of the Commission, and invited an expression of opinion from the Natives thereon. Taonui, having spoken briefly, the Commission, at the request of Wahanui, agreed to adjourn in order to afford the Natives opportunity to confer together before making a formal statement of their views.

On resuming at 2.30 p.m., Henry Edwards (half-caste) stated the conclusions at which the Natives had arrived. He was then examined by Messrs. Carroll and Rees, after which Taonui and Whitinui were also heard and examined. Finally Te Kooti spoke a few words.

The Commission adjourned at 5 p.m.

AUCKLAND, 17TH APRIL, 1891.

The Commission sat in the Customhouse building at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

Theophilus Cooper, barrister and solicitor, was examined on oath.

The Commission adjourned at 12.30 p.m.

AUCKLAND, 18TH APRIL, 1891.

The Commission sat in the Customhouse building at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.

John Lundon, sometime member of the House of Representatives for the Bay of Islands District, was examined on oath.

The Commission adjourned at 12 noon.

NEW PLYMOUTH, 21ST APRIL, 1891.

The Commission sat in the Native Reserves Office at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

E. M. Smith, M.H.R., introduced a deputation of lessees of Native land situated near New Plymouth, and set forth their grievance. E. M. Smith, Wilfred Rennell (Native Reserves Trustee), and George Bates Haigh (one of the lessees) were then examined in respect of the subject of complaint. Oliver Samuel, barrister and solicitor, was then examined generally in relation to the questions submitted to the Commission for investigation.

The Commission adjourned at 1 p.m.

The Commission sat again in the Criterion Hotel at 7.45 p.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Wilfred Rennell, Native Reserves Trustee; Major Charles Brown, formerly Civil Commissioner; and Te Kahui, Native Assessor, were examined.

The Commission adjourned at 10 p.m.

PARIHAKA, 22ND APRIL, 1891.

En route to Opunake from New Plymouth, the Commissioners, escorted by Mounted-Constable Hickman, visited this Maori settlement in order to see Te Whiti. Te Whiti was at a distance from the village when the Commission and party arrived, but on being apprised of the visit he soon came in and extended a cordial welcome. No formal meeting was held, but a desultory conversation took place between the Commissioners and Te Whiti and some of the other chiefs who were present. The Chairman of the Commission explained to Te Whiti and the other Natives seated round the *marae* the objects of the Commission, and pointed out that its appointment was the outcome of the desire of the Parliament and Government to ascertain and remedy any real grievances of which the Maoris complained. This, then, was a favourable opportunity for the Maoris to make their voices heard, and Te Whiti, as well as the other leaders of the Native race, should not neglect to take advantage of it.

In reply, Te Whiti said that the Maori chiefs had year after year petitioned Parliament, but nothing seemed to be done.

The Chairman rejoined that Parliament, convinced at last by these petitions that something ought to be done, had appointed the Commission to make due inquiry and report the result.

After some further discussion, Te Whiti entertained the Commissioners and staff at tea.

The Commissioners, before leaving Parihaka, handed Te Whiti (for distribution among his people) a parcel of printed copies of the Maori translation of the reference to the Commission, and also copies of a summary (in Maori) of the Native evidence and meetings taken and held by the Commission in the Auckland Provincial District.

OPUNAKE, 23RD APRIL, 1891.

The Commission sat in the Telegraph Hotel at 9 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Messrs. A. H. Moore and Newman interviewed the Commission on the subject of Native-land leases on the reserves surrounding Opunake, pointing out that there was great difficulty in getting an alteration of terms.

The Commission adjourned at 10 a.m.

WANGANUI, 27TH APRIL, 1891.

The Commission sat in the Native Land Courthouse at 11.30 a.m.
Present: Messrs. J. Carroll, M.H.R., and Thomas Mackay.
A number of Natives of the Whanganui Tribe were present. Mr. Carroll addressed them in Maori, and Takerangi Mete Kingi, Te Waka Hakaraia, Te Aro, and Kahukaka te Kupenga replied.
At 2.15 p.m. the Commission sat again in the same place and examined Samuel Thomas Fitzherbert, barrister and solicitor, and Gifford Marshall, barrister and solicitor.
The Commission adjourned at 3.45 p.m.

PALMERSTON NORTH, 29TH APRIL, 1891.

The Commission sat in the Royal Hotel at 10.45 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.
Edward Nolloth Liffiton, auctioneer and land agent, of Wanganui, was examined.
The Commission adjourned at 11.15 am.

NAPIER, 1ST MAY, 1891.

The Commission sat in the Supreme Court library at 2.30 p.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and Thomas Mackay.
Captain George Augustus Preece, R.M., Government Native Agent and Trust Commissioner, and Edwin Heathcote Williams, barrister and solicitor, were examined.
The Commission adjourned at 4.30 p.m.

NAPIER, 2ND MAY, 1891.

The Commission sat in the Masonic Hotel at 11 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and J. Carroll, M.H.R.
Paora Kaiwhata, a chief of Ngatikahungunu Tribe, was examined.
The Commission adjourned at 11.30 a.m.

NAPIER, 4TH MAY, 1891.

The Commission sat in the Supreme Court library at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.
Francis Logan, barrister and solicitor; Josiah Pratt Hamlin, licensed interpreter; Matthew Robertson Miller, stock and station agent; and James Wren Carlile, barrister and solicitor, were examined.
The Commission adjourned at 12.45 p.m.

WAIPAWA, 5TH MAY, 1891.

The Commission sat in the Oddfellows' Hall at 10.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.
A large number of chiefs and people of the Ngatikahungunu Tribe were in attendance.
Mr. Carroll addressed the gathering in Maori, detailing the purposes for which the Commission had been appointed, and inviting the Natives to freely state their views, and explain their grievances.
Henare Matua, Henare Tomoana, Renata Pukututu, Hori Ropiha, Whata Korari, Pene te Ua, Arapeta Meha, Nepe te Apitu, Ihaia Hutena, Hori Niania, Wi Rangirangi, Aperahama te Kume (from Taupo), Hamiora Mangakahia, Hiraka ti Rongo (from Patea), Horomona, and Emeri te Whetu responded to the invitation. Aperahama te Kume, Hamiora Mangakahia, and Hiraka ti Rongo were also questioned by the Commissioners.
The Commission adjourned at 4.15 p.m.
The Commission sat in the Empire Hotel at 7 p.m.
Present: Mr. W. L. Rees, M.H.R. (Chairman).
Robert Ward, Judge of the Native Land Court, was examined.
The Commission adjourned at 8 p.m.

WAIPAWA, 6TH MAY, 1891.

The Commission sat in the Oddfellows' Hall at 9.30 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and J. Carroll, M.H.R.
William Henry Grace, licensed interpreter; Captain Richard Thomas Blake, Native agent; and Alfred La Vavasour Durell Fraser, Native agent, laid their views before the Commission, and were followed by Paora Ropiha, Piripi Make, Horiana, Henare Matua, Pene te Ua, Mohi te Ataihikoia (Chairman of the District Native Committee), Arapeta Meha, Emeri te Whetu, and Hiraka ti Rongo.
The Commission adjourned at 12.30 p.m.

DANEVIRKE, 7TH MAY, 1891.

The Commission sat in the Masonic Hotel at 8 a.m.
Present: Messrs. W. L. Rees, M.H.R. (Chairman), and J. Carroll, M.H.R.
James Allardice, hotel-keeper, was examined.
The Commission adjourned at 8.20 a.m.

GREYTOWN (WAIRARAPA), 8TH MAY, 1891.

The Commission sat in the Foresters' Hall at 9.45 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

A number of the Wairarapa Natives were in attendance.

Mr. Rees explained the subjects which the Commission had been appointed to investigate, and invited the Natives to state their opinions thereon.

Piripi te Maari, Tunuiarangi, Hamiora Mahupuku, and Te Whatahoro spoke, the last-named chief reading out to the Commissioners a series of resolutions passed at a largely attended meeting held at Wairoa (East Coast) in April.

Messrs. Rees and Carroll replied.

The Commission adjourned at 12.20 p.m.

OTAKI, 11TH MAY, 1891.

The Commissioners sat in the Maori runanga-house at 2 p.m., where they were received by a large gathering of the Ngatiraukawa Tribe.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Messrs. Rees and Carroll (the latter in Maori) addressed the Natives on the objects of the Commission, and requested them to state their views.

Hoani Taipua, M.H.R., Robert Ransfield (Ropata Ranapiri), Akapita te Tewe, Wiremu Kiriwehi, Kipa Whatanui, and Atanatiu Kairangi then in turn addressed the Commissioners.

The Commission adjourned at 4.35 p.m.

WELLINGTON, 12TH MAY, 1891.

The Commission sat in the Native Affairs Committee-room, Parliament Buildings, at 10 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Francis Henry Dillon Bell, barrister and solicitor; Martin Chapman, barrister and solicitor; and Thomas William Lewis, Under-Secretary, Native Department, were examined (the last-named partially).

The Commission adjourned at 5 p.m.

WELLINGTON, 13TH MAY, 1891.

The Commission sat in the Native Affairs Committee-room, Parliament Buildings, at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Hugh Owen, mining agent, and Ernest Dillon Bell, barrister and solicitor, were examined; and the examination of Thomas William Lewis, Under-Secretary, Native Department, was completed.

The Commission adjourned at 4.30 p.m.

The Commission sat in the Supreme Court library at 7 p.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Sir Robert Stout, K.C.M.G., was examined.

The Commission adjourned at 8 p.m.

WELLINGTON, 14TH MAY, 1891.

The Commission sat in the Native Affairs Committee-room, Parliament Buildings, at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

John Curnin, Government law-draftsman, and Henry Howorth, barrister and solicitor, were examined.

The Commission adjourned at 4.30 p.m.

WELLINGTON, 15TH MAY, 1891.

The Commission sat in the Native Affairs Committee-room, Parliament Buildings, at 11 a.m.

Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay.

Ngarangi Katitia (George Broughton) was examined.

The Commission adjourned at 4.30 p.m.

WELLINGTON, 16TH MAY TO 23RD MAY, 1891.

During this time the Commissioners were engaged daily revising and completing their report for presentation to His Excellency the Governor.

WELLINGTON, 25TH MAY TO 6TH JUNE, 1891.

Between these dates Mr. Thomas Mackay was engaged drawing up and completing an independent report upon points wherein he dissented from the opinions enunciated in the combined report. A serious illness supervened, and on the 13th June Mr. Mackay died, leaving his report incomplete.

During this period also, and up to the 10th June, Mr. Rees, M.H.R., was from time to time in attendance upon Ministers, and was engaged noting appendices, completing report, and procuring necessary returns.

CORRIGENDA.

As a portion of the evidence was printed off before some of the revision-slips came to hand, a number of corrections have to be indicated.

Question 562.—Substitute "And" for "Nor."

Q. 582.—Line 8, insert before "Trust" "who had sat as."

Q. 617.—The last sentence forms the question to which paragraph 618 is the answer.

Q. 639.—"Pikea" should be "Paikea."

Q. 643.—In this paragraph the phrase "There are many cases" begins the answer.

Q. 644.—Mr. Rees's name should appear here as that of the questioner.

Q. 658.—The first sentence is the witness's answer to paragraph 657. *Q.* 658 properly begins with "Yes" by the questioner. Then follows the witness's next answer.

Q. 683.—Mr. Rees's name should appear here as that of the questioner.

Q. 691.—The last sentence forms the witness's answer.

Q. 854.—Line 5, insert "he" before "applied."

Q. 856.—To end of line 2 add "but."

Q. 948.—Line 2, alter "these" to "it."

Q. 950.—Line 3, "clause 5" should be "clause 25."

Q. 968.—Mr. Rees's name should appear as that of the questioner.

Q. 998.—Line 2, "their" should be "there."

Q. 1052.—For "Have they" substitute "Have the Natives."

Q. 1067.—Question should read "Do you think that the people who make up clever stories before the Court would fear to do so before the runanga?"

Q. 1089.—Last line but one, alter "only tends to" to "the tendency would have been to."

Q. 1108.—Line 3, "itneriary" should be "itinerary."

Q. 1115.—Line 2, first word should be "fair."

Q. 1133.—Line 6, strike out "the name of."

Q. 1144.—Transpose to end of line 3 last four words of paragraph.

Q. 1146.—Alter last word of paragraph to "him."

Q. 1150.—Line 3, after "little" insert "who;" line 5, after "they" insert "are."

Q. 1161.—Line 6, after "Native" insert "Land."

Q. 1183.—Mr. Rees's name should appear as that of the questioner; line 6, "profession" should be "provision."

Q. 1192.—Line 5, strike out "through."

Page 91.—In headline "New Plymouth, 18th April," date should be "21st April."

Q. 1342.—Line 2, after "with" insert "respect to."

Q. 1358.—Line 2, "there being" should be "their being."

Q. 1373.—Line 18, "boot" should be "boat."

Q. 1433.—Line 3, after "if" insert "he."

Page 107.—Line 8, "vivas" should be "vivos."

Q. 1565.—Line 4, "Nuhaka" should be "Mohaka."

Page 117.—"Edward Heathcote Williams" should be "Edwin Heathcote Williams."

Q. 1634.—"Kararuria" should be "Karauria."

MINUTES OF EVIDENCE.

GISBORNE, 6TH MARCH, 1891.

EDWARD FRANCIS HARRIS sworn and examined.

1. *Mr. Rees.*] What are your name and occupation?—I am a licensed interpreter. I am a Native (half-caste) of this district. I have had considerable experience in the investigation of titles before the Native Land Court, and in transactions between Europeans and Natives. In the old days, and up to about ten years ago, the proceedings at original hearings were not lengthy—say, from three days to six weeks, including adjournments. Lately these proceedings have been growing in length. They now last for months. The expense to the Natives is very great, both to the Natives attending the Court from a distance and to those resident in the vicinity where the Court sits, because the latter have to bear a great part of the sustenance of the visitors. This arises from no legal claim, but from Native custom and hospitality. Both the parties feel the burdens heavily. The visitors are not now so numerous, and they help to some extent, but it is still a heavy burden. Formerly all parties attended, which caused neglect of cultivation. It is not so now; some attend and some stay at the kaingas to plant food and harvest. Those who remain have to intrust their interests to the attending parties.

2. Can you tell whether the fees paid by the Natives in the Native Land Court are oppressive, or, like the fees paid in the Supreme Court, very light?—My opinion is that the fees are oppressive in the Native Land Court, and the enforcing of them is often a cause of injustice to the parties.

3. In what way?—In this way: An owner wishes to have his name inserted, but he is not allowed to state his case or set up a claim unless he complies with the regulation providing for the payment of the Court fees.

4. Then, if he has not the money to pay the fees, he loses the chance of being put in as an owner in his own land?—Yes.

5. Do the fees demanded by the Native Land Court become a serious matter to the Natives in proportion to the value of the land?—Yes, very serious in proportion to the value of the land, especially so in protracted cases.

6. Have these fees to be paid on more than one occasion?—They have to be paid every day. Supposing there are six parties before the Court, they have to pay £1 a day. Sometimes there are as many as eight separate parties, and they have to pay £1 a day each. The Judges have a discretionary power as to enforcing fees, but they very rarely remit them. They are very chary of using that power.

7. Are there any cases in which the fees have been remitted?—Comparatively speaking, the cases in which the fees have been remitted are very few.

8. Now, in the case of surveys, the Court, I believe, is very particular in regard to surveys under the Act?—The Act is very particular and stringent in regard to surveys.

9. For original hearings, does the cost of the survey bear any large proportion in relation to the value of the land?—My experience is that the cost of the original surveys has been very limited. I should say the expense does not bear a large proportion to the cost of the original hearings. As far as the survey of the land goes it has nothing to do with the value of the land. If it is first-class land it might not cost as much as poor, rough land that would not be easily accessible. There is a scale laid down showing the charges to be made, but that has only been done within the last two or three years. Previously the surveyor had so little security for his money that he had to charge full fees, in the hope of being some day recompensed. The law has now been altered, and he is able to do it under the Government scale if he likes.

10. The cost of the original survey would be a proper and to some extent a moderate cost?—I will not say that. The Government scale is very high, but if the surveyor had a few years ago what he has now the work could have been done very much cheaper.

11. Now, in the cases of subdivisional surveys, can you speak of the expenses incurred?—The cost of subdivisional surveys would be very excessive if the land was cut up into very small pieces.

12. I suppose the charges are very excessive now where the land is cut up into small sections?—In some cases the surveys of small subdivisional blocks cost more than the value of the land.

13. Is that where there are a large number of owners?—Exactly. In fact, there are a large number of blocks where the areas could not be individualised, and leave a margin of profit.

14. Irrespective of the fees of Court?—Yes. Irrespective of the fees of Court, there would be no margin of profit.

15. Of course you are aware of the taxes that are to be paid—the 10¾ per cent., that is fixed by law—we shall not require evidence upon that. But when Natives come to deal with their land, after they have got their title from the Native Land Court, is the individual dealing between European and Native very expensive?—It is expensive.

16. Would it be possible in many of the larger blocks of land to subdivide the lands according to ancestral boundaries of the land and still preserve frontage to roads, streams, &c.? Suppose in a block of 20,000 acres, owned by eight or ten hapus, would it not be almost a matter of impossibility to so subdivide that land as to allow of proper road-frontages to any good roads?—I think it would be very difficult to give access to every individual portion if the land was owned by a large

number of persons. The roads must follow the natural features of the country. You cannot cut up a block of land like a chess-board.

17. If, in the large blocks, it was attempted to individualise—not for hapus, but for each individual—would it be possible to so allocate the areas as to allow of frontage being given to roads?—I think not. You see by law that if a man has half an acre he must have a road too, and I believe that all roads must be not less than a chain wide. Suppose a man was a mile back, he would want a road a mile long and a chain wide to get to his section, so, in that way, a great deal of land would be absorbed in the laying-off of roads.

18. That would be 80 chains—8 acres—thus absorbed?—You are aware that the Crown reserves to itself the right to take 5 per cent. for roads. The Crown does not confine itself to roads a chain in width, so long as it does not absorb more that its 5 per cent.

19. According to the custom of the Natives, is it possible to individualise the land—that is to say, supposing any hapu or tribe owns a block of land, can you, according to Native custom, say what each individual is entitled to?—Yes; the old cultivations.

20. Would not that belong to a family?—The owner might be the only representative of the family.

21. Take any ordinary block of land: could you proceed according to Native custom and state what every individual man, woman, and child owned?—I think not, according to general lines. They would own in common; they would not own in equal shares.

22. You could pick out what a chief owned, and say that is his particular land?—Say, an ancestor. There may be chiefs who have very little land.

23. Then, the individualisation must impart something beyond Native custom?—Yes, it must.

24. If you cut up a 20,000-acre block and divide it among the owners—men, women, and children—you must impart something beyond Native custom?—Yes. I think it necessary to do so, in my own private opinion.

25. *Mr. Mackay.*] What was the custom before the Native title is extinguished, and afterwards, when they get the Court to confer a title?—Then they can individualise.

Mr. Rees: The proceedings of the Native Land Court impart something beyond the Native custom. The law allows the individualisation, Native custom and usage being the basis of the inquiry.

26. Now, with regard to the present system of getting signatures, including the cost of interpreters' and agents' charges, is it not an expensive and cumbrous method of dealing?—Yes.

27. And attended with difficulties, mistakes, and sometimes frauds?—Man being human, there must be errors and mistakes.

28. Do you think that any portion of the ascertainment of the title could be devolved upon Native Committees or runangas?—I think the Native Committees might be utilised as to reporting on the nature of the title to the Native Land Court; but the difficulty I see is this: Local Committees might have a tendency to favouritism. To follow the thing out, the Committee should be selected from another district.

29. No doubt. Do you think, then, that if experienced men of different tribes were selected that they might then be available?—Yes; but that system would be very expensive. If the Committee would confine itself to informing the Court of the family boundaries, giving the names of the boundaries, that would be of great assistance to the Court. I think that when the names had to be given in that is where the favouritism would be imported.

30. You think that the boundaries might be given, but not the names?—Yes.

31. Do you think that the present system of the Native Land Court in regard to its holding its sittings is as effective as it could be?—Decidedly not, and if you will allow me I will give you a few reasons why I think so. First of all, the Judges, I think, should be resident. I think by making the Judges resident, and giving them a suitable staff, the cost of administration would be lessened very considerably. Now, the Judges and officials are travelling all over the country. This entails the payment necessarily of large sums for travelling-allowances. Then there is the carting of the books about, the time wasted in travelling from place to place, besides the great risk that is run of losing documents. That is one thing. Then—excuse my speaking out—there is the interference of Parliament—the interference of Government, and Parliament, and interested parties, and to such an extent that the Judges appear to me to be almost afraid to do their duties. They allow the proceedings of the Court to go on, and should any person be stopped from speaking or tendering evidence, down goes a petition to Parliament, or to the Minister of the day, showing that the complainant or his people were not allowed to speak. That is the reason why I think the cases take up so much time now in the hearing.

32. *Mr. Carroll.*] Regarding what you say about districts being assigned to Judges?—There should be districts defined throughout the colony, and a Judge ready at all times to do the work, and, as the work accumulates, the Registrar, as time required, should duly notify the same. I think myself that there would be great advantage in having Judges permanently located in districts. By this means the Judge would have the opportunity of getting a good knowledge of his district. The customs of the different tribes in the different parts of the Island vary. There is no hard-and-fast rule throughout the colony as to Native custom.

33. *Mr. Rees.*] Do you think that would increase the efficiency of the Court and lessen the cost?—Yes. Above all, I think the Judges should be free from political control and influence or Government interference. It is that Government interference which I think tends to lengthen the hearing of the cases, both in original hearings and in subdivision cases.

34. Does that interference of the Government and the Legislature have any influence on the minds of the Natives?—It has influence in this way: They think that if they lose a case they can have it set up again. It leads them to the belief that the decisions of the Court are not final, and that pressure can be brought to bear.

35. Do you find that opinion held by others?—I will not say that. That is my own individual opinion why cases are so lengthened.

36. I do not think I clearly explained myself. Do you think that opinion is held by others?—That is an individual opinion that I have formed myself. It is the result of my own observations.

37. *Mr. Carroll.*] They have a special Court now to deal with applications for rehearing?—Yes—a rehearing Court. They always had that. The petition goes to Parliament after the rehearing has failed, as a rule.

Mr. Carroll: There has not been a rehearing granted by Parliament since the Waipiro case, and that was reported on by a Commission in 1888. The Commissioners recommended that Parliament should pass a special Act. A rehearing now has to be applied for. The application comes before the Chief Judge, and he can either grant or dismiss the application.

38. *Mr. Rees.*] You are acting not only as interpreter, but also as agent?—Yes.

39. Can you state whether the Europeans and Natives have a full knowledge of the law in regard to dealings with Native land?—They are in an absolute state of uncertainty—confusion—in a state of chaos.

40. *Mr. Carroll.*] What do you think would be the cost per man per day for attending the Native Land Court—can you make a rough estimate?—It is a question I have never gone into. Some are more extravagant than others.

41. Say for a week?—Exclusive of fees?

42. The Native pays £1 a day for his case?—Yes; he would pay £1 a day. If an original case, he would pay £1 a day for his case while it was going on.

43. What is the average value of the land brought before the Court?—Some of the land in this district is very valuable; other, again, would not be worth more than 5s. an acre. The value of the land would be from 5s. an acre upwards. The gross value of the land would be from 5s. an acre minimum up to £10. There is very little of the £10-an-acre land.

44. *Mr. Rees.*] Can you give a rough idea as to the area of the land?—Do you mean lands through the Court not subdivided, or *papa tipus?*

45. Yes. What would the areas be?—I would not like to say from memory.

46. What is the smallest area in any one block?—I cannot remember. Mr. Brooking would be able to inform you.

47. Taking all the blocks on the sea-coast, how much do you think they would average per man?—There you are again. Whether they are coast-lands or lands situated inland. Some would average as much as 200 acres per man, while some would be as low as ½ an acre. Blocks on the coast give smaller areas per man, as a rule, than lands inland.

48. *Mr. Mackay.*] When you mentioned about a Committee selected from other hapus, and the putting-in of names in the Crown grants or certificates of title, have you any knowledge of fictitious names being put in by the hapus who own the land?—I know one instance of a person who was not born at the time having the name put in, and the name went in; afterwards the person was born. That is the only instance I ever heard of. It is an old case, and took place about fifteen years ago.

49. Are there instances of strangers being put in?—Yes; that often occurs; people being put in out of *aroha.*

50. Do they not repent of this sometimes?—Yes; but as they are admitted they must get something. That is in practice, but it is not so common as it used to be.

51. Is there any desire to get those names purged?—Yes. The persons so inserted are mentioned in Court, and efforts are made to get rid of them.

52. Of course, they cannot get rid of them, being once placed on the Court-rolls?—No. The Court says as they are there they must be provided for.

53. *Mr. Rees.*] Could you make any suggestion as to any better way of dealing with Native lands, other than what at present prevails, between Europeans and Maoris?—It is a question that has given me a great deal of thought, more especially as a half-caste and an owner of land in the district. I begin to think that the time has arrived when some other system will have to be adopted—when some simpler plan, some simpler scheme, will have to be devised for carrying out all dealings in relation to Native lands. These dealings, I think, should take place through the Government. The present system is practically a failure. Parliament should make a law understandable by the people. The greatest blot on the present system, and has been for years, is that the Natives do not get the value of their land, and they are fenced in in such a way that if the Natives want to deal with their lands they cannot do it. I believe in the principle of ample reserves being made for the Natives, sufficient for their use, and that they should be allowed to utilise the balance of their land. The law at present is a bar against their utilising their lands; still the country is howling that they should be taxed.

54. *Mr. Mackay.*] The sale to private individuals has a tendency to lock up the lands?—I do not object to selling to private individuals, but, the way the law stands, it locks up the lands. It is a fallacy for Europeans to attempt to lease lands.

55. What would you suggest should be done where there is a large number of owners? How could a legal lease be got?—I think some plan should be adopted whereby the Government would act as brokers.

56. There should be some provision for binding the whole hapu?—Legislation would be required for that.

57. The Legislature would have to invent a plan that would be satisfactory to the whole people?

Mr. Rees: No doubt. What I see in the future is this: that if the lands are not used in some way something will be done—if not confiscation—it will amount to that. The Native lands will be taken away from the Natives.

58. *Mr. Rees.*] Do you think that there would be any difficulty in the way if the Government were to pass an Act enabling the Crown to take charge of the lands?—Of course there would be a difficulty. Whatever is effected, there should be no violent change.

59. *Mr. Mackay.*] The apportioning of the money received for the lands, how do you suggest that should be managed?—I think it should be left to themselves. In the Land Court now each individual portion is set out. It is compulsory now on investigation of title that the interest of the owner be defined.

60. *Mr. Rees.*] In many instances the subdivision of the money could be satisfactorily arrived at by the parties?—I think that the Court should say what each person should be entitled to—say, so many acres of land—and from that arrive at what proportion of money each person was entitled to. If the country is desirous of the lands being put in such a position that the Natives would know what they possess I do not think it would be a very great loss to the colony if there were no fees charged. It would be a great advantage to have permanent Judges appointed resident for each district. Under such circumstances, the Natives would come forward far more willingly than they do now, and have their lands divided.

61. *Mr. Carroll.*] Do you think it would be better to give the Natives titles free of cost?—Directly they saw they had individual ownership of land they would not object to taxes. But now, while the land is held in an unindividualised state, the industrious man works and the non-worker will come and claim in the portion he has improved. I believe that the greatest safeguard to the Natives is individualisation, but that should not be pushed on too far. In the case of the Kaiti Block, that was cut up into individual shares of an acre each and less, and a great number of the Natives sold their interest right out.

Mr. Rees.] That was very valuable land.

FRANCIS WESTBROOK SKEET sworn and examined.

62. *Mr. Rees.*] What is your occupation?—I am a solicitor practising in Gisborne.

63. I think you had the conduct of certain cases before Mr. Commissioner Edwards and Mr. Ormsby?—Yes. I was acting for the applicants. I had altogether nine cases.

64. Were you acting in the Whatatutu case?—Yes, for the applicant.

65. The decision in that case went on mere technical points?—Yes, purely technical points. The Commissioners found that all the consideration-money had been paid; that the transactions were not contrary to equity and good conscience; but, owing to the technical defects in the text, they were unable to give their certificate.

66. Was there any opposition on the part of the Natives in that case?—No, there was no opposition.

67. What was the technical defect?—The defects arose out of non-compliance with the Act of 1873. The provisions of that Act had not been strictly complied with. That Act requires that every interpreter interpreting a deed to the vendor should sign the translation on the deed. One interpreter had signed the translation indorsed on the deed, but the subsequent interpreters did not do so. It was, according to the Act, necessary that the other interpreters should have done so. They had, however, signed the attestation to the deed.

68. Was the translation correct?—There was no exception taken to the translation. It was certified to by the interpreter who had first translated the deed.

69. Then, that is one of the cases which you allude to where the defect is merely of a technical character?—Yes; that was an omission rather than a defect.

70. *Mr. Carroll.*] That was the only obstacle in regard to the Whatatutu Block?—There was one other. The deed had been prepared in this form: "This deed, made the day of between and ," leaving thus a blank space for the names of the Native vendors to be filled in from time to time as they signed. The Commissioners all thought that that was a very material defect in the deed, and that they had no power to rectify it.

71. Were there any other objections to the Commissioners giving their certificates, except those arising from the technical defects mentioned?—Those were the only ones. The sole reason for the Commissioners withholding their certificates was owing to the technical defects.

72. *Mr. Rees.*] Generally speaking, of what nature would those defects be?—It would be rather difficult to say. I could say this: that if the Commissioners had continued to act under that Act (1873) innumerable defects would have been discovered from time to time. In one case a memorial of ownership was granted for a block of land. Certain shares of the Natives in that block were acquired. A subdivision of the block was made by the Native Land Court, without reference to the purchases made. The conveyance rested upon the original title. Now, in such a case, although the transaction was quite *bonâ fide*, I am quite certain that the Commissioners would have found that technical breaches of the Act had occurred, and no certificate would be issued in favour of the person acquiring the shares from the Natives. The original title would be cancelled upon which the title to the shares was based, and new certificates, bearing a date subsequent to the original date and the date of the purchases, would be issued. In this way the foundation of title for the acquired shares would be swept away. I would like to mention to the Commissioners that in eight out of the nine cases I had before Commissioners Edwards and Ormsby the transactions were found to be of a *bonâ fide* character, but, owing to technical defects, they were unable to give certificates to my clients, or afford them any relief.

73. Then, you can go as far as this: that, as a rule, in the cases brought before Commissioners Edwards and Ormsby, all the dealings were found to be perfectly fair and just, but, through technical defects, the title was prevented from being issued?—Yes. I have cases in hand now where all the dealings in relation to them are *bonâ fide*, but where we are quite unable to get relief.

74. Presuming, then, that the transactions are in good faith, but through some statutory provision not being complied with you are unable to get any relief for your clients: is that the case?—Yes, that is the position.

75. If the Commissioners had further powers granted to it to discard those provisions, would that do?—Yes; I believe it would. I believe that was the intention of the Act, to give relief where transactions were ascertained to be fair and just.

76. From what do the technicalities arise—from the contradictory state of the statutes?—Yes. From the difficulty of persons of ordinary ability interpreting them.

77. *Mr. Rees.*] I suppose you can say, as a legal practitioner, that the Courts are full of perplexing decisions?—Yes.

78. Can you advise clients as to dealings with Native lands at the present time?—No. That is the feeling of the whole profession. My advice is to my clients not to have anything to do with Native lands. Even in the simplest case—even in the case of a title under the Land Transfer Act—one would scarcely believe—it would be scarcely believed by a layman—the large amount of trouble that has to be gone to.

79. The cost of obtaining signatures to Native deeds is, I believe, very great?—Yes; very great and very hazardous. As I have already said, I would not advise any client to attempt to purchase Native land.

80. Do you think, Mr. Skeet, that if a measure was proposed by which titles to Native land should be given by the Crown, that would be an improvement on the present system?—I do not feel in a position to suggest a remedy, but no system could be worse than the present one for all purposes.

81. Do you think you could have any system as bad as the present?—No; I cannot conceive of it. Under the present system neither the European nor the Native gets justice. The Native does not get the value of the land, and the European is perplexed and surrounded with difficulties.

82. I suppose you are aware that there is a large amount of land locked up in this district fit for settlement?—Yes.

83. Can you say about what area?—I cannot state the area, but I can say that there is a large amount of valuable land adapted for settlement in the district that is locked up.

84. *Mr. Carroll.*] Do you mean Native land?—Yes; land held under memorial of ownership.

85. I suppose if that land could be made available, great impetus would be given to settlement in this district?—Yes; a great increase of settlement and population would take place as well as increase in the productive power of the district.

86. Where are these lands situated?—On the coast, in the Ngatiporou country, in the Waiapu Valley—principally up in the Waiapu country. I cannot mention any large blocks of land in the vicinity of Gisborne.

87. There are the Native Land Settlement Company lands?—There is very little Native land in the district, unless you go back to the Whakapunake and Tahora Blocks.

88. *Mr. Rees.*] There is nothing you would like to suggest by way of remedy?—No.

CECIL DE LAUTOUR sworn and examined.

89. *Mr. Rees.*] You are a barrister and solicitor of the Supreme Court of New Zealand?—Yes.

90. The first inquiry we have to make is, "What class or classes of cases have arisen which exhibit the defects in the present system of alienating or disposing of interests in Native lands, or in which non-compliance with existing laws has created or complicated or rendered defective titles where such lands have been equitably acquired or dealt with after the titles thereto have been investigated by the Native Land Court, and where such complication or defect still exists, and what remedy, if any, should be adopted in respect thereof?" That opens the whole question of the cases with which you have been concerned lately before Mr. Commissioner Edwards?—Yes; that is apart altogether from any suggestions as to reform in land-dealings.

91. The first heading divided itself into two main classes to considered—namely, the existing complications and the causes of them?—Yes. I first wanted to draw the Commissioners' attention to the machinery on foot for dealing with the question of the complications, because that is the most pressing. The 20th of this month—I think it is the 20th—is the last day for lodging applications, in Wellington, for the Commissioners appointed under the Act of 1889. That means that applications from this district will have to leave here this day week. We have good reason to know, although I think it is a mistaken view, that the Government will allow on presentation of applications to this Court, or the abstention from doing so, to operate as a mark of the *bona fides* or the absence of *bona fides*. So that persons are compelled to make their applications to the Court, although in nine cases out of ten they know that the Court as constituted is perfectly ineffective to give them any relief. In speaking here to-day, I am doing so on behalf of a great number of clients, who have not personally attended, but expect me to represent them. I may mention some of these clients: The Assets Company (it has large interests in this district), the Bank of New Zealand, Estates Company, Mr. Percival Barker, Mr. Frederick Tiffen, Mr. Edward Murphy, and others. I do not undertake to name them all. The Commission can accept my statement that they are substantial persons. There being so many clients, the cases are necessarily various, and will present on examination different degrees of *bona fides*. But I am only now speaking in the cases of those whose transactions will turn out to be perfectly fair, and whose deeds are technically defective from the want of knowledge by their agents employed in the earlier days of this settlement. The Commissioners' (Messrs. Edwards and Ormsby) Court has found itself compelled to hold that it cannot give relief in any case where there is the slightest technical defect in any deed, other than the defect in the number of owners signing. Having arrived at that decision, they have practically closed their Court, as, within my experience, it is a very, very rare exception that a deed can be found that will comply with the scale of exactitude that the

Commissioners require. Nor do I think that that scale was intended by the Legislature. The scope of the Act appeared to be to supply a Court that would deal with such cases according to equity and good conscience. Of course we must accept the position that that intention has not been carried out in the Act. The position then is this: All such cases must be covered by applications to be put in by the 20th of this month, or the persons whose cases were effected, and who do not make application, would be exposed to the attack of any person who chose to proceed to dispossess them. Then, on the other hand, if they do apply, and their cases are gazetted, they have the certainty that they can get no relief from the Court to which they apply. Well, under these circumstances, it would seem reasonable if the rule should be at once amended, so that applications that are put in merely to protect *bonâ fide* purchasers until the Legislature has had the benefit of your report, and time to legislate, should not be amerced in heavy fees by a tribunal whose decisions for good are inoperative. I would ask you, if you could not make an interim recommendation, that some immediate relief be granted to applicants in the matter of the fees they will be called upon to pay. Under the present rules they will have to pay large fees. At any moment they may have their cases gazetted after they make application, at the same time being unable to comply with the legal niceties the Commissioners are bound to require. Perhaps the Commissioners may consider whether they can see their way to make any such interim recommendation. Perhaps I may be allowed to say a word or two as to the causes of the present complications. I think the one great main cause is the legal fiction that has been established, created by our Courts, that a memorial of ownership is a title unknown to the law. True, it is somewhat curious that we have one class of Courts issuing titles that another class of Court says are unknown to the law. That would not be so bad perhaps; but the Legislature, year after year, has been attempting to undo this fiction, and to make derivative titles from memorials of ownership, or certificates of full weight and value, with titles derived from Crown grants. In the Act of 1886 (Native Land), no one can doubt that the 35th and the last clause of that Act were intended to give validity to transfers under memorial of ownership or certificates. Of course the Courts have held that the Legislature has failed in its intention. Then, we find the same thing again in 1888, much more expressly worded in the Act passed during that year. This Act is nothing more or less than a trap, in which any layman or lawyer may fairly fall. The wording is so expressed that the Judges themselves are divided by three and two as to the effect of the language. The 16th clause in that Act—"Land or shares in land owned by Natives shall be deemed to have been transferable, and may hereafter be transferred by deed executed and attended with the formalities for the time being prescribed by law as to deeds intended to affect the titles of Natives to land"—shall be deemed to have been transferable, and may hereafter be transferred. There we have the past and the future. Then comes the provision to clause 16, which, as interpreted by the Court, renders the whole clause nugatory. It is not the same as if that stood alone. There is elaborate machinery established by legislation, showing the fullest intention on the part of the Legislature practically to establish the transactions, past and future, with lands under memorial of ownership. And all the Acts passed right down to the present day have the same unfortunate element to the eye and ear: as read, they seem to proclaim that such transactions are good, but always fail in effect when they come to be interpreted by the Court. We have the Act of 1888, for instance, which was called the return to free-trade Act in Native lands, which many professional parties consider to this day authorised the purchase of Native lands held under memorial of ownership. Probably the Commissioners, when they come to consider that Act, will come to the conclusion, like the majority of the profession, that it does not authorise the purchase of shares, or any number of shares, of land held under memorial of ownership. I think this is a most important element for consideration when the *bona fides* of the parties dealing for Native lands comes up for inquiry. If the Legislature has for a series of years, by enacting laws that neither lawyers nor laymen understand, contributed to this state of affairs, there must be a very wide line of demarcation between persons who bought under such titles and those who bought openly in defiance of declared Acts or restrictions and Proclamations. I hope it will not be thought presumptuous if I point out one reason of failure in our Native-land laws. No Government has ever taken the time that is required to have Acts properly drafted. Nearly all these Acts—certainly all that were passed within my own knowledge—were hastily drafted by a Government in search of a new policy, and snatched from the hands of the draftsman. With the incessant pressure brought to bear from all sides, it was certainly impossible for them to turn out work of a kind that would in practice be found to stand. It is of the very first necessity in having remedial legislation that the Government should take ample time in having Acts drawn by competent persons, and not to be left to be done by Government officers, when all their faculties are absorbed by other work. I cannot think of any Act in the series before me that has been drafted in anything like fair circumstances to the draftsman who was called upon to do the work. The immediate tribunal which is open to persons with defective titles is, of course, the Commission Court, and the question naturally arises whether that Court, if made effective, would fairly do the work that is put upon it. Well, I do not think it would, unless, of course, a very large portion of time was given to it. The work in this district alone would take a Judge or a Commissioner a very large period of time. While I have no knowledge of other parts of the North Island, if, however, they are anything like this, the work required to be done would extend over a considerable period of years if one Commissioner had to deal with it. My own view is—I believe you are asking for personal views—only personal as derived from some experience here—if it were thought wise really to make the Act of 1888 effective, as it was intended to be in this 16th section—that is to say, that all transactions under memorial of ownership that had taken place, or might take place, should be as valid as if made under Crown grants—we would then have very little need of Commissioners at all. All transfers that were *bonâ fide* and good would stand. All that were made in violation of any special Act or restriction would be bad, and would deservedly remain bad. There is one large class of cases for which you obviously require no

Commission. I may illustrate by naming a block—the Panikau Block. There are five Panikau Blocks—Nos. 1, 2, 3, 4, and 5. The purchaser acquired interests by purchase in the whole five blocks. He purchased a very large majority of the shares in each block, practically the whole. In every one of the five blocks there had to be a division to get rid of the shares of minors, or in some few cases of dissentients in all five blocks. The division was properly made by the Court, without challenge or any question as to the payment of the purchase-money The irregularity of this case consists in technical defects. This mistake was made: In making the division the Land Court assumed that the purchaser's title would be registered against the subdivision award made by the Court. The Registrar of the Deeds Office took the same view, and the Registrar of this district issued certificates of title to the purchaser. The purchaser was in the enjoyment of the certificate of title a considerable time, until the decision was given in the case of Matthews *versus* Brown (Paraone), which pointed out that such registrations were technically improper; and what the Land Court should have done was, instead of making the orders to the vendors, rather to have made new certificates of title, and indorsed on them orders of freehold tenure, from which the purchaser would derive his new grants. This was simply a technical mistake of the Courts. There is no doubt as to the *bona fides* of the purchases, but the position now is that there is practically no title whatever. That is one case out of a dozen or more in this district where titles are complicated in that way. There is no challenge of the purchases and no impropriety whatever alleged. The difficulties have arisen out of the defects of the Acts, and in such cases obviously no Commission is required. There are a great number of such cases in the same position as the Panikau title. In order to protect that estate from any attack, notices should have to be served on all parties; other heavy expenses would have to be incurred, amounting at the least in each case from £60 to £100. This really amounts to a fine imposed on the purchaser on account of the defects of the Acts of the Legislature. There are a number of cases where the *bona fides* is absolutely beyond question, and the purchasers should not be placed under disadvantages through no fault of their own. Of course Commissions might be used where the question comes to be one of disputed consideration. And it is cases of disputed consideration that will present the most difficulty in this district. There are many cases in this district where the present occupants were not the original purchasers, where they have come in purchasing in good faith, and where it is extremely difficult at this distance of time, with the original parties removed, to prove what the consideration was, and to get that general insight into the original transactions. How they are to be dealt with I do not know. If there is laxity there is room for abuse. On the other hand, where there has been no objection, and that for a series of years, it will be hard for those persons to have to prove an affirmative where no negative has been set up. As to the future buying, I think one may say that there is no such thing now as buying lands with Native titles. It has fairly stopped now. Purchasers are beginning to understand that there is no legal method at present of purchasing lands held under memorial of ownership or certificate of title or of leasing lands. So as regards that we are in this position: The district has a number of incomplete titles, and there is no progress made by purchasing or leasing. I am not, of course, speaking of Crown grants. In many cases that are estopped from completion, some of course present quite exceptional grounds; but the moment any existing purchases were said to be stopped was an accident that the parties could not be in any way responsible for. I think it has been decided by the Chief Justice that the repeal of the Act of 1873 marked the time when it became impossible to complete any transactions of purchase of memorial of ownership lands. The Act of 1873 was repealed by the Act of 1886. That is leaving out for a moment the interval of the Administration Act. That appears to mark the interval that stopped the completion of any purchase of lands held under memorial of ownership. So these cases would have to be dealt with in some way. No one can read the Act of 1873 without seeing that there is elaborate machinery set up for purchasing Native lands. If the Legislature in 1886 deprived all parties of the means of making those purchases it seems right and incumbent on the Legislature that they should devise machinery that would not necessarily complete the purchase, but give the purchasers an equivalent for the purchase-money expended. Then, of course, if I am correct that there is no purchasing going on now, or for a considerable time, there would be no great hardship if the Legislature determined that there should be no more purchases. Then, they should allow purchasers with partly completed purchases to get an equivalent for the money they have paid. No mischief would be done by allowing persons who embarked in good faith in these purchases completing their title for what they have paid for. That brings me to the edge of the next branch of the question—that is, as to what would be the best thing to substitute for individual purchases. But you are so patient that I am inclined to trespass a little upon you. I have never been able to see why the Native title is individualised if the object is simply to settle the country. No system more disastrous to the country or to the Natives could be devised if the whole wit of man had been engaged in the process of invention. Disastrous to the Natives, because they must necessarily receive inadequate consideration; then there is the uncertainty of title, people not caring to invest capital that is absolutely essential in order to make this country reproductive. Nor am I aware, from any reading that I have been able to bring to the matter, that the individualisation of Native title was at all sought for by the Natives themselves. As far as I can judge, it has been forced on them with a view to purchasing from them. I have never been able to understand why the Natives should not be allowed the fullest freedom of decision as to what lands should be sold or reserved, and why, on the other hand, all titles should not flow from the Crown to the purchaser. It seems to me that the Crown empties itself into hundreds of rivulets in order that the purchaser may gather the water up from these rivulets so as to obtain a title which is, in fact, never a title. Of course it may be a matter of individual right, if you apply our theories and English law, that every Native should be the arbiter of his own destiny, but I venture to say that is not in accordance with Native custom and usage, which is more inclined to act

with the tribe or family than act under the English law, of which they have very little knowledge. I should have thought that the system of district Commissioners, something analogous to the Goldfields Commissioners or District Magistrates applied in India, would have enabled the Crown to have elected Boards of Natives, having all the necessary functions that would be requisite in guiding in the disposal of Native lands that were not required for Native occupation, so that the fullest revenue could be derived for the owners beneficially interested. It would be unquestionable then that all titles emanated from the Crown. The purchaser would be able to give the highest value for the lands he would require—no incidental expenses. Whether the lands were dealt with under the waste land laws of the day are details with which I have no concern. I am almost ashamed for having inflicted such a statement upon you. I have not had time to deliberately consider, as I should like, the specific views I should have liked to put before you. I do not think I need generalise further. I think you might be of great service to us in the smaller matter by making recommendation to the Government as to a reduction of the fees to be paid to the Commissioners, and give to the applicants a fixed time when these applications might be brought before the Commissioners. That we should not be compelled to bring these cases before the Commissioners until a change is made. I do not say whether the Government should not consider a recommendation made by this Commission, or whether the application would be more properly made direct to the Government. If it would be of any use to the Commissioners I would be quite willing to formulate a series of illustrations of the difficulties of title that are represented in this district that actually have to be dealt with. It would require a little time, but I could furnish such a document to the Commissioners if they thought it would be of any value to them.

92. *Mr. Rees.*] The Commissioners are very much obliged for the assistance you have rendered. I think I may say that we shall be glad to receive the statement you mentioned. Do not be afraid of it being too prolix, for the more information we get the greater will be the extent of view we shall have to judge from. The remarks you have made are of considerable importance. You have had experience in these matters, and have been having cases adjudicated upon before the Commissioners (Messrs. Edwards and Ormsby). There are two or three questions I should like to ask you. What is your opinion regarding the efficiency of the Native Land Court in its present constitution? Do you think it is efficiently and economically worked in the interests of the Natives? —I think it is too uncertain to be advantageous to the Natives, because its movements are so erratic. That is perhaps, in truth, caused a little by the Native habits. The Natives are often themselves unprepared to go on with their cases. Still, the system has resulted in this: that the Native Land Court,—no one knows when it is going to do anything. There is a great waste of time, endless adjournments, waste of time to the Natives. Of course the country has to pay for the Courts.

93. Are you aware of cases that have been adjourned from time to time during the last year or two?—I do not know that I can say so of my own knowledge, except the special case of Poututu, which is quite an exceptional case.

94. Do you know anything of the expenses the Natives are put to in attending the Courts?—Of course they must be put to great expense. Probably it would be more true to say that their friends are, for the burden to a great extent falls upon their friends. It is notorious that, where Natives have to be kept in a European case, the expense of maintaining them is considerable.

95. *Mr. Carroll.*] How long has the Poututu case been before the Native Land Court?—That has been going on for a very long time. It has been going on within a very short time of the passing of the Poututu Jurisdiction Act. I think it is fair to say that the delays have in a great measure been the faults of the parties. The Judges are not responsible for the present appeals; the Europeans are mainly responsible. The Poututu case is not at all a fairly typical case to take.

96. *Mr. Rees.*] Can you say professionally whether, in your own opinion, there is any certainty in the present law as to what verdict will be given in the Supreme Court or Court of Appeal under the Native Land Acts?—No professional man, however high his opinion, could give a reliable opinion upon the present Native-land laws. There are no judicial decisions given in either Courts that would enable him to give a reliable opinion. Then, the Judge-made Native-land law has grown on what it has been built upon. Unless the Appeal Court takes up a strong position, as Mr. Justice Richmond did in the Poaka *v.* Ward case, there is no way out of the labyrinth in which Native titles have got. Mr. Richmond threw aside all his former judgments.

97. If clause 16 were given the effect you suggest, it would validate transactions in contravention of the Acts where restrictions were imposed?—No. I should not go so far as that. If the transfer had been taken in violation of a Proclamation, or where restriction had been specifically imposed, that would be void, because it would be in direct contravention of a prohibitory enactment. All that I urge is that transfer of land held under memorial of ownership should be treated and be deemed to be treated exactly on the same footing as if they had been Crown grants.

98. If you purchased land held under Crown grant in the face of restrictions you would not be entitled to it: why then should you in the case of memorial of ownership land?—From 1873 down to Mr. Bryce's Act, it was perfectly legal and proper for any persons to purchase or acquire shares in memorial of ownership land; the only difficulty was in carrying through the procedure to the title. There was no impropriety whatever as to sales, and merely placing memorials of ownership on the same footing as Crown grants would not let in any illegal transactions. If there was any doubt about it there could be provision made to guard against anything of the sort.

99. What was the intention of the previous Act?—It was intended that in all cases where there was special restriction they should be guarded. There was an implied restriction in every Native title—*ergo* no title passed.

100. It made the law worse than it was before?—Yes, it deceived everybody who had to interpret them.

101. You spoke about the 20th of March—that no applications could be lodged?—Yes. I believe that is the date. The 20th of September was the date according to the Act, and the period was extended.

102. Are you sure of your ground—that if the applications are lodged they must then be heard by the Commissioners?—No. We are at their mercy. If they choose to gazette them they must be heard or struck out.

103. I understand what you suggest to the Commissioners is that we should make a presentation to the Government with reference to the 20th March being the last day for lodging applications, and that there should be a reduction in the amount of fees demanded. You would suggest that the scale of fees be modified, and that there should be a temporary cessation of hearing?—That the time of hearing should rest with the party applying, to take place, say, within six weeks or a month after the next session of Parliament.

104. *Mr. Mackay.*] Until the end of the present year?—I should not wish to deprive the Natives of any right of relief where they have any *bona fides*. A month after the session ends would suffice.

104A. *Mr. Rees:* It is doubtful if the Commissioners (Messrs. Edwards and Ormsby) have power to adjourn. The Legislature seems to have run away with the idea of endeavouring to make the Commission self-supporting. If you will be good enough to let the Commissioners have the report you spoke of they will be much obliged to you.

WI PERE sworn and examined.

105. *Mr. Rees.*] What are you?—I am a Native chief residing in this district. I am acquainted generally with the procedure of the Native Land Court in ascertaining title to Native lands. The expense the Natives are put to is very great. I am aware of instances where the Natives have had to come a long distance to attend sittings of the Court held in the neighbourhood of European settlements. In the case of the Native Land Court sitting at Cambridge, the Natives had to come from Taupo and Rotorua, and other distant places. The expenses were so great that the value of the land was absorbed in the outlay incurred attending the sittings of the Court. A company that supplied the Natives with provisions charged for it, and the amount they had to pay equalled the value of the land. There was nothing left for the Natives. The Waipiro Block is another instance. The Natives who attended the investigation of title of that block have no land here. They had to pay for the cost of living. They were brought here, a distance of some seventy or eighty miles from their homes, to attend the Court at Gisborne. In some cases the whole of the land goes in expenses, in others a large portion of it—that is, for supplying food for those who have to attend. In many cases, where they have friends, the burden falls on the latter, as they supply the food, not that they had any interest in the land being dealt with. I am aware of the Nuhaka case, in which the Natives were compelled to go a long distance to the Court to have their claim investigated. The proper place for dealing with that claim was Wairoa. Yet, notwithstanding that, the Natives were compelled to go to Hastings. The Natives resident about Hastings had no interest in the land. I know of other cases that the investigation of title has been commenced in one Court, and then shifted to another Court, at a different place of hearing. In some cases the hearings would take place at some distant locality, through the influence brought to bear on Judges by persons having interested motives of their own. In some cases the Natives themselves would have the cases heard at a distant place, so as to prevent those having a claim from attending, and getting put in as owners. Thus it would happen that persons having minor claims would not go to the trouble of attending. They would not be able to find the necessary money to enable them to attend and pay the Court fees; consequently their claims would not be entertained by the Court. The fees demanded by the Courts is very heavy indeed, and frequently injustice is, in consequence, done to the Natives. If the money is not paid each day the Court will not hear the case. A Native, therefore, if he has not money, must forfeit his claim to have his case heard, or rely upon the generosity of his friends, who may perhaps have some regard for him. If the fees are not paid he is excluded altogether from the case. It is not a Native custom for each person to have his portion of land individualised. Prior to the advent of the pakeha there was no such thing as individual ownership. The land was held by hapus. If in rough country each owner were to have his share individualised the cost entailed for survey, adjudication, and other expenses would amount fully to 5s. an acre, and the land itself might not amount to more than 3s. an acre in value. The total value of the land in such cases would be absorbed in costs so incurred, and nothing would remain for the Natives. The Tahora Block was one of large area. The title was ascertained at Opotiki. A large number of Natives had to attend. They had no money. I had to provide for them, and the expenses incurred at the hearing, which I paid, amounted to £200. The case was first heard at Opotiki. A rehearing subsequently took place at Gisborne; but the expenses at the latter place were much less. The country is poor. It (the Tahora Block) is subdivided into areas for the several hapus, but if it were so divided that each person got his individual share he would receive about 50 acres each. The land would not pay for such surveys. It would have to be sold to pay expenses, and no good would result to the Natives from such a mode of subdivision. The area of the Tahora Block is over 200,000 acres. I am aware that there are certain lands held under joint tenancy. There are lands held under Crown grants issued under "The Poverty Bay Grants Act, 1869." On a grantee dying, if he had not parted with his interest, it reverted not to his next-of-kin, but to the survivors in the grant. These lands are mostly held by Europeans. In some cases the judgment of the Courts is good, and at other times it is not. A decision in rehearing is final. In some cases the Natives are satisfied with the judgment delivered by the Court. In others they are not. Instances are known of cases in which the parties before the Court, although not having any proper claim to the land, succeed in making out and establishing a strong case, and are consequently admitted as owners. The Court is deceived by the evidence they put forth. If a person attempts to contradict such a witness the Court objects, and will tell such a person to sit down. Now, in such instances, if the cases came before a Committee of Natives they could speedily detect the falsehoods in the evidence,

and each side would be allowed to have his talk out. My idea is that the Native Land Court should be abolished, and the present system changed. There should be three Judges and the Chief Judge—one Judge should sit with the Native Committee, who would deal with the case. Should the Committee and the Judge agree, their decision to be final; should they not agree, then the case should be submitted to a new Committee and another Judge, whose decision should be final. The number of Assessors should be reduced, and men only appointed who are thoroughly qualified for the work. Under the present system the cost of investigating the title to land is very heavy indeed. The total cost to the colony of administering the Native Land Court Department is £23,000 a year. There would be a saving to the colony of £15,000. Under such a system as I propose the cost would only amount to about £8,000 a year. There is an objection to the Native duty paid on the wills of deceased persons. The same property has to bear the cost of this burden as each owner successively dies. The Court should appoint successors without fees being paid at the time, or charged. The expenses are too great. Lawyers' and interpreters' charges are very heavy. I also object to the 10 per cent. Native duty on sales and leases. In the case of leases the duty charged is very heavy, more than 10 per cent. The sales of Native lands should be generally prohibited. Suppose in a 100,000-acre block, say, 50,000 or 60,000 acres are leased, and the Natives desire to utilise the balance for themselves, I think that the Government should pass a law to enable money to be raised at a low rate of interest, for the purpose of enabling the Natives to effect such improvements on their land as would enable them to make their land productive. This money so advanced to be spent solely in such improvements, and under proper supervision; the Natives to repay the Government the money so advanced at a fixed period of time; a Government officer to be appointed to see that the money was properly expended; this officer to act along with the Committee. From the wool the interest to be paid annually. This could only be done with a certain class of lands. The Government, by giving such assistance, would then enable the Natives to be placed in such a position that they could pay rates. Some person should be appointed by the law to act with the Natives, and arrange with them as to what lands should be retained by the Natives for their own use and occupation, and to decide what lands should be leased. Arrangements could be made in this way in regard to lands they desired to raise money on by way of mortgage for effecting improvements, so as to render their land productive. After the people have decided to lease their land, they could then appoint two or three persons out of their own number to act along with the Government officer. Great care should be taken to provide that the money the Government would advance should be spent solely on useful works—that, say, in the case of 150 owners, these people should choose among themselves who should act for them, and that those so selected would act in concert with the Government officer appointed. These would sign the necessary documents (the persons selected and the Government officer) for leasing the land. That it would be the duty of all the owners to lay down the terms and conditions, and regulations generally under which the lands would be leased. Under the old laws facilities for practising deception and fraud have existed. The objections generally under the head of costs are: The heavy fees required by the Court; the legal expenses entailed; the great expense of getting the signatures of Native owners, where each individual signature has to be obtained. The expenses in connection with the Native Land Court should be considerably reduced. In cases, for instance, where the land should bring in £400 a year only £100 or so would be given by the lessee, in consequence of the great expense involved in getting a lease and paying the various demands of one sort and another. Such is usually the case where there are a large number of owners in the block—say, 150, 200, or 300 owners. In this way great hardship is inflicted upon the owners. Another subject of complaint is with regard to the charges made by conductors of cases in the Native Land Court, these charges amounting to £5, £3, and £2 a day. The costs in the hearing of the case are less than what is paid to conductors. This complaint with reference to conductors does not apply to this district, but to other districts. I say that something should be done to abolish that arrangement *re* conductors. Some one belonging to the hapu should act as conductor, and then the expenses would not be so great. It was owing to these heavy charges that the land was absorbed at Cambridge; and at Marton the cases have been prolonged owing to the conductors. In cases in which a Native named Hikawera was concerned large sums were paid for such services. This is one of the many evils that press unduly on the Natives. In regard to leasing, the Natives suffer a great deal through the law demanding that the Native duty for the whole period of the lease be paid down in a lump sum. And as to conductors and Native agents, they regard the Native-land transactions in the light of prolific harvests, which they are to perennially reap. With regard to lands in dispute between Europeans and Natives in this district, and the title which is in dispute, my desire is that a settlement of these disputes should be commenced and finished. The cases should be taken up and gone through systematically. There should not be a law passed validating these illegal transactions. These transactions should be dealt with according to law under which the lands were dealt with. If the pakeha has broken the law that is his look-out; if the Maori has broken the law, then let the evil consequences of his actions fall on him. But where the errors are found to be on both sides, these matters should be settled amicably. In the case of lands that have passed under the Act of 1873, where perhaps there have been twenty or thirty owners and only two or three have sold, these sales are bad. The rent-money is held back on account of the purchase. Large sums have thus accumulated, amounting to more than has been paid for the purchase of the shares. The Europeans who purchased these shares knew at the time that it was against the law, but they thought that eventually a law would be passed validating their illegal transactions. That in such cases, under the Act of 1873, no relief should be given. Where the majority of persons have sold, the Commissioners might investigate such transactions, and, where justified in doing so, award land in respect of such sales; but where a minority of the owners had sold, these sales should not be validated. In such cases the question of the validity or otherwise of such sales should be determined by the existing law.

106. *Mr. Rees.*] What about the money paid by the Europeans?—The European has broken the law.

107. *Mr. Rees:* If the European has bought fairly he should get something for his money.

108. *Mr. Rees.*] Supposing a proper transaction has been completed, and the money paid, and the Natives themselves satisfied, but some particulars of the law have not been complied with—where mere technical difficulties exist—what should be done then?—Where no dispute exists, the title should be legally completed. The Commissioner should meet both parties, and get their acquiescence. The cases I refer to more particularly are where only a few of the owners have sold out of a large number. These sales should not be validated.

109. *Mr. Carroll:* There was some provision in the Act of 1886 bearing on incomplete transactions.

Mr. Rees: That Act was supposed to make provision, but it did not do so. This was shown by the Poaka *v.* Ward case.

Witness: The following is a brief summary of my views: (1.) The Native Land Court should be altered, and Committees should inquire first into the title of the land. (2.) Technical defects should be remedied, the Court to adjudicate upon disputes between Europeans and Maoris in cases where differences of opinion existed. (3.) In blocks of lands of large areas and a great number of owners the owners to choose from themselves persons to act in conjunction with a Government officer in dealing with the land. In cases where there are even twenty or thirty owners the same course to be followed. Such lands as Mangatu and Tahora—164,000 and 210,000 acres respectively—should be dealt with in this way. I may speak about Mangatu to-morrow.

GISBORNE, 7TH MARCH, 1891.

WI PERE, examination continued.

110. *Mr. Carroll.*] This block was conveyed to twelve persons?—Yes.

111. How many people were owners?—About seventy, perhaps more.

112. Some of the owners who signed to the trustees are, I believe, dead?—Yes, and some of the twelve also.

113. Have applications been made to the Native Land Court for successors to be appointed—not to those of the twelve who are dead, but to the people, now deceased, who signed to the twelve?—Yes.

114. What was the result of the application?—They were told that they had no status at all—that the Court had no jurisdiction to appoint successors, because the land belonged legally to the twelve. Hence it is that I believe that a new arrangement should be made—a new system adopted by which the Court may be empowered to appoint successors to these people. The arrangement made in the first instance is going on all right, but the only thing wanting is that the owners have power of getting successors appointed by the Court to the deceased persons. It is only when we find that some of the owners have died and the Native Land Court cannot appoint successors that difficulties arise. Therefore it is that we apply to the Commissioners, hoping they may recommend the Government to take some steps in the matter. If things go on as at present, and no successors be appointed, into whose hands will the land eventually revert?

Mr. Rees: Application might be made to the Supreme Court.

Mr. Carroll: All the owners except twenty-five have signed to the twelve. The Court regarded the arrangement as a voluntary one. The Natives had no power to give a deed at the time—in fact, they never were owners. No trust is declared. All the names are down in the Court books of those who assented and those who dissented.

Mr. Rees: This is a proper matter to be brought before the Commission.

118. *Mr. Carroll.*] If this Commission recommends that all the persons be made the legal owners, but the management of the land left to the twelve, will that be satisfactory to you?—Yes; if you can get an Act passed it would be well. Something should be done to reinstate or place the people in the true position of owners, still leaving the control of the land to the twelve. I think that would do. Also, that the necessary provision be allowed by law for appointing successors to deceased owners.

119. *Mr. Rees.*] The Court clearly has power to appoint successors for deceased trustees. When successors are appointed, successors should also be appointed to deceased trustees, but those successors need not necessarily be the next-of-kin of the trustees deceased, but persons chosen by the people to act as trustees?—The Court to have power, in fact, to appoint successors for those trustees who die or resign.

120. Are there many cases in a similar position?—Yes, there are a number of cases even worse than this one of Mangatu.

Lieut.-Colonel PORTER sworn and examined.

Witness: My name is Thomas William Porter. I am at present an officer of the Native Land Court Commission under Judge Edwards. I am a settler. I am a Lieut.-Colonel in the New Zealand Militia.

122. *Mr. Rees.*] Have you been resident for any length of time in the East Coast district?—On and off I have been acquainted with this district, with short intermissions, since 1864.

123. Are you acquainted with the working of the Native Land Court in this and other districts?—Yes; I have had great experience in this and other districts. I have been for a number of years Government Land Purchase Commissioner, and have had a great deal to do also privately buying Native lands. I am connected on Mrs. Porter's side with Native interests in land.

124. In regard to the working of the Native-land laws as at present existing, are you aware that a state of confusion is existing owing to the contradictory meanings given to the different

Native-land laws passed?—I think the laws are thoroughly incomprehensible. It was understood when a new Native-land law or Bill was brought into force it was intended to repeal those that were incomprehensible, but it appears that every new Act creates an immense amount of confusion,—that none but experienced men can arrive at an understanding. I think it is not only my opinion, but, from my own experience with various Judges, the Courts themselves never seem to comprehend the different Acts they have to work under. Quite a diversity of practice will be found in different Courts, as well as diversity of opinion among the Judges. If the attention of the Court or Judges is called to what has occurred on the same point in a previous Court they will say they are not guided by other Judges but by their own experience. There is no uniformity of practice in the Native Land Court.

125. No uniformity in the decisions—you mean in the procedure?—I mean as to the decisions of the Court and the interpretation of the Acts under which the Court is working.

126. There are no precedents which guide the Court; they do not feel themselves bound by the decisions of other Courts?—That is my experience, derived from many Courts and before a great many Judges.

127. Are you aware at all of the existence of cases in which lands have been fairly and equitably obtained by Europeans, but, owing to technical defects which exist, the titles are held to be invalidated?—Yes; I know of a good many cases.

128. I presume you are aware also, Colonel Porter, of cases where direct breaches of the law of fraud are alleged—not merely technical disputes?—There are a great many cases where the European has apparently conformed to the law and its technicalities, but, through the non-action of the Natives themselves, the Natives are liable to be defrauded. The merits of the cases are in dispute, and there are matters that require really thorough investigation before the transactions are confirmed absolutely.

129. Then, you can speak positively of two classes of cases—one where there is no dispute as to merits, where the defects are technical, and another class where the merits are in dispute?—Yes. That has lately come under my knowledge. I have formerly heard, although I did not think it was the case, that there were many cases where the merits were in dispute; but since I have been attached to the Commission I have seen cases where Natives have been very considerably wronged. These cases should be investigated, and I believe that there are a number which are still held back which require investigation.

130. Then, your opinion of any law for validating these titles would be for cases where the transactions in themselves were right but technically wrong?—That is my firm conviction. I formerly thought these transactions were only technically wrong; but I am firmly convinced that there are a number of cases which require a thorough investigation before they are validated.

131. Now, in the working of the Native Land Court, are you aware that the Natives are drawn considerable distances from their homes in order to attend the sittings of the Court?—I am aware that the present system of the Judges working throughout the Island, making Natives travel from one part of the country to another, is very unsatisfactory. The work is neglected. Natives are afraid to go to the Court; the expenses are so great. The Court now being itinerant, there is not half the work done by the Native Land Court that there used to be a few years ago, when there were fewer Judges. If I may express an opinion: I heard Mr. Carroll say something about the country being divided into districts, with a staff to do the work, and that the Court should sit in the centre of the district where the work was the greatest. The Court should sit, for instance, not necessarily at Waiapu, but in the centre of a sub-tribal district, according to the areas of land to be dealt with. In that way the Court should sit in a sub-tribal district.

132. Would that insure economy among the Natives?—Yes; and it would expedite the work. As it is at present, a Court is called, a number of claims are gazetted. Interests may become mixed up. No one knows what cases are coming on. Adjournments are asked for, and cases are put off.

133. What is the result of all that?—The Court proceeds slowly in its work. The Natives get tired. The time comes round when it is necessary for the Natives to attend to their other work. The cases are withdrawn from the Court. The Court goes away after it has done very little business. If places for investigation were in centres occupied by sub-tribes, when the business in one place was settled the Court could then remove to the residence of another sub-tribe, and so on. The work then would be complete and final, and carried out with satisfaction. I am aware that at present the Court is eminently unsatisfactory.

134. Wi Pere, one of the witnesses, said that the delays were often occasioned by the demand for fees—that injustice often arises—Natives sometimes excluded from Court. What is your knowledge of that?—I think that the system of paying fees down at the time of hearing of the Court is very hard. I often have felt ashamed to hear how the Natives have to pay down their money—£1 a day. They generally have to gather or borrow the money. It is to the interest of those who get the title to pay the fees. When the Natives know that they have gained their cases they will go and collect money from those whose claims are admitted with them. Of course, the imposition of fees is a check against frivolous cases being brought forward; but the present system of imposing fees is bad. I do not say that the fees should not be levied; they should not, however, be collected at the time of the hearing of the case.

135. In regard to the subdivision—the individualisation of Native land which has come into question recently—can you say when it began? Do you remember?—I think about 1878.

136. Was there anything such as individualisation among the men, women, and children in the olden times?—No.

137. I suppose the divisions then would be among tribes and hapus?—Yes, the tribes, sub-tribes, and families.

138. The lowest entity would be a family?—Yes. And then the family's interest would not be always defined. They simply held that portion with the hapu; they had their defined boundaries

generally within the sub-tribal boundaries; but the question as to the extent owned by the family or sub-family was not defined.

139. Was it a custom among the Maoris in the olden time for every individual, old and young, to assent to or sign the deeds or documents passing titles to land?—Prior to the introduction of the Native Land Court? No, not to sign.

140. Can you state how in the olden times when deeds were signed, and by whom?—I can only speak from information derived from the Maoris.

141. Before the Europeans came, how would land pass?—Meetings of the owners would be held; the chief men and spokesmen would get up and address the assemblage, and express their views. Those who had the right to speak would do so, and the meeting generally went by the voice of the majority. A general opinion was taken, and it was decided that certain things should be done or agreed to. In every hapu and tribe there are head men who are looked up to, who have more knowledge, even if they are not chiefs by birth. They carried out whatever arrangement was agreed to by an interchange of commodities. Such transactions were considered binding.

142. I believe that all the old purchases were carried out in that way?—Yes.

Mr. Mackay: There was Mr. Busby's and other cases dealt with in that way.

Mr. Rees: We should be bound to show by what process the Native lands were dealt with in the olden time.

Mr. Carroll: There was no other way to do it. They had to get the knowledge of the ownership of the land from the Natives themselves. Even then certain rights suffered.

Mr. Rees: No doubt they did.

Mr. Carroll: That led to the Taranaki war.

143. *Mr. Rees.*] You are cognisant of all the European Acts?—Yes.

144. The first practical Act was in 1865. You have seen gradually the process of legislation that has gradually lifted the dealing from the hapu until it came down to individual dealing. Do you think that has led to confusion?—I think it has. All the expenses of subdivision, grants, deeds, and conveyances have enormously added to the cost, and have acted injuriously to the Natives. They get no benefit from the transactions. The value of the land is absorbed by the expenses incurred, and sometimes the costs amount to more than the value of the land.

145. Has it not also broken through the custom of the Natives in the holding and dealing with their land?—It has, and very often to an injurious extent by unscrupulous persons wanting to get the lion's share. There are individual cases; and it is unfortunately this class of men now, who are able to control dealings with hapus who are not educated up to this way of dealing.

146. Do you think, if a measure were introduced and adopted by the Legislature by which the Crown should deal with the Natives as agent on behalf of the Natives, the Native Committees to have certain powers for laying apart reserves—do you think such a plan could be made workable? Instead of the Native deeds being signed by all the Natives, make the Crown Trustee and the Natives beneficiaries?—I think something of the kind, with the consent and concurrence of the Natives affected by all those questions, would do. I think it would be the very best thing that could be done—the Natives to derive the benefit from their estate. I have heard that certain members have stated that the Natives should be deprived of their land, and that all their estates should be thrown into a state of hotch-potch. That would be wrong. At the present time the Natives are not getting any use from their land.

147. Nor is the Native land of any use to the Europeans?—No. The way the law is it is not advisable for any one to have anything to do with Native land.

148. The country is locked up?—Yes; and no revenue is derived from it.

149. *Mr. Carroll:* Do you think the Natives would give up to Parliament or the Government the control of their land?—That is a very delicate question.

150. Do you think, if the Natives in every block of land had the power to choose reserves, and the Committees to exercise a certain amount of control over the expenditure of the money, that such a scheme would work and tend towards better settlement?—I believe the more that can be done the better.

151. Would you think, Colonel Porter, that the Natives would be likely to consent to a system whereby these lands would be thrown open for lease, after the reserves had been taken out, and that they should get the benefit of the proceeds? As Mr. Carroll said just now, would the Natives hand over their lands to the Government?—Formerly they believed the Government was everything, but they see now that the Government makes fresh laws. There is no permanency in the dealings. The Governments change. The Natives would not part with the control of their lands.

152. *Mr. Rees.*] I suppose they would part with the partial control?—Yes, so long as they retained a controlling voice; but I feel quite confident that they would resist the Government taking absolute control of their land.

153. That would be confiscation?—Yes; but I believe that the Natives would be only too glad for the Government to step in and give them some help.

154. The Natives would be willing so long as the entire control was not taken out of their hands. The Natives would be inclined to use the Government as the vehicle?—Yes.

155. *Mr. Mackay.*] Would the Natives be disposed to allow the Government to take up land at a fixed rental, based on the prairie value, the Government paying all expenses of subdivision, surveying, and roading, and doing the best they could out of it?—Either course could be adopted.

156. *Mr. Rees.*] Would you say to that, Colonel Porter, that, the principle being established, and the assistance of the Government being invoked, it would be a matter of arrangement between the Natives and the Government as to what extent and how far that assistance went?—Yes. The Natives are quite satisfied that they cannot get enough for their land from the Government.

157. Would you say that the Natives know that these lands may be taxed?—Yes; they are quite alive to that. I have had many conversations with leading chiefs on the subject: with

Henare Potae, Meiha Ropata, Raniera Turoa, Tuta Nihoniho, and others. They have spoken to me on the subject, and as to the direction legislation was likely to take. I saw from their views that they were alive to all that was going on when they were putting these questions to me.

158. *Mr. Carroll.*] From your knowledge of the Natives in the past and up to the present day, do you think that they have the confidence in their chiefs and leading men that they used to have? Would they intrust the control of their property in the same way that they used to?—Not blindly. There are certain principal chiefs that they respect in their tribes, but generally they would not. They rather mistrust a good many of them.

159. That has been brought about by the action of the chiefs themselves?—Yes. They have simply betrayed the trust reposed in them for their own benefit.

160. In fact, they regard them with suspicion?—Generally they do, for the very reason that in many cases of leasing, where the rents have been received by the receivers, they have not distributed the money among the people.

161. And do they not entertain some suspicion with regard to the Government in reference to dealings connected with the past?—No; I think not. They look to the Government in a more responsible way—in a different light from independent chiefs. If a method were devised whereby the revenues derived from the lands would be administered through the Government it should be laid down very clearly, so that no suspicions would arise.

162. *Mr. Mackay.*] The rents would be paid direct to the beneficiaries?—Of course, in the administration by the chiefs they have never been bound by any laws.

163. *Mr. Carroll.*] Was not that the objection the Natives had to "The Native Land Administration Act, 1886"? Was it not the fear that the Government would resume power over the land?—No; I think it was the heavy fees that they objected to. There were so many contingent expenses in connection with the laying-off of roads, &c., all of which were deducted from the land, the Natives having no say or controlling voice. That is what frightened them.

164. Was it not because they knew that the money received would be handled by the Government officer?—Yes, subject to all these deductions; but the Natives had no say in the matter.

165. *Mr Rees.*] Was it not an element of their distrust that they lost all control of their lands?—Yes; they had no say whatever in the matter.

166. They had to assent to bring in their lands?—Yes.

167. Do you think, if that Act provided for a species of oversight for the Natives, and the moneys of each block to be distinctly set apart, the Natives to have a partial control and to make reserves for themselves, that some such plan as that would do?—Yes; I think it would. I think it was because the Natives lost full control, and on account of the heavy charges, that they were afraid to act under the Native Land Administration Act.

168. Do you think, where the Natives would agree among themselves to appoint a limited number to control and direct what should be done with the land, do you think they would work in concert with the Government—that that would be satisfactory to the Natives?—I have in view that there would be some sort of control of that sort.

169. *Mr. Carroll.*] Suppose there were a hundred owners in a block, a Committee would be appointed, intrusted with the power of leasing the land, and when they wished to lease that land they would have to speak to the Government officer: would you approve of that?—Were not those the terms of the Administration Act of 1886?

Mr. Rees: No. The Commissioner did everything under that Act.

Witness (in reply to Mr. Carroll's last question): Yes, of course. That is the same idea that the Natives should retain some control over the dealings with their land.

170. *Mr. Carroll.*] Suppose that principle were agreed upon, would you make it compulsory to appoint that Committee?——

Mr. Rees: It was optional under the Act of 1886. They could do it or not do it.

Witness: Where there were good grounds for an Act of compulsion I would say Yes—in the case, for instance, of a block of land lying idle.

171. *Mr. Rees.*] That would be all such blocks? That is what Mr. Carroll wants your opinion upon. Would it be advisable to leave it to the option of the parties, or would you say it should be the law?—Before doing that you should first ascertain what lands the Natives required for their own purposes.

172. If provision were made in the first instance for lands that they required, would it be well to act so with the balance? This would more particularly affect large blocks of land in the interior—land adapted for large runs?—Yes. It would undoubtedly be to the advantage of the Natives to have these lands made available for settlement.

173. *Mr. Carroll.*] I want to deal with one class of cases—rough land in the interior—what we may call the waste lands of the Maoris, where it would be necessary to spend money in improvements before the land could be made productive. Do you think in such cases the system mentioned just now would be the most satisfactory for dealing with those lands?—I say, Yes, decidedly. I do not hesitate. I do not hesitate in saying that it is to the benefit of the Europeans and Natives to have such a system, but more particularly to the owners of lands at a distance from European centres.

174. Those are lands that have passed through the Court, having a large number of owners, and are utterly unworkable under the present system. Now we come to lands more adjacent to European centres—lands like Makauri, Ruangarehu, Kaiti, &c. Would you apply the same system to these?—Well, I think, if they were not being utilised, I should say Yes.

175. Would you not think that this class of lands—lands near European centres—were fit lands for individualisation?—No. We have lots of instances of it. You can at once tell the land near European centres that belongs to the Natives. They do not utilise their land. They have too much land, and they do not use it, they have so much. Unless the land is in a state of production the Natives should be compelled to make it productive.

176. Are you aware that many Natives in this district are going in for sheep-farming?—Yes.

177. Do you not think that is a state of things that has come about recently?—Yes. I think it is a very good state of things among themselves; it is settling and using the land, and adds to the revenue of the country.

179. Now, I do not say that they are as advanced as Europeans, but do you not think that there is a change in the Maoris for the better?—Yes; but, as it is, it is putting only a few sheep on large areas of land where there should be twenty or thirty times as many.

180. *Mr. Rees.*] Still, I suppose you would say that every tendency in that way should be helped; that should be the object of the law?—Yes.

181. Suppose 100 acres of Makauri were owned by Natives, would you compel them to form a Committee?—No; there would be no necessity for it. I suppose they would require such land for themselves.

182. Yes. But suppose it was compulsory in every block to form a Committee?—That would be if there were a large number of owners in those blocks.

183. But if there were only ten owners?—No. That would be an extreme case. If the owners are making the best of the land I do not think they should be compelled to appoint Committees.

184. You do not think individualisation in such a case as that would be at all advantageous?

Mr. Mackay: I think it should be optional.

Mr. Rees: I think that in settled lands like Kaiti, Matawhero, &c., there you have people enjoying individual ownership from the necessity of the case. You have individual ownership with individual enjoyment. I think Colonel Porter is looking rather at lands that are not used for occupation. In taking Kaiti, for instance, each man wants his own property. You must either have a controlling power or individualisation.

186. *Mr. Carroll.*] Colonel Porter, I have more in view the waste lands of the Natives.

Mr. Rees: Mr. Carroll is guarding against the more extreme cases. Your mind was running on great areas of land being profitless to the owners and profitless to the Europeans.

Witness: I also had in view very large areas of land under occupation only partly stocked. Suppose 20,000 acres are occupied and leased to Europeans. Under the present system it may be leased at a nominal rental, and only a few thousand acres are being occupied. Of course, the title under the lease being generally defective, obstruction to European settlement exists. The land may not even be all fenced. There are few runs which are more than half occupied. The lessees do not improve them.

187. *Mr. Carroll.*] That is bearing on the European side.

Mr. Rees: Yes; but being Native land the Legislature could touch them.

Witness: If a European only wanted to use 5,000 acres out of 20,000, I dare say the European would be satisfied to take compensation, and surrender his lease over the balance of the block.

Mr. Carroll: That would be a question for the Legislature.

Witness: That could be met by voluntary arrangement.

Mr. Carroll: The European has his lease of 20,000 acres without conditions.

Mr. Mackay: That cannot be disturbed. The question is what that lease lays down to be done.

Mr. Rees: I am afraid that I am not one with the Commissioners. No man should take 20,000 or 30,000 acres of land, and not properly utilise it. The Natives do not derive proper benefit, nor does the country by way of taxes. It is only a step from the barbarism under which the lands were held by the Natives.

188. Would you apply that enforced system of making the land productive to lands held under Crown grant as well as to lands held under Native leases?—I do not mean that I would limit the area. If the lessee can properly farm 20,000 acres, well and good, but not as is often the case now, were the land is held fast for speculative purposes. I do not say that I would not allow a person to use as much land as he liked so long as he utilised it.

Mr. Rees: That is a different question from land nationalisation: that is land utilisation.

189. *Mr. Carroll.*] Do you think that the Natives should receive every encouragement to utilise the lands, and become good settlers?—Decidedly. Although the desire of the Government is to settle the Native lands, at the present time the laws retard it. The Natives should be assisted in every way.

190. As a people, however, the Maoris would not be benefited by simply having reserves set apart for them?—No. I know the case of the Tokomaru Reserve. It was set aside for the benefit of the Natives. It consists of over a thousand odd acres between Tawhiti and Tokomaru. It is in dispute. The land is neglected, and sweetbriar is covering the block up. Under better management they might have been in receipt of a large rental for it.

191. *Mr. Rees.*] Should they not be assisted in utilising such land, and encouraged to do so?—Yes. It should be occupied, and they should be assisted in every way.

192. Do you think, in the different districts, that the Natives should consent to large farms and schools being made for the purpose of educating their children in all farm operations, and that the charges for the maintenance be a charge against the land?—They might consent to do that; but they would themselves be so inactive. They do not back up those things. A lot of money might be expended. I do not, however, like to express an opinion. The Natives are so apathetic. It would become a matter of inducement. They would not see it in the same light as we would.

193. What do you think should be done to get them out of this state of apathy, or would you leave them as they are?—On questions of abstract conduct bearing upon the Natives I would express no opinion.

194. That is getting beyond the utilisation of the land and coming to a social question?—Where there is settlement there is employment given to the people all about. They can get work

wherever the land is settled. It is only the actually lazy Natives who cannot get employment—who do not want employment.

195. That is Mr. Carroll's view: that if you get a number of European farms alongside Native farms a spirit of emulation is aroused?—Yes, that will follow.

196. Then, what is your opinion as to the efficiency and satisfactory nature of the Native Land Court as at present existing?—I do not hesitate in saying that it is very inefficient and unsatisfactory. I do not mean as to the officers, but the Court as at present constituted is eminently inefficient and unsatisfactory.

197. In what respects or in what manner is it unsatisfactory?—Because of the very confused state of the Native Land Acts in the past. Almost in every Court past questions arise which the Court is unable to settle or decide upon. The existing Acts, although they may be supposed to give them full power, do not. There is no uniformity of procedure. The Courts themselves are confused. There should be a Court to deal with all past matters, and a law to deal with the future. The Court should have power to settle all the complications arising out of the past. That, it appears to me, would help to remove a lot of difficulties, and so tend to complete all things outstanding. Now, it is simply perpetuating the confusion. The confusion is becoming greater, and the Courts will never arrive at anything unless there is a total stoppage of the existing state of things, and a total change.

198. *Mr. Carroll.*] When you say that they should settle up all past things, do you mean subdivisions?—I mean everything where a title has been derived from the Native Land Court.

199. It would be principally subdivisions—no new claims?—Yes, subdivisions and everything.

200. That the lands should be subdivided among Maoris and Maoris, and Maoris and Europeans?—Yes.

201. *Mr. Rees.*] I do not apprehend that all the land passed by the Native Land Court should be subdivided among the Natives. I apprehend you mean that all those past applications should be settled?—Yes.

202. And then the new method of entirely dealing on a new basis, making that the "datum" line?—Dealing with the old transactions under some Act, making no new orders under the old Acts but under the new law.

203. Do you consider that the Native lands—some 10,000,000 or 12,000,000 acres—can be dealt with in a satisfactory manner under the existing state of the law?—No, I think it is almost impossible.

204. Do you believe that under such a system as we have been speaking of—a system of agency on the part of the Government, with Maori Boards and Committees—an economical and equitable way of dealing with the Native lands could be devised?—Yes. I think if the Government had a power of that kind it could settle the whole thing, and administer the Native lands to the advantage of both parties; and I believe that is necessary, and that it should be done.

205. Would not that obviate the necessity of subdivision-surveys?—Well, that is one of the most difficult questions. The cost of the surveys is, no doubt, a matter for consideration.

206. Would not that obviate the necessity of individualised surveys?—There would be no necessity for subdivisional surveys of the land.

207. Then, all expenses would be done away with?—Yes; that expense would be done away with.

208. It would make a certainty of title instead of a possibly-disputed title?—Yes; it would make a certainty of title instead of the present uncertainty.

209. Would it not also shut the door against any possible frauds or mistakes?—I believe it would.

210. *Mr. Carroll.*] Going back to what you stated about the past work, would you use the present machinery of the Court, or new machinery?—I believe it could be done by the present machinery of the Native Land Court. That would be a matter of expense and revenue, whether or not it should be done by separate machinery.

211. To do that you would not disturb the present machinery?—No.

212. Under the heading "Past transactions" you mean all such cases as came before Judge Edwards?—Yes. Of course I consider under the present Commission that there are many cases that will come under that head.

213. You are aware that there is a hitch—a clamour by some for more power to be conferred on the Commission. What would your suggestion be?—That would be a matter for the Government to consider: what would be necessary to be done could be either done by the Supreme Court or by extending the powers of the existing Commissioners.

214. Do you think it would be sufficient if the Commission had extended powers?—I think the Commission (Edwards's) will only last for a few months.

215. Are you in favour of the Commission getting more power than it has at the present time in order to settle up these past transactions?—Yes; but that only refers to several classes of cases where documents are in existence—it does not refer to where applications exist as to subdivisions or divisions in the Native Land Court, nor does it refer to applications with regard to deeds where informalities exist. There are two little matters I wish to speak about in reference to the alteration of the mode adopted by the Native Land Court in placing or removing restrictions. The position at the present time is unsatisfactory.

217. *Mr. Rees.*] In what way?—In cases of application by Natives. One or two have appeared before the Court and requested that the land be subjected to restriction. The Court has very often complied upon an *ex parte* statement of some of the owners, but against the desire of a great bulk of the owners. That, I think, should not be allowed except on the personal or written application of the majority of the owners. Before any restriction is imposed the dissentients should have the opportunity of making their objection and applying to have their portion free from restriction.

Land is locked up in that way by one or two parties—conservative individuals who wish to deal with the land in their own way.

218. In some cases the restrictions are against leasing?—Yes.

219. Lands are restricted from sale and lease, and not used by the Natives?—Yes.

220. And they are in a no better condition than before?—No. Then, in regard to removing restrictions, the majority, or a stated number, should apply to have the restrictions removed. On such application being made, the Court should inquire and ascertain what was the portion belonging to the persons who wished the restriction removed from their particular portion. That is, where the majority should apply for the restriction to be removed, their portion should be excluded from restriction. It is not right to make restrictions with only a partial inquiry.

221. Would you say, then, closing these two matters, that they afford an example of the unsatisfactory nature of the powers of the Court exercised in this direction?—Yes. The power of putting restrictions on land has been improperly used, and the Government have improperly used the power of taking off restrictions. Might I make a suggestion with reference to the Commission of which Mr. Carroll spoke? I am in the position of having certain claims of my own to be brought before it. At the present time they are at a standstill, owing to the stringency of the fees and expenses. I believe this matter is under consideration. I believe that if the Commission saw its way to make a recommendation to Mr. Commissioner Edwards himself and to the Government something could be arrived at in the way of protecting claims by the 20th March without any unnecessary expense to the applicants. The Commissioners are aware that it is necessary to make applications before the 20th in order to protect the claims.

Mr. Rees: Mr. De Lautour brought that matter up before the Commissioners yesterday.

Witness: I merely wished to give my view of the matter.

RANIERA TUROA sworn and examined.

223. *Mr. Rees.*] What are you?—I am Chairman of the Native District Committee. I wish to speak in regard to the inquiry now being carried on by the Commissioners. There is a particular block of 30,000 acres in extent. It is unutilised; there is nothing being done with it. I wish to lease it. My idea is that the people chosen by the tribe should have the power to lease, sell, or get money from the Government to improve that land. One objection that I see arises from the great cost of having subdivisions of such land as the 30,000 acres made—that is, the subdivision of individual shares. If that were to be done a great deal of expense would be occasioned by surveyors having to go on to the ground. I have seen the evil results of such work, where the burden placed on the land has been very heavy. I think the system I suggest—viz., of persons chosen by the people to act for the latter in relation to dealings for land—should apply to large blocks of waste Maori land in which there are a large number of owners—say one or two hundred people. Any transactions would be difficult to carry out where there are a large number of owners; hence it is that I think it should be done as I suggest. I think it is only by those means large blocks of land such as I have described can be properly utilised. Now, with regard to the land in the vicinity of European settlements and with few owners, each person should act for himself.

224. Do you think the Native Committee could conduct the Native Land Court work?—Yes, I think they could.

225. They would not show favouritism?—I think the Committees would not show favouritism.

226. How long have you been Chairman of the District Committee?—About five years.

227. Has that Committee investigated the title to lands?—Yes.

228. How many cases?—They investigated the title to four blocks, and settled the title to them.

229. Was there any trouble?—There was only one case in which the decision of the Committee was objected to, and that was in a case at Waiapu. Mohi Turei was the only person who objected to the decision. The other cases are not finally closed. Then, after that, the powers of the Committee were done away with.

230. What is your opinion with regard to the Native Land Court? Should it be done away with, or stand to confirm the work of the Committees?—The Chief Judge and some of the Judges should act in concert with the Committees. I have seen the hardship inflicted by the Native Land Court upon the Natives. There is great lamentation amongst them.

231. Can you give an instance?—I can give an instance of my own. Judge Barton called me to attend at the Wairoa. I was at Gisborne at the time. I left Gisborne about 6 o'clock in the morning, to go to Wairoa and attend that Court. At 2 o'clock in the afternoon I arrived, at the opening of the Court. I was extremely fatigued in consequence of my long ride. I was asked by the Court to give evidence in the case then being heard. I addressed the Court, and asked that the case be put off until next day, in order that I might get cool, and have time to get over the fatigue of my journey. The distance travelled was seventy miles. I was nine hours in performing the journey. The Court would not give consideration to my application, and it had no regard to the fact that I was tired by my long journey. I was requested to give evidence. A demand was made on me to pay £1. I was required to give evidence in relation to a claim over the survey of the Mangapoike Block. I said to the Court, "I have no money at present. Will you defer the demand—will the Court wait until I would go outside and get the money?" The Court said that if I did not pay the money at that particular time judgment would be given in favour of the European. Well, a stranger, the Rev. Tamihana Huata, had consideration for the position in which I was placed, and he gave me £1, and I handed it to the Court; but, notwithstanding, the judgment was given in favour of the European. There are many instances in which I have suffered through the operation of the Native Land Court. If this matter I have just referred to had taken place before the Native Committee, the proceedings would have been conducted differently. The behaviour

shown would have been different. There would have been no threats, no intimidation, nor any objection made to any evidence I might have wished to give.

AUCKLAND, 10TH MARCH, 1891.

PARATENE NGATA sworn and examined.

232. *Mr. Rees.*] Do you know of any cases in which Europeans have dealt fairly with the Natives in regard to their land, but in which difficulties have arisen by reason of the complicated state of the law, and through certain of its conditions not having been thoroughly fulfilled?—I cannot give a definite reply to that, because I am not clear as to what particular lands have been dealt with fairly between Europeans and Maoris, and yet in respect to which the law has been broken. The people who will be able to speak on that point are those who are immediately concerned in such transactions.

233. Do you know of cases between Europeans and Maoris in which there are complicated titles, and in which allegations of unfair dealing are made by the Natives?—I am not personally aware of any such cases; but I have heard Natives make accusations to that effect—that their lands have been improperly obtained by the Europeans.

234. Do you know of cases where it has become difficult by reason of the law itself to settle complete titles between the Natives and the Europeans?—I am aware of lands that are in that position. One block with which I am acquainted is the Anaura Block. The difficulties in connection with that land are owing to the laws. That land was granted to certain people, who were trustees for the owners. The great body of the owners of that land derive no benefit from it. They are placed on the certificate as registered owners, while a few persons are included in the certificate of title as trustees. These trustees of the Anaura Block lease land to the Europeans, and they receive the rents and keep them. That is a matter that is absolutely within my own knowledge. I know of the case, because I have been one of those persons who distributed the rent amongst the Natives. The people who own that land derive no benefit whatever from it. That trouble is owing solely to the state of the law. There is no law that provides for the trustees being looked after, and for seeing that they do their duty properly.

235. Then, in such cases as the Anaura Block, do you think it would be a good law that those ten people—or whatever other number they may be—who receive the rents should be by the law compelled to distribute them, and that a Government officer, appointed for the district, should be responsible for their distribution amongst the people?—I am very strongly of opinion that a law such as you mention should be passed, that a Government officer be appointed, and that in all such cases as the Anaura case he should act in concert with either the ten people named on the certificate or, in the case of land not yet through the Court, in concert with the Committee, so that the rent derivable from the land would be distributed fairly and properly amongst the owners.

236. Do you think that law ought to be universal—that wherever ten people, or any other number, appear on the face of the grant, a Government officer should be appointed to receive these moneys, and to see that they are fairly distributed?—I am strongly of opinion that in all cases where lands have passed the Court, and where ten people have been appointed as trustees in the past, as well as with reference to cases that may arise in the future, a Government officer should be appointed to act in concert with the ten people in the grant, or, in new cases, with the Committee.

237. *Mr. Mackay.*] To see that the rents are equitably distributed?—To see that the rents would be distributed fairly, and that, in cases of sale, or in reference to any transactions whatsoever, the Government officer would act in concert with either the ten people in the grant or with the Committee, as the case might be, who had been chosen to see that the money was equitably distributed amongst the parties entitled to receive it.

238. *Mr. Rees.*] In cases where there are large areas of land and large numbers of owners, do you think it would be wise that, instead of cutting off each individual's portion and spending money for surveys, the Committee and the Government officer should give titles for the land when the people had decided what reserves they wanted and what lands were to be leased?—That plan which you mention of a Government officer acting in concert with a Committee chosen by the people is an idea I have had for a very long time. I have frequently spoken of it at Native meetings, and I am convinced it is the course that should be adopted. My idea is that, whether it be a large block, or a small block in which there are a large number of owners, the Committee should be appointed to carry out all transactions in relation to that land, whether leasing or selling, or whetner it is for reserving land for farm purposes for the benefit of the Natives themselves. In all such cases a Committee should be appointed by some tribunal. The lands for which Committees were to be appointed should be gazetted, and the persons to be appointed on the Committee should be chosen in presence of the Court; and the Court should ask the owners present if they approved of the persons thus selected for the Committee. When the three, four, five, or whatever number of persons were to act on the Committee had been chosen, the Court should then make an order to that effect. The Committee should not be appointed by a deed which it would be necessary for every person interested in the block to sign. The great objection to signing a deed appointing a Committee would be that it would be hard to get the signatures of all the owners of the block, as they would be scattered over the country, some perhaps up in the Waikato, some in the Hauraki district, some in Hawke's Bay, and some elsewhere, thereby rendering it practically impossible to get all the owners to unite in signing such a deed. In all cases where the Native owners desire to have a Committee appointed to manage their lands, they should be required to give notice to the Registrar of the Court, who would thereupon have the application gazetted, and notice given to all parties interested to attend on a certain date, after which the Court would proceed to comply with the request of the people attending.

239. *Mr. Mackay.*] Do you think the voting in the appointment of such a Committee should be carried out in the same way as the voting for a member of the House of Representatives?—That mode of election would be very good. I am, however, inclined to think it would be better for the Court to appoint the Committees, because such a large amount of time would be taken up if the Committees were to be elected on the same principle as members elected to the House. Perhaps twelve months might be occupied in the election of the various Committees.

240. I understand that the various hapus would appoint their own Committees?—Different hapus might be interested in a great number of blocks, but every hapu's claims would be varying in character—one hapu might have a claim through one particular ancestor, and another hapu might claim through a totally different ancestor.

241. Supposing that No. 1 hapu, besides having an interest in Block A, has also an interest in Block C, belonging to No. 3 hapu, No. 1 hapu will have a vote in the appointment of Committee for each block?—For instance, one hapu might own this particular block solely, and then in another block it might only have a partial interest jointly, with several other hapus.

242. That is quite true, but we must get at finality. What is the largest block of land in your district in which one title could be obtained?—Some hapus have 5,000 acres, some 10,000 acres, some 50,000 acres, and some perhaps 3,000 acres, but that land would not be in one piece. The one hapu would own that land, but not in the one block.

242A. Could not each hapu vote for its own Committee?—If each hapu elected its own Committee, this would happen: that, inasmuch as in some blocks there would be three hapus owning, it follows that three Committees would have to be elected were each hapu to elect its own Committee; and, in the case of five hapus being interested in the one block, five Committees would have to be elected.

243. Would not that tend to a more satisfactory dealing with the land than if there was a Committee elected for the whole five hapus?—No; I think the better plan, where five hapus are interested in the one block, is that each hapu should choose certain of its members to serve upon the Committee. There could be one Committee, and one Government officer, and one system of working in unison. I think, if Parliament were to pass a law empowering Committees to act in the manner suggested, along with a Government officer, then all the difficulties in regard to the various dealings with Native lands would disappear, or, at any rate, there would be very few of them; and there would be no necessity for the existence of such laws as the Native Lands Frauds Prevention Act.

244. *Mr. Rees.*] Should the Committees, in your opinion, have power, when the lands were being cut up, to choose cultivations for the people, or even, beyond that, should they have power to choose what lands individuals among their hapus should utilise as cultivations or sheep-farms?—Yes, I quite agree with that being done—that the Committee should have the power to make the reservations you have mentioned. And I would add to that that in cases where some of the owners had objection to make it would be better for the Court to cut their pieces out, so as not to interfere with the Committee generally; because there might be many people who would wish to have their own portions cut out. Of course that would only apply to those who made formal application, and persisted in having their individual interests allocated in severalty. If a great number of owners desired to have their lands operated on by a Committee, it would be well to reserve what particular portions they would require as permanent places of abode for themselves, and to hand the balance over to the Committee to be dealt with.

245. Do you think the Maoris would desire the assistance of the Government to provide moneys for the improving of such lands as they wish to keep, such moneys to be borrowed at a cheap rate of interest, and to be applied, under proper restrictions, towards putting the land under cultivation or into grass; these loans, of course, to be a charge upon the land?—I have advocated that course very strongly. In the year 1886 the Hon. Mr. Ballance arrived at Waiomatatini. In the presence of Mr. Ballance and the Ngatiporou Tribe I made application to him at that time that his Government should assist the Natives by letting them have moneys for the purpose of utilising their lands—to assist them in improving their lands, and in bringing them under cultivation. These words of mine were reported by the shorthand-writer who was accompanying the Hon. Mr. Ballance at that time. I am still of the opinion that the Government should either let the Natives themselves have the money, or obtain it for them from people who would be willing to advance it by way of mortgage upon the lands owned by the Natives; that the expenditure of that money should be controlled jointly by the Committee and the Government officer; that from the subsequent produce of the land the interest should be paid; and that by these means there would be a splendid opportunity of largely enhancing the general prosperity of the colony.

246. Should the Government, in your opinion, perform all the surveys necessary for carrying these settlements into effect, paying the costs and charging them upon the various lands, getting the work done as cheaply and as effectively as possible?—I think that that would be the proper course to pursue—the Government to conduct the surveys and charge the cost against the lands surveyed, and that the Natives would have the opportunity of paying off the survey charges, should they be able to do so, out of moneys arising from dealings in connection with the lands. As this question bears upon the subject of surveys, perhaps it is as well that I should express my opinion fully upon that subject. I think that the Surveyor-General should cease to issue authorities to surveyors to survey land that they may be requested to survey upon the application of Natives. The clear and better course, to my mind, would be that in all cases where Natives desired surveys to be made a proper agreement should be drawn up between the Natives and the surveyor, with the demands of the surveyor fully set out in it; that the agreement be submitted to the Surveyor-General, and, if he sees that it is a fair agreement and approves of the terms of it, the surveyor should then be authorised to go on with the work, but not otherwise. I have seen the troubles that have arisen out of this survey business. The trouble is this: that in cases of surveys a few of the owners have acted along with the surveyor who wished to get the work; that the surveyor had paid them a per-

centage out of the work—given them commission, in fact, to obtain for him the job of surveying the land. In many cases the surveys would be done by other surveyors at a greatly-reduced cost; but, through persistence and the commission offered to some of the Natives, the surveyor charging the larger amount would get the work, thus doing an injustice to the great bulk of the owners. Another evil resulting from that course is, that the owners of the land would obstruct the survey because it was not being done with their consent or authority. That is the reason why I think the Surveyor-General should not issue authorities to surveyors to survey Native lands, but that the surveyor should see the people who own the land, and then have an agreement entered into and submitted to the Surveyor-General as I have suggested. In future, should Committees be constituted, it should be one of the duties of the Committee to superintend these matters relating to the surveys. That is all I have to say on that subject.

247. Now, in relation to dealings with the land, are you of opinion that there should be sales of land and leases, or only leases of the land, in future?—I think the two: the sales and the leasing of the land should go side by side, because there are some cases—the case of bush-land, for instance—where the land could not be utilised without expending a great deal of money upon it, in which the Natives might desire to sell, while land in the vicinity of their places that they might wish for themselves, or which they might look forward to using for themselves, they could lease. Land inaccessible to the Natives they should have power to sell, because they might require money for their own necessities, either to improve their holdings, or to pay amounts in connection with the surveys, or other liabilities that might occur.

248. Do you think the time has come when the individual signing of deeds by Natives should cease, and that the signatures should only be by Government officers and Committees, or bodies appointed for the purpose?—That is my idea. I believe the time has arrived when the signing of documents for leases, sales, and mortgages should be by Committees and Government officers. These Committees should first of all be referred to, and the Government officers should have the power of signing all documents in relation to land.

249. Do I understand you to mean that the dealings with the land should first of all be talked over in the runangas of the people, in order to settle what ought to be done, and that then the Committees and the Government officer would determine in what form their wishes should be carried out?—I mean that in the first place the owners of the land should discuss the whole subject in runanga—say, at the time of appointing the Committee—and that the Committee and the Government officer would carry out the instructions of the people.

250. *Mr. Mackay.*] With the view of avoiding a great deal of the troubles that have occurred in the past through dealings by Europeans for the leasing or purchase of Native lands, would you approve of the Government alone leasing or buying land from the Natives?—By the Government for itself?

251. Yes, and the Government then dealing with the lands as it thinks best?—I would not agree to the Government having the sole right to purchase or lease for itself. If the Natives wished to let the Government have the land, well and good, or, if they wished to let any one else have it, give them the same liberty in either case.

252. That is to say, that the Natives should have the option?—Yes; the Government officer acting along with the Natives to carry out what they desire.

253. *Mr. Rees.*] In relation to the Native Land Courts, are you personally satisfied with the working of these Courts?—I am an Assessor of the Native Land Court.

254. Then, being an Assessor of the Native Land Court, do you think it right that the Natives should be drawn about from place to place to attend the sittings of the Court?—I object strongly to the system of dragging Natives at a distance from their homes to attend the sittings of the Court. I have seen the great hardship that has resulted from that course. I have had many opportunities for seeing this while acting in the capacity of Assessor of the Court. Great hardship indeed arises from holding the sittings of the Court far away from the homes of the Natives and in the midst of European settlements. The proper course to adopt would be that the sittings of the Court should be held in the vicinity of the land about to be adjudicated upon.

255. Do you think that any good might be effected by the Native Committees or juries inquiring in the first instance into the tribal boundaries, so as to aid the Native Land Court in arriving at a settlement?—I believe that in some instances much good would result from that. Still, it is a system that would be open to objection, the objection being that, in some cases, the contending parties might use these Committees for their own advantage. By having a preliminary investigation before the Committees, parties claiming the land would expose the grounds on which they claimed, and that might be availed of by the other side and utilised. These people might "purloin" their rivals' ancestors, and utilise them for basing their claims upon. I believe that it would be a very excellent thing, however, to have these Committees, and let them deal with cases where boundaries were in dispute between hapus or tribes. Let them thresh these matters out before going into Court. Then the boundary that would be fixed upon in that discussion would be an established boundary between the contending parties.

256. Are you aware that lately the proceedings in the Native Land Court have been very long-delayed and expensive and troublesome to the Natives in various districts?—Yes. I do not, however, feel disposed to blame the Court for the delay that has taken place in investigating the titles to blocks of land. The Maoris themselves are responsible in a great measure for the delays that have occurred. The error the Court makes is in listening to a great deal of irrelevant evidence, and this is what causes the great delay in the investigation of titles by the Court. The costs, too, of that Court are very burdensome indeed upon the Natives—£1 a day for all cases heard.

257. For each party?—Yes. If there are five cases or ten cases that is £5 to £10 a day. I think this amount of money is altogether too much to be paid. If each case only were charged for as it was being heard, it would not be so bad. It seems to me that that would be a more reasonable way of

acting. Formerly it was as I suggest; but since the new rules have come into force the Judges have ordered that, whether parties are having their case heard or not—so long as the case is before the Court, every party concerned has to pay every day.

258. *Mr. Mackay.*] You mean, whether it is under action or not?—Yes. Once the various parties have appeared before the Court and stated they have a claim before the Court, although nine or ten of them are remaining silent, they have each to pay £1 a day while the first man's case is going on—that is to keep the thing alive.

259. Is that not intended to repress irrelevant evidence?—Yes, that is the reason; that was the original intention—to exclude groundless cases, or restrain them from being brought forward, Subsequently the receivers of the money thought it a good way of raising money, and insisted on the charge whether the case was good or not—whether or not the parties have a substantial claim.

260. What would you suggest in lieu of this daily charge for repressing irrelevant evidence?—The remedy I suggest would be this: that when the various claims before the Court were concluded, and the Court about to give judgment, it would then be in a position to determine whether there were good grounds for bringing them forward, and, in such cases, compel the losing parties to pay costs as in the ordinary Courts.

261. *Mr. Rees.*] Just the same as in the European Courts?—Yes.

262. *Mr. Mackay.*] How would such costs be recoverable?—The Court could issue an order that these costs should be paid—make demand for the money.

263. But if there were no effects?—The claim would then remain perpetually owing until it was liquidated. But in the Court proceeding to investigate certain claims to land, the various parties lodging such claims should at the outset sign an agreement or make a deposit of money in the Court giving security for the costs.

264. *Mr. Rees.*] Do you think, in relation to these disputes which you have heard of as existing between Natives and Europeans, the Court, after hearing all the parties, should have absolute power of finally determining and settling such cases—every sort of dispute?—I thoroughly concur in that opinion—that there should be a tribunal appointed that would have absolute power to settle finally all matters with regard to land that are in dispute betweens Europeans and Natives. There are a great many blocks of land in that position, where the Europeans claim to have acquired a certain interest and the Natives to retain a certain interest in the same block. The Europeans are persisting in the endeavour to get the Native owners who have not assented to their leases or sales to so assent, and the Natives refuse, and there the trouble remains. With regard to these lands in dispute between Europeans and Natives, a law should be passed fixing a time when no other transactions could take place between the individual Natives and Europeans—to specify a time within which, if the transactions were completed, well and good, but, if not, that after that the parties would be debarred from doing so. If the transactions were not completed within the time specified, then the matter could be handed over to the Court to deal with it absolutely, and dispose of the difficulties as they then existed. In that case the European would get the portion of the land he claimed, and the Maoris would obtain the portion they claimed, after which the land would come under the new law. In cases where the troubles were solely of a technical character—infringements of the law in which there was no fraud or no injustice on one side or the other—the Court would have power to settle these disputes by rectifying the errors. If there are no more questions to put, I would like to say something with regard to the Native Land Court. The Native Land Court is the most important matter affecting the whole of the Island. It is the door by which the entry is made on to the Native lands. The Judges at the present time are too few. They are not sufficiently numerous to deal with the whole of the Native lands of the country. There are many parts of the colony where the Natives are unable to have their claims dealt with by the Native Land Court. The Judges are drawn from end to end of the colony, either to deal with large cases, or with cases in which influence is brought to bear to have them dealt with. The Courts sit, and return year after year to the same localities—to large centres of population. The business of the Court is not concluded. The Native Land Court first deals with this land when it is in its original state, and makes an order in favour of the owners. If a European is interested it will then make a subdivision of the land between the European and the Natives, but it will not turn its attention to making a subdivision between the hapus who are the owners of the land. Lands that have passed the Court years ago are in that unsettled condition, the Court returning year after year and dealing with some of the subdivisions, but not finally settling the matters in dispute between the owners. This is one of the reasons why so much expense is incurred in connection with the Court. What the Court should do is, that when it has made the first ascertainment of title it should not leave off there, but go on with the question of subdivision between the various hapus owning the land. I think, also, the number of Assessors should be increased; and that they should act towards the Court somewhat in the position of Justices of the Peace; that, in cases of the original investigation of title, where there would be no great difficulties involved, these Native Assessors, as a sort of lower Court, should deal with the titles; that they should have the power to appoint successors to persons dying intestate, but that important cases, and those in which difficulties were involved, should be relegated to the Judges. These Assessors should act solely in Native districts. In these lower Courts which I mention the Native Assessors who acted should have no interest in the lands adjudicated upon. And along with the Assessors there should be a European clerk and an interpreter. This lower Court would have the necessary maps and records, and carry on its functions in Native districts throughout the colony. The ordinary payment could be made to the Clerks and the Assessors for their work. I think this lower Court, acting under the Judges, would act well in having the Native titles determined throughout the Island. This is simply an idea of my own. But the probabilities are that it is an idea that would not be acceded to, because the European idea might favour more the system of Committees acting in concert with an officer of the Government.

265. *Mr. Mackay.*] Are you of opinion that the Judges of the four Native districts of the colony —Auckland, Poverty Bay, Wanganui, and Wellington—should be each confined to a circuit, as it were, within which he should reside, and not remove to any other?—I believe that that could be done if the Judges could be permanently appointed for each district. It would be a very good idea, but I do not believe it could be carried out, because the Chief Judge would be changing the other Judges about to hear and rehear various cases.

266. *Mr. Rees.*] That could be avoided by having a Court of Appeal—by having certain Judges to rehear cases, so as not to interfere with the ordinary Judges at all?—Yes; if what you suggest could be carried out it would get over the difficulty at once. The Judges for these four districts should be stationed there for two or three years, but no longer, as they might contract associations which would operate in a wrong direction.

AUCKLAND, 11TH MARCH, 1891.

LAURENCE MARSHALL GRACE sworn and examined.

267. *Mr. Rees* (having explained in detail the various subjects comprehended within the scope of the Commission, and upon which the fullest information was desired).] I would ask you first of all during what periods of your life have you had opportunities of acquiring knowledge in regard to the working of the Native Land Court, and the operation of the Native-land laws?—In answer to that I may say that I obtained a license to act as Native Interpreter—in 1872, I think it was. At that time I was connected with the firm of Mr. W. H. Kissling, solicitor. He had a very large amount of Native work, and it largely fell to my lot to attend to it. About 1874 I left the firm, and entered the Native Department, where I was engaged for three years as clerk and interpreter; and during this time also I had a good deal to do with Native lands. I was, too, sent up the Coast to act with Mr. Booth and the late Mr. John Young, afterwards Judge of the Native Land Court; and on another occasion I was sent up in the direction of Gisborne. After that I joined Messrs. Sheehan and Rees, in Napier; and subsequently I was connected with the Government as Native Land Agent in the Waikato for about a year, having been appointed by the Ministry of Sir George Grey. At the end of 1880 I was connected with the Patetere Land Company, being employed by them in their Native-land transactions; and also being employed in similar transactions by the Rotorua Company. That continued until the end of 1884, when all transactions in Native land were stopped. Practically I have done very little since that time. Of course you wished me to give you an idea of my connection with Native-land dealings?

268. Your answer has directly afforded me the information I desired to elicit, which was the means you have had of making yourself acquainted with these matters. You have been intimately connected with the Maoris, have you not, and, through personal knowledge of them, have been able to ascertain their feelings and wishes ever since you were a young child?—Yes, I have had a good deal of experience, and I have been able to form a very good idea of the feelings and wishes of the Natives on these matters.

269. Where are you residing now?—At Pukawa, on the western shore of Lake Taupo.

270. Are you ordinarily conversant with the minds of the Native chiefs and people through that district—the King-country?—Yes.

271. I suppose you know the whole of the principal chiefs personally?—Yes.

272. Are you aware that complications of a very serious nature have arisen in the form of disputes between Natives and Europeans in various parts of the North Island with regard to the titles to land?—Yes, I am aware of that, but more particularly I may say with regard to cases on the East Coast—not so much at Taupo: that is to say, in the interior. Since 1884 there have been very few land-transactions, but prior to that time any amount were carried out in that part of the Island.

273. Are you aware of cases in which the dealings themselves have been fair as between the Natives and Europeans, but in which technical irregularities have come to light, such as omissions in the signatures to the deeds, and so forth?—I cannot mention any particular case, but I am aware that such cases do occur.

274. Do you think that the Natives as a rule would object where the dealings have been fair between the Europeans and themselves—that where these technical irregularities exist they would object to such irregularities being overruled and rectified?—I think they would be quite willing to carry out such contracts, and to have them put on a legal footing.

275. Are you of opinion that the Natives desire, in cases where there are real disputes existing between them and the Europeans, to obtain a powerful Court for the purpose of finally settling all such disputes?—Certainly that would meet their wishes.

276. As regards the Native Land Court, do you think that, as at present constituted, it is satisfactory to the Natives?—I think it is; but I may say that in Taupo I have heard complaint made of the heavy fee that is charged, and of the length of time it takes to settle a case, and of the Natives being taken away from their homes. The people now in attendance on the Court sitting at Cambridge live on the western side of Lake Taupo, and have been dragged down all that way.

277. What is the distance?—A hundred miles; and they are now dependent upon Europeans for their food; and they were telling me the other day they were very badly off for food, having only a few potatoes and a little meat, although the people of Cambridge were doing their best for them. They complain of this sort of thing, and I have heard them say sometimes that they think a Native Committee composed of a number of the leading chiefs would do just as good work as the Court. Of course that is a statement from their own point of view, with which I do not quite agree, although I admit they might do a great deal in the preliminary work of ascertaining the true owners of the land.

278. Do you think that Native Committees composed of independent chiefs would be likely to be able to define tribal boundaries and hapu boundaries, taking the necessary evidence in their own fashion?—I think they would be able to ascertain such things much better than the Native Land Court itself. I am speaking more particularly with reference to Taupo, where I know the people better, perhaps, than I do those living in other districts. During the long time the Native Land Court was sitting at Tapuaeharuru in 1886 and 1887 it was wonderful what an amount of work they did in voluntarily settling tribal and hapu boundaries among themselves.

279. Then, you think that, under proper restrictions, they would be likely to be useful and economical in settling tribal and hapu boundaries?—Yes, I think they would. I may, however, tell you, with reference to the King-country and the Taupo country, I think also that that sort of work is already done, and that, at any rate, there is very little of it to do now. Tauponuiatia, comprising about a million and a quarter acres, is now subdivided.

280. In what respect do you mean?—All the hapu boundaries are ascertained, and now there only remains the matter of individualisation.

281. Then, supposing it became necessary to individualise the title, all that would have to be done?—Yes. I think the same statement applies to the greater part of the King-country, excepting in one section known as the Tuhua-Rangitoto Block.

282. In the Tauponuiatia Block what would be the area of the hapu-holdings?—They vary. You might take 30,000 acres as the average. The Ngatituwharetoa, a subdivision of the Arawa Tribe, comprises about fifteen or eighteen hapus. These, again, are subdivided further into many smaller hapus, numbering in all about a hundred and forty-one, I think.

283. Are there large blocks of land fit for settlement of any sort in what you call the King-country, the interior of the Island—that is, between Taupo and the sea, or about Taupo?—In the South Taupo district there is a large area of country fit for settlement. It is bush-country. A large quantity of this will abut on the Main Trunk Railway-line to the north-west of Tongariro Mountain. Then it extends northward again as far as Otorohanga, and to the westward towards Mokau; thence extending northward again to the Pirongia Mountain. There is a large extent of land there suitable for settlement.

284. *Mr. Mackay.*] That country has passed through the Native Land Court?—Most of it.

285. *Mr. Rees.*] There are coves and harbours available on that part of the west coast?—Yes; I understand that fair-sized boats can get up the Mokau, and of course fairly-large steamers can enter Kawhia. I think these two are the only ones. Both Raglan and Aotea are outside the King-country.

286. Would there be any good land available for settlement at the back of Kawhia?—I have not been there, but I understand that the Kawhia Range would interfere with settlement. It extends in a semicircular form inside the harbour, and you would have to surmount the range.

287. Is there good country beyond the range?—I believe so.

288. In relation to the Native Land Court, do you think that if the Judges of the Court were settled in various districts, and each of them was confined to his own particular district, that that would be an advantage, and preferable to their being dragged to and fro between distant places?—Yes; I think it would be an advantage in this way: that they would be steadily employed, and would get through more work now that the tribal and hapu boundaries are settled. The complaint in Taupo and other parts is that the present system leads to the work piling up to such an extent that they cannot get it done.

289. *Mr. Mackay.*] That is as regards successions?—Yes, and subdivisions. During the last three years in the Taupo district alone the applications for succession and other things must have piled up very much. The appointment of a resident local Judge would keep the work down.

290. *Mr. Rees.*] In relation to the Native-land laws, can you give any idea as to whether there is any certainty in their operation at the present time—whether Natives or Europeans generally are acquainted with these Native-land laws?—I may say that only a very few people thoroughly understand them. I think that the Maoris know this one fact: that they are barred from any dealings except with the Crown. Beyond that I do not think they know very much about the subject.

291. The prevailing impression, then, in the Maori mind is that they are shut out from any dealings except with the Crown?—Yes.

292. Do they consider that fair, or are they pleased with it?—No; they do not consider it fair. They consider it hard in this particular direction, for instance: It has been necessary in the King-country and in the Taupo country to have surveys made for their hapu subdivisions, extending down to the Waimarino country—that is, on the Rangitikei side—and the result has been in most instances that they have had to give land for these costs. They have not been in a position to try and get a better price, being restricted to the Government one. This proves that these laws have not affected the Maoris beneficially. In many instances the Maoris have given away larger areas of land than would have been the case had the market been open to them, and in every case I think they would have obtained a better price than that allowed by the Crown.

293. Then you consider the operation of these laws to be oppressive to the Natives?—Yes, I think so. In fact, I have heard them complain in some instances. I might add that had the Administration Act been worked, which it never was, it would have tended to prevent this system of which I have spoken—paying for surveys with land—particularly in the year 1888, and in 1889 perhaps. The Act was passed in 1886, and I think it was in 1887 or 1888 that it was repealed. It never had an opportunity of being worked. It would have afforded a better opportunity to the Natives of getting fairer prices for their land.

294. Do you think, then, the Natives would indorse and support a law by which their lands were to be thrown open for sale or lease as they might determine—thrown open to public competition, and a title being given after ample reservations for their own use and sustenance by a

Committee of their own choosing acting in concert with the Government officer?—I think they would not be averse to a change in the direction you mention in those cases where the Natives are still holding amongst themselves blocks available for settlement. But I think that where the titles have been reduced to individuals, or to two or three people—that is to say, to families—they would like to act on their own behalf in the best way they could.

295. But wherever numbers of people were concerned, and in which the interests of children, for instance, had to be dealt with, you think they would like to act in a representative capacity?—I think so.

296. Then they would like their land thrown open not merely to the Government, but to the public at large?—Quite so, in order to obtain the best market-value. There are some blocks in which there are as many as five hundred Natives interested, and in which the individual interests would be so small that it would hardly pay to subdivide them.

297. *Mr. Rees.*] In such a case the entire value would be eaten up by the costs?—Yes, and it would therefore be better for such land to be dealt with in some representative way.

298. Excepting in the case you have mentioned, of a few individual titles, or of a few people of a family owning the land, do you think it would be better to stop individual dealings between Natives and Europeans—I mean dealings absolutely with Natives for individual undefined interests?—That is absolutely stopping all trading in land?

299. No, only stopping the trading with these individual shares I mention, and dealing instead with the whole of the people of the tribe or hapu interested in the land?—I do not understand you.

300. Supposing there are thirty or forty people in the hapu owning certain land, do you think it advisable to stop any individual from selling his share in the land where his share is undefined, and compel the whole of them to be agreed before any dealings take place, these dealings to be then carried into effect by a Committee of their own and a representative officer of the Government? In other words, before anything took place with this hapu-land, the unanimous consent of the people, or the consent of the large majority of them, would have to be obtained, and then their wishes would be carried into effect by a Committee of themselves and an officer of the Crown?—Well, in complicated cases, where the individual rights were small, I might be in favour of that, but I do not see why individual rights or claims in or to any block should be interfered with. For instance, they might like subdivision.

301. Then, would you say this: that in any case where they wanted subdivision, in your opinion they ought to have subdivision?—That is so.

302. Especially where the people so desiring subdivision are capable of managing for themselves?—Yes. Most of the Natives about Taupo—young men growing up—seem to like the idea of looking after themselves.

303. In cases where the Natives wish to manage for themselves, do you think it would be a good thing for the Government to advance moneys, under certain laws and restrictions, to enable them to improve their lands and so give them fair opportunity to become settlers in fact on their own land?—Yes, it might work very well with some Natives. With some Natives it might merely end in their losing their land.

304. Discrimination would have to be used?—Yes.

305. Would you say this: that unless the lands were subdivided, or portions cut out with the consent of the owners in large holdings, the dealings should not be individual, but collective?—Yes, I think it would be to their advantage.

306. And it would get a good title also, and at less expense?—Of course.

307. I believe that you have maps showing large portions of territory?—Yes.

308. Would you have any objection to produce these maps at some future time?—I shall be happy to do so.

309. *Mr. Mackay.*] Have you any knowledge or experience of the leasing of land by Natives to Europeans?—Yes; I have been enaged in getting leases in several cases, and my brother and myself have held leases for Native land in Taupo for some time.

310. For any great extent of holding?—In my brother John's case, 36,000 acres, I think.

311. What about the idea of Natives leasing to the Government large holdings, the Government then to sub-lease, and the Natives to receive a fixed rent from the Government, the Government to pay all expenses connected with subdividing, roading, and opening up the lands, paying rent to the Natives, of course, on what we call the prairie-value of the land?—It might work—I do not know. It has never been tried.

312. *Mr. Rees.*] Mr. Mackay wants the expression of your opinion whether it would be advantageous to the Maoris, should the Maoris like to lease to the Government, and the Government being allowed to do what they chose with the land?—I believe that the Maoris in some parts would fall in with that. The only question would be the question of rent.

313. *Mr. Mackay.*] They would get rent for land that is now useless?—I may say that in Taupo it was tried by the Government about 1874 or 1875. This system was different from that referred to above. They leased land on the Kaingaroa Plains. Altogether I think they must have leased about 250,000 acres. The Maoris overdrew their rents, and all of them were paid far more than the rental due to them. They were constantly wanting money, and the whole thing ended in the purchase of the land by the Crown. Certainly the Maoris did not place much value on the land. It was pumice-country, not worth much. That may have led to their parting with it so soon. The grantees in the course of three or four years sold out all their rights, and thus ended the matter.

314. Then you would be in favour of the selling or leasing being optional with the Native owners?—No, I do not mean that.

315. Do you say that what I have indicated would be a proper way of dealing with Native lands?—As I said before, if the land was individualised, I would be in favour of allowing the Natives to do what they liked with it.

316. But where it is not individualised, and simply held in large blocks under grant or under memorial of ownership, the parties being tenants in common without any subdivision?—In cases like that it might be advisable that two or three people in a tribe should not be allowed to sell their individual shares, because the cutting-out of the portions so disposed of interferes with the portions which remain.

317. Maori land is, as it were, divided into two classes—reserves, and what may be called waste lands. It is with regard to the waste lands that my questions deal. We must guard the Natives from overselling their lands, seeing that they keep sufficient land for their own residences and cultivations, and for fishing-villages on the coast, and so on. These are the reserve lands. Take, for instance, a block, say, of 6,000 acres, for which there may be a hundred owners. We cut out of it, say, one-third—2,000 acres—for cultivations, pas, &c., and we make it inalienable. It remains for the general benefit and sustenance of the hapu. Now, if the other 4,000 acres were to be leased to the Crown for so much an acre, each of these hundred owners would get his proportion of the rent derivable from it, in addition to being assured of his interest in the reserved 2,000 acres. How would that work?—All that might work very well, the Government, of course, cutting the land up, roading it, and so forth. But it would be a pity, however, if the Government had to step in at last and buy all these people out under the real value of their land. It would be a farce.

318. But the Government would not buy out the land; they would lease it in perpetuity?—Still, the Government might wish at some time to get rid of it, and then these people would be placed at a disadvantage.

319. But if the land were leased in perpetuity, the Government could not get rid of it. Work out the problem, and see whether it would suit?—I will think over it. Probably it might apply to a good many cases. How would the rental value be fixed?

320. An expert, of course, must go over the land. Some of these 4,000 acres might be very very poor; other portions might be very good land. It would have to be classified. My experience is, that the Natives always reserve for their own use the best land?—Yes, that is true.

321. *Mr. Rees.*] In cases where there are a large number of owners in a block of land it is quite evident that under the present laws they cannot sell to the Europeans—the whole thing is shut up from sale or lease?—Oh, yes! where there are three or four hundred owners.

322. They cannot sell it either on this principle which Mr. Mackay has explained, but they would get a revenue from it?—Yes, that is so.

323. *Mr. Mackay.*] The wish of the Government is to save the Maori from denuding himself of his property. There are two objects to be kept in view, the settlement of the country and the protection of the Maori?—Quite so.

324. *Mr. Rees.*] The Maoris, of course, are aware that it is becoming a question among the Europeans to tax their lands?—Yes; they have often asked me, "When do you think the Government will levy this taxation upon the land of the Maoris?"

325. Do you think that, supposing a reasonable plan were proposed to the Natives for dealing with their lands at a minimum cost, and that they were certain of its fairness towards themselves, they would be inclined to support it?—I do not like to say that they would in all cases. A great many of the young fellows in the King-country, for instance, look forward to handling their land.

326. I merely meant with respect to all land beyond what they could profitably use for themselves. Do you think they would be inclined to support a fair method of dealing with such land?—I think they would. There would, however, be sure to be a certain amount of opposition.

327. *Mr. Mackay.*] Do you not think that when the Natives of a district were placed in the position I have described to you—when once they touched these rents—it would induce a great many others to avail themselves of the same facilities?—It might. In talking to the Natives the other day, while I was passing through the Waikato, I must say that the young men expressed a wish for what we call free trade in Native land. They want to have the right to do what they like with their own—to sell, lease, or do whatsoever they like with it.

328. Do you not think that that system would lead to their spending freely the money derived from the sale of the land, and that it would ultimately leave them without means?—Yes, I quite agree that it would. I know of my own knowledge that in the Waimarino and Taupo country a surplus, after costs of surveys, of something like £40,000 was paid to the Natives, and that within a year afterward they were penniless. Apart from this, there were moneys paid in the case of which I know nothing. The same feeling to realise upon their land I see amongst some of the old men. A few of them say openly that they wish the land to be passed through the Court before their deaths, so that they may reap a portion of the benfit. That does not appear to be the view of the younger people—that is, in some cases.

329. Where do you think it would be best to have a meeting in the interior?—Otorohanga would be the best place.

HAMIORA MANGAKAHIA sworn and examined.

330. *Mr. Rees.*] Have you had much acquaintance with the proceedings in the Native Land Courts of the colony?—Yes.

331. And with the method of dealings between Europeans and Natives regarding the acquisition by Europeans of Native lands?—Yes.

332. Are you aware of difficulties which have arisen, and which have brought about law-suits between Natives and Europeans, in relation to such dealings?—I am aware that there are a good many difficulties arising between Europeans and Maoris in connection with dealings with Native lands. I wish, however, to make an explanation to the Commissioners before giving evidence. In the first place I wish, with the Commissioners' permission, to express my perfect satisfaction and admiration at this new principle that the Government are acting upon in the appointment of

Commissioners to inquire into such matters as are to come before the present Commission—that is to say, the obtaining of information from the Natives of the country with regard to their lands; the making of inquiries with regard to lands over which disputes exist between Europeans and Natives; the ascertainment from the Natives themselves of the opinions they entertain with regard to the operations of the Native Land Court; the making of inquiry from the Natives themselves as to the best mode of administering lands in their possession over which the Native title has not been extinguished, and as to their opinion with regard to the conduct of surveys; the making of inquiry with regard to the leasing of lands to Europeans, and the question of the heavy duty that has to be paid; and, finally, the making of inquiry with regard to cultivations, whereby the prosperity of the colony generally may be enhanced. These are all matters of the weightiest importance, and requiring grave consideration. Therefore it is that I would ask the Commissioners to allow me a day to reflect upon these matters before coming before them to give my evidence. The difficulties that have arisen are of long standing, and in some cases I want to refer to records I have, so as to be able to place my views clearly before the Commissioners. With regard to some of these matters, the Natives have been anxious that they should be properly represented in the House, and for years past they have made repeated applications to Parliament to enable them to have counsel to assist them to deal with their affairs. Therefore it is that, as I have had but little time to consider the matters, I cannot condense my views at the present time, and lay them before the Commissioners.

The Commissioners signified their willingness to meet the convenience of the witness, and by mutual arrangement his further examination was deferred till Monday, the 16th instant, at 10.30 a.m.

AUCKLAND, 12TH MARCH, 1891.

EDWARD FAWKNER TIZARD sworn and examined.

334. *Mr. Rees.*] What are you, Mr. Tizard?—I am a settler living at Devonport, and owning land at the Thames.

335. In regard to the complications arising between Natives and Europeans with respect to land-titles, can you give any evidence to the Commission?—As regards that, it really affects the whole of the difficulties with the Natives. I take it that my claim and grievance in reality are that the law as set forth in our statutes is not carried out. If it were carried out I apprehend that there would be no difficulty. If you will allow me to read a letter that I wrote to the Chief Judge of the Native Land Court, it will show my views.

336. Perhaps you would first of all mention the circumstances under which the matter arose?—I have two or three small pieces of land, upon which I lived at the Kopu, Thames district, and I was carrying on negotiations for the acquisition of some small pieces adjoining, for the purpose of increasing my road-frontage—one piece being 15 acres in extent, another 30 acres, I think, and another about 4—when a change in the law prevented me from completing these negotiations. I made representations on the subject, and was persistently told that I would have to go with the matter to the Commissioner's Court.

337. You mean the Commissioner's Court of Mr. Justice Edwards?—Yes. I declined to do so because the incidental expense would run away with the whole value of the land. The transaction to which I refer was this: I bought certain shares in a small piece of Native land. When the Native Land Administration Act of 1886 was brought into force, I had to stop my negotiations, as I could not then go on with the purchase. I applied for a certificate to go on with the purchase to its completion. It was not refused, but I was told that, on account of there being no time to get through with the matter, it could not be dealt with. The result was that I did not get a certificate. The next thing that occurred was that the Natives applied for subdivision, under which they would have taken an order for themselves. I heard of it, and in the course of conversation in the Court with the Natives themselves they agreed as to the area I should get, and the piece of land that should be given me for the shares I had purchased. I naturally thought the whole thing then settled, but subsequently I found that the order was issued in the names of the Natives from whom I had purchased their interest.

338. So that the title was vested in them by the certificate of the Court?—Yes, as it stood. Then I applied to Judge Scannell, and he told me to apply to the Chief Judge. I accordingly saw the Chief Judge, and he told me he would refer the matter to Judge Scannell, which he did. Judge Scannell was willing to do anything that he could; but the law would not permit him to make an order. He said it was a legal matter, and he would therefore prefer that the Chief Judge should settle it, as he was a lawyer. The Chief Judge then told me that I must go before Mr. Justice Edwards's Commission and get a certificate from that Commission. Ultimately I wrote this letter, putting the whole facts before the Judge. [The witness then read an extract from the letter, and was proceeding, when Mr. Rees ruled that the matter was not relevant, as it dealt with the proper interpretation to be placed upon the law.]

339. In relation to your purchase, no objection was made by the Maoris?—No.

340. You say that, on the contrary, they agreed to it?—Yes.

341. Have you the Trust Commissioner's certificate that they did?—Yes. [Certificate produced.]

342. Then you say that nothing stands in your way for obtaining a title?—Nothing at all.

343. You purchased in accordance with the law as it stood at the time, and the Natives themselves assented in the Native Land Court; the land was then cut out, and the certificate of the Trust Commissioner issued, but that the title was made out in the name of the Natives?—Yes, it is issued in their name as owners, whereas they are not the owners now that I have bought it. I have two or three other cases of small blocks almost on all-fours with this one.

344. You purchased with the object of adding to your property in the district?—Yes: I have property there with a small frontage to the road, and I purchased in order to increase the area around my house at Pukewhau. I purchased from the Native owners the adjoining small blocks. I have purchased there Native land which is under memorial of ownership, but I am afraid to go on with the subdivision of it for fear of losing it in the process. In this last block there were forty-four Native owners, and the interests of forty-three of these owners I purchased. The forty-fourth man died, and fifteen successors to his share were appointed. I was then afraid to apply for the cutting-off my portion, lest the certificate should issue in the names of the forty-three Natives from whom I had bought.

345. You say, then, that from your knowledge of the present state of the law in regard to dealings with Native lands it is calculated not to do justice or to facilitate the passage of the land, but to work injustice?—Yes. I applied to the Native Land Court to take notice of my deeds of purchase, so that persons purchasing the fresh title issued to the Natives might be notified of my claim. The Court declined to do so.

346. Then you are confident that the present laws do not facilitate the passage of land from the Natives to Europeans, but that they have the contrary effect?—They are premiums on swindling. In fact, if they were made for the very purpose of facilitating swindling they could not be better devised for that end.

347. *Mr. Mackay.*] Do you know of your knowledge any case where Natives had entered into transactions regarding the disposal of land to Europeans, received money on account of it, and afterwards repudiated these transactions?—I understand perfectly that why they do not is just because they cannot. Of course, there may be informal arrangements with the Natives.

348. You do not know of your own knowledge that any one has acted dishonourably—received money on account of certain land-transactions, and then repudiated these transactions?—No.

349. *Mr. Rees.*] Have none of your Natives repudiated their transactions with you?—No.

OLIVER MASON CREAGH sworn and examined.

350. *Mr. Rees.*] What are you, Mr. Creagh?—An authorised surveyor.

351. Have you had any experience in the operation of the Native Land Courts, and of the operation of the Native Land Court laws?—In so far as my surveys went, and also in the purchase of Native lands in the Tauranga and Waikato districts.

352. Are you aware of your own knowledge whether or not the present state of the Native-land laws is favourable or inimical to settlement of the Native land?—I am sure it is not favourable. There is very much dissatisfaction with it through the great delays caused at the Court, and the fearful expense to those engaged.

353. Do you know of cases of Natives being drawn to the Court a long way from their places of residence?—Oh, yes! For instances I need not go beyond the King-country, where Natives have been taken away from their cultivations to attend the Court at Otorohanga, where it has been sitting continually for nearly two years. During that period Natives were called away for lengthened periods from distant places to attend that Court. They were brought from Tuhua, Mokau, and Kawhia, places forty or fifty miles away.

354. What provision have the Natives to make for their own sustenance when carried away such distances from their homes?—As best they can. They carry food with them. From Kawhia they used to pack fish and other food all the way to Otorohanga. Fifty or sixty of them would have packs with them. These men complained most bitterly of the inconvenience.

355. They complained not merely of the delays at the Court, but at their being dragged away so far from their homes at such an expense?—Yes.

356. Would that include the Native Land Court fees?—Yes; although it may be said that these fees are necessary to enable the Court to get through with its work.

357. Do the Natives object to the delays and adjournments of the Native Land Court?—They object generally to the great delay caused to them before they can get their titles. There seems to be general dissatisfaction among the Natives in that country with the whole dealing with their lands. They put a different value on their lands from what the Government do, and their idea, therefore, is free trade in Native land. They say that the Government virtually confiscate the land in only paying them 3s. an acre for it. They know that they can get £1 an acre from private parties. The land I am now engaged in surveying is very valuable, for instance—viz., Hangatika, Pukeroa, Kinehaka East, and Te Kuiti. It is all of limestone formation, and beautiful soil.

358. You say these are good lands?—Yes.

359. Are the lands along the line there fit for settlement if they were thrown open?—Certainly. I recommended that in my report to the Government.

360. If they were thrown open like Crown lands, and Crown titles were given, do you consider that they would support a considerable population?—I am unable to say; but you would have difficulty in getting the consent of the Natives.

361. Do you think, if there was a certainty of obtaining the title at a moderate expense, they would support a large population?—Certainly they would. I have stated that in my report to the Government. I feel so satisfied about it that I do believe that, if the Natives had free trade in their lands to-morrow, within two years they would not have an acre in their possession. In my capacity of surveyor I have had hundreds and hundreds of Europeans at me about the land, asking for information, and I know that the Natives are willing to deal with the Europeans if they could. Their great idea, however, is to lease. At the present time they have a thousand sheep in one place, and in another case a European contracts with the Natives to provide them with sheep to stock their land, and to allow them half the wool.

362. Then, at present the land is being used in a rough kind of way by Europeans, they providing the Natives with sheep,and merely getting the usufruct of the land in return. They occupy the land in a species of partnership with the Natives?—Yes; they provide the sheep, and the Natives the land, and they allow the Natives a certain proportion of the produce.

363. *Mr. Mackay.*] Was it in that country that there was scab lately?—No. As a matter of fact sheep have only been there during the last two years. It was just when I commenced survey there that they began to get the sheep. They pay tremendously well, and that gives the Natives a good idea of the value of their land.

364. The Government have withdrawn that area from sale?—Yes. No person can deal with the land either by way of lease or purchase. It is under the Act. That is the only way in which people can deal with it—making these arrangements with the Natives.

365. They do not deal with the land at all, in fact—they deal with the sheep?—Yes.

366. *Mr. Rees.*] Now, coming back to the question of the future dealings with Native lands, do you think that, supposing a reasonable plan were submitted to the Natives by which for every block their own Committee should be appointed, and the people having determined how much they would reserve out of the block for themselves, the Committee, along with the Government officer, should lease the balance in proper terms for the owners' interest, and that the Government officer, along with the Committee, should be responsible for the due distribution of the moneys arising from the lease among all the people—do you think that a plan of that sort would be likely to find acceptance with them?—I am afraid not. I will give you my reason. You know that the tribe of Natives connected with these lands, and particularly with the Kinehaka Block (Mahuki's people), are strong believers in Te Whiti, and pay periodical visits to him, coming back imbued with his ideas. As a consequence, they do not wish the Government to have any power over their lands. Te Whiti appears to have a most extraordinary power over them. Whitinui and Hotu, head chiefs of the Kinehaka Tribe, made arrangements with me to have a subdivision of their block, so as to cut off a small portion for themselves with the view of selling all the balance to the Government, and they were arranging for this until these ideas got amongst them, but they are completely off the intention now.

367. I fully understand that, and the Commission will suggest to them a mode of dealing with their land that may prove satisfactory. They will suggest that they should appoint their own Committees, who will indicate what portions of the block—pieces here and there—they want reserved for the occupation and use of their own people, and that then the balance shall not be sold, but leased in such a method as to avoid expense. The expense connected with the getting of the Natives' signatures to the deeds would be saved by their agreeing to allow their own Committee, in conjunction with a Commissioner appointed not by the Government, but by Parliament, to see that the land was properly cut up and leased, and when the rents are received to see that the various owners obtain their fair share of it?—Are you aware that there are from three hundred to four hundred signatures required for every deed to such blocks?

368. We do not want these signatures. We propose to do away with the necessity for these Maori signatures. It will save a great deal of money if you can do so. There is no doubt whatever that in the futnre, unless they restrict the number of signatures to each deed, they will never get titles to their land, whether it is to be purchased or leased.

369. You think that the present individual signing of these deeds puts an end to settlement?—It will prohibit anything being done. It will take years and years to obtain the signatures to the blocks I have mentioned. Perhaps it may not be completed until long after we are both dead, and in the meantime the settlement of the country is retarded. It stops all dealings by private parties, because they never can get their title complete. Any amount of the owners live in Taranaki and Wellington. In fact, the Natives interested in these blocks put in the names of all sorts of people. I never saw such a complicated state of things. I think in some cases they do it purposely.

370. You are prepared to say, then, that the present system of dealing with Native land where it is held in large blocks by large numbers of owners is unsatisfactory, and that unless a few are chosen to act in a representative capacity by signing for the whole body, so as to give complete titles, there can be no real settlement?—Certainly that is my opinion; and I know it is the opinion of five-sixths of the whole of the people dealing in Native land. I have heard it expressed over and over again by the best experts, who know all about the subject.

371. Do you consider that, if representative signatures were sufficient to enable the Committee and the Government officer to give titles, the expenses connected with the giving of titles would be lessened?—Most undoubtedly it would lessen them. At present it means the employing of agents for years to obtain the necessary signatures. I know that in one case, in which Captain Mair was obtaining the title to the Kaingaroa Block, in the Maketu district, the incidental expenses came to more money than was required for the purchase of the land. Three hundred and sixty Natives were interested in it.

372. Is it fair to assume, from what you say, that by the plan I have mentioned not only would the expense connected with Native-land dealings be lessened, but that a perfect title would be more easily obtained?—Yes, distinctly so.

373. Then, too, the Natives would get more for their land—and the Europeans more for their money?—I do not know whether the Natives would get more for their land; it depends on what the Government would pay; but it would undoubtedly be acquired at greatly lessened expense.

374. Supposing the land were leased, would not the Natives get more of the rent-money if it did not go in these expenses?—Most certainly. The expenses would be much lessened in that way.

375. Or if it were sold, would it not also tell in the same way?—No; it depends on the price to be paid.

376. Supposing the land were sold to the public in that way, would there not be more left for division among the owners if these heavy expenses were avoided?—Most distinctly.

377. Do you consider, from your knowledge of the Natives, that Native Committees chosen in different districts by the Natives themselves would be likely to decide upon tribal and hapu boundaries in their own runangas?—I think they would do so in many instances. I know of cases in which it has been done in that way.

378. Is it not true that the Natives, in speaking in their own runangas, would adhere more strictly to the truth than in giving evidence in the Native Land Court?—Yes, I think so. I have known of cases in the Native Land Court in respect to which the Natives interested arranged amongst themselves the night before everything they should state on oath; and, in fact, worked themselves up in it just as a child learning its lesson. They went through this lesson over and over again; and I think you would find great difficulty in catching them tripping in such cases.

379. In the runangas they speak before people who know the facts as well as themselves, and so they know that deception would be useless?—Yes; and then, too, they abide by the decision they come to in the runanga.

380. I suppose that what you may call the public opinion of the Maori would compel them?—When it was settled that a thing should be so. The Natives as a rule have a great "down" upon a man who departs from his word in that way in the runanga; they look on him as a sort of slave.

381. I believe that at the present time all transactions in Native land are pretty well at a standstill?—Completely. Nine years ago they were at a standstill in the Tauranga district. The titles there cannot be completed, although the signatures were obtained. Whole parcels of land close to Tauranga that would otherwise have been settled are still in that state—such blocks as the Puripuri Nos. 1 and 2, Waimano Nos. 1 and 2, Otiora No. 1, and Irihanga No. 1, the best land in the Tauranga district, and all lying idle owing to the non-completion of the title through the changes in the law, and to errors and flaws in the procedure of the Native Land Court.

382. You say that the Natives are not disinclined to deal if the way is opened for fair dealing?—No, they are not. They have frequently said to me, when I have been engaged in getting them to sell land to the Government, and encouraging them to do so, that if they were allowed to deal with the Europeans directly they would readily enough dispose of their land, but they do not like to be compelled to take 3s. an acre for it from the Government when they have had it valued at £1 an acre.

383. *Mr. Mackay.*] Are they more disposed to sell than to lease?—No, they are more inclined to lease, particularly this front land near the railway-line. The land extending away to the coast between Kawhia and Mokau they told me they would sell, because they do not value it, and because there is no one living on it.

384. *Mr. Rees.*] How far is Kawhia from Otorohanga?—Close on forty miles.

385. Is there any good land at the back of Kawhia and away to the sea?—Oh, yes! and any amount of coal.

386. All that coast is impregnated with coal?—Yes.

387. *Mr. Mackay.*] Mokau more so than Kawhia, I suppose?—Oh, no! Kawhia more. You will find the entire Kawhia district to be one mass of coal. I know of seven different seams.

388. Of what thickness?—One seam is 14ft. thick where it crops out.

389. Is it accessible by water?—Yes; two places in particular: one by the Waiharakiki and the other by the Taharoa Creek. There is another block just going to be surveyed above Kawhia, and adjoining the Aotea Harbour, where there is a tremendous lot of coal. It is the only block left unsurveyed there; it is just outside the King-country.

390. *Mr. Rees.*] Is there any sort of harbour?—Yes; you can get 15ft. or 20ft. of water. There is any extent of coal there.

391. *Mr. Mackay.*] Is it brown coal, transition coal, or true coal?—It is principally brown coal, with a tremendous amount of gas in it.

392. You know the Bay of Islands coal?—I do: it is something similar to that.

393. You know that the Bay of Islands coal is the best coal in the Auckland Province?—I know it is splendid burning coal.

394. *Mr. Rees.*] Is there any land there fit for pastoral settlement?—A lot of the land is more fit for pastoral than for agricultural purposes.

395. There must be a lot between Pirongia and Ruapehu?—Yes, there are 500,000 or 600,000 acres there.

396. *Mr. Mackay.*] Is it not of siliceous formation, covered with pumice?—Not there. In the Kuiti Valley, where the town is, there is a small flat surrounded by hills which is all pumice. It looks as if it had been brought down there in former years, for if you go down some distance you come upon the original soil; while there is limestone soil on each side of it.

397. Is there any cultivation at all in that pumice-land?—Not in that piece of pumice. It is only about 100 yards or 150 yards across.

398. *Mr. Rees.*] Then the majority of the lands from the sea towards Otorohanga are fit for settlement?—Except Kinehaka West, in which 5,000 or 6,000 acres are alone fit for settlement, the rest of this block being fit for sheep. It is bush-land, and would have to be cleared. The soil is good, but broken. The difficulty is want of access by means of roads. The only way to it is by the Marokopa. It is a great flax-country. There are 30,000 acres of flax-land, and the flax grows to the top of the hills. It is the best flax, growing on dry land, and is called *kiore*. You may get it 12ft. and 14ft. high on the tops of the highest hills.

399. *Mr. Mackay.*] It has a finer fibre than the coarse flax of the swamps?—Oh, yes! There might be a tremendous trade done in it if there was communicaton with Marokopa. Small steamers drawing about 12ft. of water at high tide can go in there. The difficulty is to get a favourable day, with the wind from the east. When the wind has been from the west I have seen

breakers there 50ft. and 60ft. high. That was when I was searching for the body of the late Major Jackson.

400. With regard to the boundary-surveys of the blocks, are they surveyed before being brought into Court?—Yes, the external boundaries. Then subdivisions are ordered by the Court.

401. Well, in relation to dealing with the Natives for their lands, if the Government would enter into an arrangement for the leasing of their lands, making merely these boundary-surveys to the blocks, and setting aside reserves which the Natives might wish to have for their own purposes, such as the running of cattle and sheep, for cultivations, and for pas, burying-grounds, and fishing-stations, and if the Government were to give them a rent in perpetuity, such rent to be fixed by an expert in valuing land, along with the Native Committee managing this block, and then the Government to subdivide it, and afterwards to sublet to persons wishing to settle on it, on terms, for instance, similar to those ruling in the settlement of Crown lands—do you think the Natives would be satisfied with a scheme like that? Of course, the Government would undertake the cost of road- and bridge-formation, and the Natives would receive a fixed rental from the Government for ever? —Yes, they would fall in with it if they were satisfied with the rent to be given them.

402. That would be settled by their own Committee in conjunction with the expert appointed by the Government?—I am satisfied that they would if you could come to an arrangement with them as to terms.

403. Then, you say that they would be likely to approve of the arrangement if the Government undertook the cutting-up of the land and went to all the subsequent expense of subdivision, surveying for settlement purposes, and the cost of formation of roads and bridges, so as to afford access to the land?—I think they would like their reserves cut out before entering into the arrangement.

404. That is one of my conditions?—I think that, before entering into the agreement, you will find that the Government will have to do that. I know that was the only difficulty up there—as to the proportion of the reserves.

405. Say that out of this block of 6,000 acres one-third was reserved for them for their own use?—I have no doubt that there would be no difficulty with such an arrangement.

406. The Government would then lease the balance of 4,000 acres in perpetuity, at a rent to be fixed by the Native Committee and an expert in land-valuation to be appointed by the Government. Do you think they would fall in with such an arrangement?—I think they would; I have no doubt they would. I know that they have an anxiety to lease rather than to part altogether with the land. What about surveys?

407. The Government would undertake that?—But individuals could not get their title from the Land Court until a map had been placed before the Court delineating the external boundaries of the district. I know that a tremendous amount of jealousy exists amongst the Native owners themselves. For instance, take the case of the Kinehaka Block, which is owned by the greatest tribe of that district. There is a terrible lot of jealousy in connection with that, arising out of the fact that some of the owners belong to other hapus, who have acquired an interest in it, and got mixed up with the Kinehaka people through their ancestors formerly fighting along with them. They are not relatives; and what the one party agrees to the other party objects to.

408. Then, each party would appoint its own representatives to serve on the Committee?—I am only instancing the tremendous jealousy existing in this Kinehaka Block as an illustration of the complications arising from portions of separate hapus being mixed up in the ownership of particular blocks.

409. There are no small subdivisions of these blocks?—The smallest is 10,000 acres.

410. *Mr. Rees.*] Then, they could subdivide so as to arrive at a satisfactory arrangement?—Yes, that might be done. In some of these cases it is difficult to get them disconnected. The Kinehaka people would not come to an understanding with the others.

411. The cost of the outer surveys for the whole block is an expense that must be faced?—Of course they must be done.

412. Now, in the case of good land such as you have been describing to us, would it, if cut up into individual titles, fetch enough to render the possession of a share advantageous?—Oh, no! It would cost more than the whole interest in the land is worth. I have stated the same thing before in the office here. I have recommended them strongly with respect to the Kinehaka West Block. They ought to run their subdivision of it by trigonometrical work, so as to incur only a trifling expense. Of course, in making such a recommendation I am speaking against my own interests, but still I know the harm that would be done by the other course.

413. Then, it would be more for the advantage of the Natives and Europeans simply to cut up these lands, not for title, but for purposes of settlement?—Certainly—run merely a line of subdivision between the portions of the large hapus, and then cut the land up. There is another matter that I would like to speak about—in respect to payment for surveys. I think that at present we surveyors are placed in a false position. Under present arrangements with the Natives we get a lien for 5 per cent. to pay the cost of survey, but we have no means of recovering it. It may remain for ten or fifteen years. I think the Government ought to step in, cut off a portion of the land for the cost of the surveys, and then pay the surveyors. It puts us in a false position to have to sue the Natives for these charges. Whatever is done, I hope that, at any rate, steps will be taken to put us right in this matter. I think it is a thing the Government ought to take into its own hands. I was speaking to Mr. Smith yesterday with respect to that block at Aotea Harbour, which I think the Government ought to take up. The Natives have no money, and would be willing to deal.

414. You think that a subdivision as between large hapus, and the signing of the deeds by representative people of the owners, would be all that is necessary?—Yes. I think Mr. James Mackay wrote a pamphlet once on our dealings with Maori lands.

Mr. Mackay: Yes, he did.

AUCKLAND, 14TH MARCH, 1891.

JAMES BABER sworn and examined.

415. *Mr. Rees.*] What are you, Mr. Baber?—A civil engineer and surveyor.

416. How long have you been in New Zealand and in Auckland?—Since 1842.

417. Were you conversant in the early days of the colony with the method of purchasing and leasing lands from the Natives?—Yes. From the year 1847 till 1854 I was engaged in the Surveyor-General's office in connection with the purchasing of lands. Many of the deeds are in my handwriting.

418. The deeds of conveyance from the Natives to the Crown?—Yes.

419. What was the method of dealing in those days between the Crown and the Native owners of land? How were the proceedings conducted?—Shall I answer that question first, or go a little earlier?

420. What we want to get from you is information as to the method followed in those days, and you can state it after your own plan?—Then, if you will allow me, I will begin about 1845 and 1846. During about eighteen months of that time there were about four hundred transactions in Native lands carried out by private individuals, without Government interference, Government assistance, or Government control. They were called pre-emption-certificate purchases.

421. That is to say, these people paid a fee—some 10s. and some 1d.—to the Government, and then had power to deal with the Natives?—Yes; and the mode of procedure was this: The purchaser wishing to acquire a particular spot of land obtained the services of an interpreter, and went, accompanied by him and the Natives, to the spot of land he had in view, and they walked the boundaries and marked them. In some cases they had a difficulty in doing so, and where the natural features were missing they dug holes to mark the boundaries. After that the consideration was agreed upon. Then they made an agreement, and the conveyance was drafted out, generally by the interpreter, in some few cases by lawyers. This was signed, the consideration—or a deposit of it—was paid, and thereon the purchaser took, or could take, or did take, immediate possession. Of these four hundred transactions the average area would be 100 acres each. The largest transaction was Henderson and Macfarlane's, up the river here—about 12,000 acres; and the smallest one Rutherford's, at Mount Hobson—about 3½ acres. There were only a very few cases—five or six, perhaps—in which the area exceeded 1,000 acres. They were all for *bonâ fide* occupation or for timber-cutting. But then, I would remark, with reference to the interpreters of those days—of whom Mr. Meurant and Mr. C. O. Davis were the chief, and of whom, being dead, I may speak freely—that they really did all the duties of the present Native Land Court. They were preventers of frauds—because, generally speaking, the interpreter was paid by both parties. He had consideration from both parties. If the Native had not power to sell he sent the Native away. If the consideration were not sufficient he urged the purchaser to give more. In fact, he acted fairly between both parties.

422. As a special arbitrator between the two races?—Yes; that was the position of an interpreter in those days.

423. It was a position of trust and confidence?—Yes, and his word was law as between the two. Then came the surveys. These were done at the applicant's own expense.

424. Who was the applicant?—The purchaser. The surveyor generally employed some of the Native sellers as chainmen, so as to be certain of the boundaries. There was a Commission appointed under Commissioner Matson to inquire into the *bona fides* and legality of these transactions. When these cases came before Commissioner Matson there was not a single complaint by any Maori—no attempt at repudiation, and no claim for further payment—not in any single case, to the best of my knowledge. I can mention two gentlemen who can support my statement—Mr. Joseph Newman and Mr. William Swanson. They were both holders of pre-emption certificates, and both land-purchasers. Perhaps you will allow me to remark that under that procedure there was no cost to the colony, and it is estimated that in about 40,000 acres the Native title was extinguished.

425. And brought into settlement?—Yes, without cost to the colony, and without quarrel.

426. And no suspicion of fraud?—And no suspicion of fraud. That is all I can tell you about that time.

427. Did the purchasers in these instances deal with every man, woman, and child who was interested, or did they deal merely with the chiefs of the tribe in their representative capacity?—With the chiefs only, who stated—and we understood—they had power to sell. I would further add that in those days all the land was held as a commune. It was tribal, hapu, or family land. There was no such thing as individual title.

428. That is purely a modern method with the Maoris?—It is entirely. Judge Fenton originated it.

429. And, however well-intentioned, it has been a curse to the colony?—Yes, it has been a curse to the colony.

430. Is there anything further you would like to inform the Commissioners upon?—Yes. I entered the Surveyor-General's office in 1847, and from 1847 till 1854 I was engaged there as chief clerk and draughtsman, acting also as a *kaiwhakamaori* or Maori interpreter when no one else was available. The Surveyor-General (Mr. Chas. W. Ligar) invariably waited till the Natives came to him. He never made a proposal—standing neutral. When the Natives came to offer a block of land, and described the boundaries of it, if the Surveyor-General knew the position, the quality of the land, and the boundaries described—which he did in so far as the great bulk of this part of the Island was concerned—he was satisfied. If not, he sent a surveyor or interpreter (Mr. Meurant was one of those interpreters, and the late Mr. John White, who was a long time in our office, was another) to inspect the block, to sketch its natural features, and to guess approximately at the area. On their return, accompanied by the Natives, a price was offered. After some bargaining, it was

always agreed to, a little more, perhaps, being given. The deed was drawn there and then—the conveyance was drawn there and then, and signed by the principal men present. Very often there would be from thirty to forty—I have known as many as a hundred Natives at the old Survey Office, and the deeds were generally—as you will find by reference to a few of the old deeds in Wellington—signed by only a few—in some cases by only two Natives.

431. By the representative men of the hapu?—Yes.

432. *Mr. Mackay.*] There was a book by Mr. Turton on this subject?—Yes; there is one called "An Appendix on Native Deeds," two volumes, by Mr. Turton.

433. *Mr. Rees.*] Down here?—Yes, I saw them yesterday.

434. *Mr. Mackay.*] It is a very scarce work, and is always kept in the safes?—Mr. Pollen had it in charge.

435. *Mr. Rees.*] Was that the invariable method of dealing—I do not mean merely coming to the office, and so on—but was that public dealing, carried into due effect by the representatives of the hapu, the invariable practice?—It was.

436. The signatures of the principal men were enough, and not those of every man, woman, and child interested?—They were. I can tell you a remarkable instance of it. About 1847 or 1848 there was a very serious dispute at Whaingaroa (Raglan) between Te Wherowhero's Natives, the Ngatimahuta, or the Ngatimaniapoto, and the tribe at Raglan, whose chief then was named Ngera—William Naylor. As hostilities threatened between them, both parties being armed to the teeth, Mr. Ligar went there three times, and, assisted by the present Rev. Mr. Wallace and the late Rev. Mr. Whiteley, who were present, managed to pacify the Natives and to keep them from hostilities. The upshot was that, as to the small piece of land called Horea—about 100 acres only—over which the dispute had arisen as a matter of honour, old Te Wherowhero agreed to take £50 for his tribal claims; and the £50 was paid through my hands up in the Auckland Domain, in the house that used to be called Te Wherowhero's house. I had the written deed in my pocket, to which Te Wherowhero, afterwards known as King Potatau, put his *moku*. If I remember aright, the deed was witnessed by a celebrated man amongst the Maoris called Tamati Nopera. This settled the dispute. Nothing more was heard of it. There was frequently opposition to the sales through the hapus or the tribes disputing the ownership of the land for sale. In such cases they were always left to *korero*, and settle their own disputes. There was no interference on our part. These disputes were as to ownership, not as to boundaries.

437. *Mr. Mackay.*] They were settled in the runangas?—Yes. After they had hung about here for a week, talking it over at Mechanics' Bay, they always settled it themselves. We never interfered. I have seen them in the most excited state over these disputes; but, being always left to themselves, they ended by coming to terms. They then sold the land, and I have seen them sometimes dividing the proceeds amongst themselves.

438. *Mr. Rees.*] These disputes that you mention were not disputes as between the bulk of the people of a tribe against their chiefs, but with people preferring distinct claims?—Distinct claims between hapus and tribes as to ownership.

439. *Mr. Mackay.*] And, in fact, they arrived at a conclusion to the dispute by compromise amongst themselves?—Yes, always amongst themselves; and as soon as the settlement was arrived at the deed was signed.

440. *Mr. Rees.*] By the representative chiefs?—Yes; and possession was taken, and a surveyor sent to do something or other.

441. In relation to these four hundred private dealings under the pre-emption rights, have you ever since that time known of any case of a claim made by the Natives to this land?—One only. That was the case of what we called Chisholm's claim, at Slippery Creek, Drury. The area in question was about 3,000 acres. The land reverted to the Crown, and I believe that Chisholm got compensation; I do not remember. As soon as the chief (Isaac—he was afterwards a prisoner) heard of the Crown's claim he came to the office, and laid a claim that his tribe were imperfectly paid. He had not received the amount agreed upon, and the Government gave him an extra sum to satisfy him. The compensation paid to Isaac was simply £100 or £150. That is the only instance I can remember.

442. And you say that that was solely on the ground of inadequacy of consideration?—Yes.

443. Not on account of any claim the people behind Isaac had? The claim was by Isaac himself?—Yes. His people were the relict of the old inhabitants, the Ngatitai—which means "thrown up by the tide." There was not a single claim against private individuals. That suggests a circumstance connected with Mr. Newman which I would like to mention. It was a case in which the Natives, so far from repudiating their contracts, watched over the interests of the Europeans with whom they dealt. The matter cropped up in Major Matson's Court while Mr. Newman was away in England.

444. In relation to the Government purchases between 1847 and 1854, have you known since that time any repudiation of those purchases by the Natives?—There were several. I only remember one of importance; but there were several.

445. Did they bear a large proportion to the number of purchases or to the area of the land purchased?—No. These disputes with the Government were not as to remuneration generally, but as to the boundaries of the blocks which had been purchased. They walked over to the block so purchased, and told us quietly we had mistaken the boundaries—that instead of its being this creek it was that creek, or instead of its being this side of the range it was on the other side; but nothing that affected the tribal ownership.

446. Nothing was raised that affected the ownership?—I think not. I cannot remember any instance of that kind.

447. Only as to the actual boundaries of the land included in the purchase?—I think so. There was one serious dispute. That was at Pukekohe, after a purchase from this same Native

Isaac, who was an uncommonly clever fellow. The land at Pukekohe was sold by the Government to private individuals under Sir George Grey's regulations, at 10s. an acre, and most of the purchasers took possession. Soon afterwards Mr. Isaac walks into our office, and tells us we had done wrong. We inquired, "How?" He answered, "You have sold our reserves." We asked, "Where are they?" "Under Pukekohe Hill," he replied. Then I remembered the expression that the man had used when he sold the block, but which had never been put in the deed. The Maori words rendered into English were, "In length as far as from Papakura to Mr. Cole's house." There were only two settlers living at Papakura then—Mr. Cole and another man. Isaac was right. We had sold this land. Judge Richmond at that time was Colonial Treasurer, and he said, "We must give it up and compensate the purchaser." That accordingly was done, and the land reverted to the Natives. Isaac—poor man!—went into rebellion, and the land was confiscated. That was the only serious mistake.

448. Was that the same Ihaka who was concerned with William King in Taranaki?—No; he was in the rebellion up here.

449. Do you consider, Mr. Baber, that the recent method of dealing—putting down hundreds of Native names, and making it necessary to have the consent of every man, woman, and child, interested in these lands before the transaction can be completed—is in accordance with Native custom?—It is not.

450. Do you consider it an advantageous method of dealing with Native lands, either for the Natives or for Europeans?—Quite the reverse.

451. Are you aware that the putting of these indiscriminate multitudes of names into the conveyances has led to considerable expense in obtaining titles?—I have not been concerned as an agent. As far as I can learn, it has almost put a stop to dealings between the races. I am told that no one is fool enough to buy Native land now.

452. Have you also heard that, by reason of these immense numbers of owners, and through dealings being had secretly and privately, allegations of fraud, perjury, and forgery have been made, whether true or not?—I have heard so.

453. It is matter of public report?—Yes.

454. Do you consider that under such a system the Natives can get anything like proper value for their land?—They do not. Besides, it is very injurious to them, their women and children.

455. Do you, from your experience, think it would be wise to revert to the old system, by which these arrangements should be made in public, and carried into effect by representative Natives?—If you would allow me I would defer answering that to the very last, because I am not prepared for some questions. But, respecting the present Native Land Court and the operation, I think, of the seven or eight Native laws we have in force now——

Mr. Rees: There are more than that.

456. *Mr. Mackay.*] There are nearer thirty?—I know of only seven or eight myself. However, some time ago I had the curiosity to look into the proceedings of the Native Land Court, in the year 1888, and this document is a rough abstract compiled from the Government *Gazette*. Here you will find that the Natives never had any confidence in that Court. That is proved by their moving for 120 appeals during one year—all gazetted.

457. *Mr. Mackay.*] You mean applications for rehearing?—Yes; rehearings and appeals against decisions. Out of these 120 the Chief Judge granted nineteen. And in many others the appeals were not heard, the fees not being paid, and the applications being therefore dismissed. Five guineas, I think, is the fee. Then, look to the column "Prevention of frauds." Is not that an abominable Act—a disgrace to the statute-book, if I may use the expression? Look at the number there—197 cases in one year. These are cases heard before the Commissioner or a Resident Magistrate for the prevention of frauds. After the whole thing has been settled, and the money supposed to be paid, then the poor purchaser is hauled up before the Commissioner to prove that he is not a rogue. There is another column which deserves special attention, and that is "Partitions." Now, I have seen lately large numbers of petitions for partitions of blocks amongst a hundred Natives.

458. And more than that?—Yes.

459. Do you mean to say that after these partitions of the land amongst the men, women, and children interested, every owner will settle on his particular 10 acres or so?—No; they will continue to use the whole block communistically as before.

460. *Mr. Rees.*] In relation to these partitions, do you think that if a large block were partitioned off amongst the Natives interested, and all the fees paid, anything would be left to the Natives at all?—Nothing. It will be spent beforehand. I will leave this document with you. It shows the proceedings of the Native Land Court for one year. [Document received, and marked "A."] There is one more observation I would make with your permission. It relates to a very serious matter. There is no finality to the proceedings of the Native Land Court. A few days ago one of the Judges told me in the course of general conversation that the Chief Judge was about to reopen judgments given by Judge Rogan eight years ago. It was Von Stürmer who told me. That is all I have to tell you. I am not a lawyer, but I can tell you that the Native Land Acts are most disastrous to surveyors. They have to lie out of their money. They cannot get it. The lien given them over the land is not negotiable.

461. And they cannot enforce it?—I do not know about that; but there is nothing to go upon. Some of them give up the attempt. Some years ago I executed a survey of the Orakei Native Reserve; but I had hardly less trouble to get my money than that which is experienced in these other cases. It was nearly two years before I got it; and yet these people are as straightforward and honest as could be.

462. Do you think it would be wise to revert to the old system of dealings, by which arrangements for leases or sales were made in public with the Natives, to be carried into effect by representative people?—I do not know. What do you mean by "representative people"?

463. Committees of chiefs to be chosen by themselves or by the Government. Do you think that if the owners of the block chose such a Committee, and that Committee acted in concert with an officer of the Government in each district to complete the titles, the Government to arrange the thing in public with the people, and the Committee along with the Commissioner to give titles, that it would work?—I think it might work. There is something I am about to suggest in that connection. It is this: First of all, that every Act whatever relating to Native land be repealed. The next thing is that the Native Minister and the four Native members of the House be left to themselves to draft a Bill enabling them to dispose of their lands on the perpetual-lease system—not by sale. That is very important. And, if possible—although it may be highly improbable—that such a Bill should be allowed to pass through Parliament without any amendment. That is my suggestion—to leave it to the Natives themselves and the Minister.

464. You suggest the absolute repeal of the existing Native laws, and the formation, with a fresh law, of an entirely new system of dealing with Native land—that is, by way of perpetual lease?—Yes. In that case, I suggest that the applicant for the lease survey himself his own individual piece. He may employ the Natives in doing so, and, just as in the early days, there would be no more disputes. It would follow the same system, and an allowance should be made in the rent for the survey. It will cost the colony nothing. Rents would then have to be paid, and they would be paid regularly.

465. Yes; it is a law to enable the Natives to recover for their rents?—As to your question about the Committee of chiefs nominated by the Natives and working with a Crown Commissioner, I think that method would work, but I prefer my own plan.

466. Do you think that the Natives generally regard the Native Land Court with disfavour or with favour?—With disfavour certainly. I have never heard one of them speak of it approvingly.

467. Do you think there would be any difficulty in leaving to the Natives themselves the settlement of tribal boundaries and the tribal ownership of large blocks? Would they not be able to settle such questions in their own way?—I think they would if they were given time, and were offered no encouragement to quarrel. At the present time there is great encouragement for tribes to quarrel. When a capitalist came from the other side or elsewhere, to purchase large blocks of land from a certain tribe, another tribe would hear of it, and the report would go about that So-and-so wanted to purchase 20,000 or 40,000 acres. Then they raked up all their old stories about their fathers and grandfathers and their tribal quarrels. That sort of thing removed, I believe the Natives would settle these matters amongst themselves in peace and quietness. Of course, you cannot altogether prevent quarrels among a fighting people like the Maoris. There is the recent case at Whangarei, where they were half-mad when the dispute culminated. My idea has always been to allow the Natives to settle their own disputes.

468. Is it your opinion that the present locking-up of Native lands is inimical to the welfare of the colony?—Yes.

469. *Mr. Mackay.*] That is to say, the difficulties connected with getting the land through the Court and the claims settled?—Yes. Some time ago Mr. Bryce, who is well acquainted with the subject, said that out of 10,000,000 or 11,000,000 acres of Native lands there were only 2,000,000 fit for agricultural purposes. I think Mr. Bryce might have added another 1,000,000 to that, and called it 3,000,000. Out of that 3,000,000 you have to leave enough for the support of 40,000 people.

470. If 1,000,000 acres were left for them?—Then there would be only 2,000,000 acres of Native land which Europeans would be desirous of purchasing for settlement; the rest would be mountain-tops and stony and broken land.

471. *Mr. Rees.*] The Natives on the East Coast have over 2,000,000 acres of first-rate pastoral country?—That is very likely.

472. I suppose you cannot form an idea of what quantity is fit for pastoral purposes?—No.

473. Are there not amongst the Native land tracts that are very valuable for mineral purposes? and I suppose there is splendid timber land?—Yes; the timbered country on the West Coast will be worth an immense sum in twenty years' time.

474. *Mr. Mackay.*] Have you considered the question of the Government having the right to lease such lands as the Natives can afford to lease without crippling themselves, sufficient reserves being made for their sustenance now and all time to come, the Government undertaking then to pay them a rent to be fixed by an expert and the Native owners themselves?—It is a good plan in my own point of view, but it is a bad plan for the Native character. It deprives the Native of his manhood, and reduces him to simply a landlord, who gets his living and has nothing else to do, and idleness is the most besetting sin of the Maoris. When he has got to look after his own interest he has something to do.

475. True; but then, having sufficient land reserved for them by their own choice for their cultivations, for their settlements, and for their burying-places and fishing-stations, all these being reserved for them absolutely, you see, not only would they have lands for their own sustenance, but they would also have a fixed rent divided equitably amongst them according to how their Committees would arrange, and this money would be paid to them regularly, according to the shares decided on in runanga, either half-yearly or yearly as might be considered best?—I should think it would act favourably for the settlement of the land.

476. They would be free, too, of the expense connected with the subdivision of reserves, surveys, and roading. You cannot expect the settlers of New Zealand of the present day to go into a country to settle where there is no road by which to find their way to it. The Government would then, of course, sub-lease this land to the European settlers?—I should be in favour of something of that kind.

477. It would simplify transactions in so far as the Native owners are concerned?—It would.

478. And then the land, having been leased in that way from the Native owners, could be dealt with in the same way as Crown lands, and be handed over to the administration of the Crown Lands Board in each district?—And would therefore be rateable.

479. Yes, subject to taxation, and settled according to the land-laws of the colony, and free from the complications which at present exist?—I think it would do.

480. Do you not think it would simplify our dealings with Native land?—I think so. If you substitute leasing for purchasing you will do away with a source of quarrel amongst the Natives themselves and stop speculation, because the people who apply for these lands will take them up in order to settle upon them.

AUCKLAND, 16TH MARCH, 1891.

HAMIORA MANGAKAHIA, examination continued.

481. *Mr. Rees.*] You were good enough to tell the Commissioners you would obtain certain documents, and arrange your thoughts for to-day on these subjects upon which we desired information from you?—I have received some of the documents I referred to; others bearing upon the laws I have not obtained as yet. I would like to speak upon the points that have been written down for me (the subjects set out in the Commission), and then the evidence on other points may be elicited by the Commissioners putting questions to me. The first point in the memorandum that I have to speak upon is with reference to troubles and disputes between Europeans and Maoris in regard to land purchases and leases, and also with regard to mortgages. I am aware of very great difficulties existing throughout the Island in reference to these particular points—that is, with regard to disputes as to leases, sales, and mortgages. I have heard that there was a Commission appointed similar to this to inquire into these matters. When I heard that the Commission was appointed it occurred to me it would be a good plan for the Commission to be appointed to inquire into all such matters—disputes and so on. My idea is that a Judge of the Supreme Court and two Assessors should sit and inquire into all disputes between Europeans and Maoris; that in the selection of Assessors great care should be taken in getting the best men available; that the persons who would constitute that Court should have been in no way previously connected with any matters that were to come before them, and be neither directly nor indirectly concerned in any lease, conveyance, or mortgage that might come before them for consideration; that all the individuals should be able to say that they were entirely untrammelled in any way, and the Europeans should also say that they were in no way personally interested. This, of course, relates to that part of the subject concerning disputes between Europeans and Natives. All these difficulties could be embraced and dealt with under the one heading—that is, "Appointment of a tribunal to settle these disputes." That Court should have very large power for finally settling matters that would be brought before it. That is all I have to say upon that branch of the subject. Now, with regard to the Native Land Court, my idea is that all of the laws in connection with the Native Land Court from 1865 up to 1890 should be repealed. The difficulties will rapidly increase, instead of being diminished, if these laws are not repealed, because there is a continual changing of these laws, and a constant taking of clauses from one Act and then putting them in another, and then afterwards repealing them; and then, with all this, there are amendments going on, the effect being to so complicate matters that the greatest confusion prevails. Therefore it is that I think these laws should be repealed—not that what has been done hitherto should be affected by such a provision. With regard to all lands that are in their primitive state, these should be dealt with under that new law; but nothing should be done to interfere with existing rights if it could be avoided. Then, from the various Native Land Acts that have been passed from 1865 to 1890, select such portions as are deemed to be good, and embody them in the new law. But in cases where any of the provisions of the old laws would be embodied in the new law, not to say that such-and-such a clause was taken from such-and-such an Act—not to quote these old Acts at all, but that the new law should be entirely new, without any reference to old Acts—that is, with regard to the operation of the Native Land Court. I am excluding at present any reference to the subdivision of Native lands. I think that the Court for subdividing Native land should be a distinct and a minor Court, as regards the Native Land Court for dealing with Native claims. I see in numbers of the Government *Gazettes* that are published applications from Natives to have their interests cut out, in order that they may get a Crown grant or a certificate of title for their individual share, so as to deal with the individual interest; but the sittings of the Court are not held. I have seen in my own travels as an Assessor that great numbers of these applications for subdivisions have been made; but the Courts have been unable to attend to them owing to the number of rehearings and other matters they are called on to attend to. Many who wished to have their interests individualised have been unable to get it done owing to the Court being engaged at other work. For the Court for subdividing lands there should be two Assessors, an European clerk, and an European interpreter, and the name of that Court should be "The Court for subdividing Native land in New Zealand." Then, in that Court a plan of the land to be subdivided should be produced, and access should be had to the books which contained the evidence of the former investigations. Persons eligible to act as Assessors of the Native Land Court should be appointed to this Court, and also the clerks and interpreters of the Native Land Court. The scale of pay to be provided to be the same as provided in the Native Land Court. Having now spoken about the Subdivision Court, I wish to refer to something I omitted in regard to the first matter of reference. I have a written memorandum of the various points, and after concluding my evidence I will hand this memorandum in. I am aware that there are some points in these Acts of the past that are good if time could be taken to select the provisions that should be adopted; but I think, with regard to the good points in these Native-land laws, I may have to leave that subject at present, because it may come up for discussion at an important meeting which is to be held at Heretaunga, in Hawke's Bay. Recently Wi Pere, Mr. Carroll, and myself have had a meeting with reference to these laws, and I have a written memorandum with me on the matter. What was being collated from the various Acts will be read over at this meeting in Hawke's Bay, and then what the meeting at Hawke's Bay approves of will be immediately submitted to the Commissioners

before Parliament sits; so that you will have the recommendation of the meeting. Therefore, as I have already said, I shall not touch upon any of the points that are deemed acceptable in the past Acts, as that is to be reserved for further consideration. If there should be any other points on which the Commissioners desire that I should give evidence, perhaps they will put questions to me.

482. *Mr. Rees.*] In cases where dealings have been just and fair between Europeans and Maoris, but where by reason of the difficulties in the Native-land laws some trifling thing has been omitted, would you be in favour of a law being passed to remedy such technical defects where there are no disputes between Maoris and Europeans as to the fairness of the transaction?—What I think is that in such cases all sorts of disputes should be brought before the Court I have already mentioned. In the beginning of my evidence I stated that that Court should have large powers for dealing with such matters regarding all leases and so forth, and that the Court should have power, where it saw that the transactions were proper, to cut off a portion of the land equivalent to the money that had been paid; and whatever the Court determined was the proper way of adjusting such matters, they should have power to give effect to that adjustment.

483. In cases like the Whangara case at Gisborne, where the Natives and the Europeans publicly made an agreement: so much land sold—so much leased—and where it seemed to the Court fair, would you give it power and authority to issue titles?—If arrangements are made and reduced to writing between the Europeans and Natives with regard to portions to be reserved, the portions to be leased, and the portions to be sold in a block of land, the Court I have referred to should have power to confirm such arrangements, because it would be, under such circumstances, quite possible to produce the document showing the assent or otherwise of the parties.

484. In cases where several of the parties lived at a great distance, if a large majority of the Natives came into Court and testified in the presence of the Court that such arrangements were made, and the Court saw that the interests of the absent parties were being cared for, would you hold that that would be sufficient for the interests of the Court?—Yes. I think that where a large majority of the Natives would appear in Court, and where some were unable to attend owing to their great distance from the place of sitting, the Court should have power to act on the will of the majority, taking care, of course, to protect the interests of the absentees.

485. Can you tell us whether it was the custom in the olden time of the Maoris that every man, woman, and child had to give assent and sign documents for every transaction?—In former times it was necessary in land dealings that everybody—persons of importance and persons of very little importance—should sign. This is the way it was: Supposing there was a hapu and I was the chief of the hapu, and that the younger members of the family were with me, I as chief of my hapu would first speak to the people of my hapu and the people of the tribe. I would express to them my opinion that this land should go to a certain person—should be transferred—and I as chief would give my reasons for saying why the land should be so disposed of. Then, after that, I as chief would have the power of disposing of the land myself. My word would be final. Having in the first instance explained the proposal to the people, no one would then have the power to object. Then, in more recent times, when each person's name is written in the certificate of title or Crown grant, it became necessary for each individual to be a party to the transaction. In some tribes they still adhere to the old custom I have mentioned. Then, others have abandoned altogether the old system and adopted the European method.

486. Do you think it would be wise to return in a certain sense to the old custom, and let the people all know everything which was being done, but let a few be chosen to act with the Government Commissioner in carrying out the will of the people in leasing, mortgaging, selling, or anything else—that everything should be public?—Does that question relate to lands over which the Native title is still unextinguished or to lands that have already passed the Court?

487. My question relates to both, but you can distinguish between the two if you think proper?—This is my reply with regard to lands that have not passed the Court: that in their case they should remain in their existing state, and that there should be no surveys and no Courts. I know where the difficulty will be in such a scheme as that. The Natives see that great evils befall them through the Native Land Court, and through the Survey Department, and through litigation generally. I can explain to the Commissioners where the difficulties are that the Natives complain of with regard to surveys, and with regard to the difficulties of the Native Land Court. I am aware of the price that the New Zealand Government is paying in purchasing from the Natives—2s. 6d. and 5s. an acre are the prices given. Besides, when the Natives get their lands surveyed, the survey of the block will in some cases amount to £500 or £600. That is only for the external boundary. Then come the internal subdivisional surveys, and these amount also to a very large sum, perhaps another £500 or £600. And then, before these subdivisional surveys are made, there are large sums to be paid by the Natives for Native Land Court fees, and for agency purposes, and for other expenses incurred; and all these outlays are to be met from the 5s. an acre that is derived from the sale of the land. Then, if the Natives sell, the proceeds of the sale are to go to pay these expenses, and the whole of the land is absorbed in this way, nothing being left for the Natives. This is the effect of the system that at present prevails. But the Maori is in this position: He does not know what to do, the laws having been passed under which he is to act. That is the reason why I think the Native lands should remain in their native state until some better course is discovered, and a simpler way of dealing with them. There are many difficulties that arise under the existing system. One of them is this: Supposing that I have a Crown grant for a piece of land and I wish to lease it to a European. The European has paid a large amount of duty to the Government, and that then reduces the amount the Native will get for his land; and that is the reason why the Natives get very little for their land. So much has to be paid for duty in the first instance that but little is left for improvements, and consequently people are afraid to attempt to acquire Native land at all.

488. With regard to lands that have passed the Court, but which are still in the hands of the Maoris—large blocks with many owners—do you not think it would be wise for a Committee to be chosen amongst the owners, who should choose their own reserves, and for the rest of the land to be leased by this Committee chosen by the owners, which would act in conjunction with some Government Commissioner for the benefit of the owners?—That is a very good plan; but where I think the difficulty would be is this: When the title of the land was being investigated, the Court should have ascertained the individual interest of each person. If that were done, then the course would be perfectly clear, but, because in many instances that has not been done—the determination of the respective interests—there is trouble afterwards.

489. You think that if the respective proportions of the owners were settled so that it could be known how much each individual claimed it would be a good plan for the Government Commissioner to see they distributed the funds properly?—Yes, I think that would be an excellent plan: so soon as the respective interests of the parties were ascertained, that the Committee, acting along with the Government officer, should see that the proceeds of the land were fairly distributed amongst the owners. That is what has created so much trouble and creates trouble at the present time—that is to say, that the individual interests have not been ascertained by the Courts at the original hearings, because, of the Natives interested, some claim large interests and some claim small interests in the same blocks.

490. Would it not be possible for the Natives to arrange amongst themselves in runanga what the respective interests are in the block?—They could not ascertain that if they were sitting in a non-formal manner, but, if there were some tribunal they were to go before, then they would be prepared and could then do it.

491. Would the Maori Committees of the district help them at all?—I think that the Court I mentioned, composed of two Assessors and a clerk and an interpreter, would be suitable for ascertaining the individual interests, and with such a Court the Natives would arrange and discuss these matters prior to going before it, and to that extent would facilitate the business of the Court. And then the few who would be obstinate or difficult to deal with could come before the Court, and the Court would settle their interests. But a great deal might be done by the Natives themselves outside in runanga.

492. Do you think that the Maori reserves which would be cut out for the Maoris should be made absolutely inalienable both by sale or lease, so as to preserve them absolutely for the Maori families?—Yes.

493. Then, supposing there were certain men among the Maoris like yourself, or Wi Pere, who have sufficient skill to manage for themselves, and they wished to have sheep-farms, do you think it would be wise for the Government, under certain restrictions, to advance money to enable them to cultivate for themselves outside of the Maori reserves?—I believe that if some such idea as that were carried out it would be very good indeed, because now there are large areas of Native land that are practically useless to the Natives. The money should not be given to the Natives, but it should be disbursed in such a way as to be spent in the actual improvement of the land, a proper account being kept to show the outlay that has been made. I would also have it that these accounts could be seen by the Natives, so that they would know what amount of money was being spent in improving their land; and this would cause them to be industrious and energetic in working and making the land productive, in order to repay their indebtedness to the Government. When they were able to repay the Government in a short period of time, of course the Government would give them a written document saying that their indebtedness was removed; but if the debt remained on the land of the Maoris for a long time, interest, at a moderate rate, should be fixed by the Government.

494. Do you think it would be a good plan for the Government to retain a small percentage of the proceeds of the land after paying for the surveys—say, 10, 15 or even 20 per cent.—in order to provide schools, or any things that the Native Committees in the district might deem advisable for the general purposes of the Natives?—And this money would be kept out of what?

495. Out of the rents arising from the land every year, and retained in order to provide for any thing that the Natives might want. Of course, that is only a suggestion for you to consider?—There are many things that the Natives have done in the way of giving lands for schools and for missionaries, and the Natives see that, through these lands being set apart for such purposes, a lot of dissatisfaction has arisen. For my own part, if I were leasing good land, say for twenty-one years, I would be quite satisfied to allow the Government a certain commission for carrying out the transaction on my behalf, because a great deal of trouble and difficulty exists throughout the Island on account of leasing and other transactions carried on between the Natives and private parties.

496. *Mr. Mackay.*] Would you be in favour of leasing land to the Government in place of selling it?—I would be satisfied that the Government should be the agent in obtaining the leases. I do not think that any trouble would arise if the Government would act in that position. Where the trouble arises between the Europeans and the Natives in the matter of leasing is that the Natives can get advances on account of the land from the Europeans, saying that they will repay them when the rent is due. In that way the Natives get involved in debt, and there is only a small amount of rent to meet their liabilities. That is the reason why I think, if the Government disbursed the money among the Natives, there would be none of this trouble. And the Government could retain a certain percentage of the rent to recoup itself for the cost of administering this land.

497. What would your opinion be of a plan by which the Government was to lease whatever land would be disposable for leasing from the Native owners, paying them a rent to be fixed between the Native owners or their trustees and the Government agent, and then the Government dealing with that land as it thought best, the Government also undertaking all the expense of subdivisional surveys afterwards, and also of roading throughout the land wherever settlement could be effected?—That is a very good question, and in some instances, where the land would be valuable, the

Government would be able to get enough from it to pay the expenses; but in other cases, where the land would be bad, the Government would not be able to get enough to pay the expenses it would incur in roading and cutting up the land. That seems to me to be a difficulty, but it is a matter I would like to consider further, and then, in a day or two, I would know better how to answer the question. What I am afraid of is that in cases where the Government would not get enough to pay for the expense the Government would then charge these expenses, for making the roads and so on, and take the land for these expenses.

498. I mean this: Here is a block of land in its natural state that the Native owners wish offered for sale or lease; say, they prefer to lease, and that the Government proposes to lease it from them at a rent per acre to be settled between the trustees or the Native Committee and the Government agent, and that that would be a rent in perpetuity for the cession of the land to the Government, the Government then going to the expense of its subdivisional surveys and of laying off the land in suitable farms, runs, or whatever else it was fit for, and incurring the expense of doing all this, no matter whether it paid the Government or not?—If it would be carried out in that way clearly, so that the Government had no claim against them, they would let the land. It would be a very good arrangement, but then perhaps the Government would not spend rent on inferior land.

499. *Mr. Rees.*] Of course it is to the interest of the Government to get the land settled, because it obtains taxes from the people, and the land provides employment for the people?—I think it would be a very good plan.

500. *Mr. Mackay.*] It would simplify dealings with the Native owners, and then, too, there would be no complication as to cost of subdivisional surveys and preparing the land for settlement. I know from experience that the Natives grumble immensely at these costs, which have to be deducted from their rents—in fact, spread over years?—It would be well to let the Natives know what the Commissioners report to Parliament, so that they might have the general scheme before them, and so that it would be seen that the project about leasing is as clear actually as you mention here. The Natives could then see exactly what it is, because this work of the Commissioners is a new work and a good work.

501. *Mr. Rees.*] I have spoken with Mr. Mackay, and I think I may say we have agreed that it would be advisable to put our report into Maori directly it is available, and to have it circulated amongst the Natives—to publish it, in fact, in the *Kahiti*?—That would be very satisfactory—to have all these matters put clearly, and so that good would eventually result from the action taken by the Commissioners.

502. Do you consider that, under the laws existing now, it is at all likely that any good settlement can be come to between the Natives and Europeans with regard to the lands of the former?—I do not see that any good will come out of the laws as they are at present. We have all sorts of titles: Crown grants, certificates of title, and memorial of ownership, and there are so many complicated laws that the Natives do not know the effect of their Crown grant as compared with a memorial of ownership and a certificate of title. I have some trouble myself in hand, of which you know, over some litigation in which I am concerned with the New Zealand Timber Company. The difficulty was on some point raised upon the Crown grant or memorial of ownership, and the power and effect of that particular title I did not understand. Then, when it came before the Supreme Court, I lost the case, the Judge saying that the memorial of ownership was not of great effect, and that if, instead of a memorial of ownership, I had had a Crown grant for the land, I would have won my case. Thereupon I saw that there was a difference between a memorial of ownership, a certificate of title, and a Crown grant. The Maoris generally are in the same position of perplexity; they do not know the relative values of these titles. That is the reason why I was saying of these difficulties that I do not think any good will come out of the Acts as they are at present, and why I said in the beginning all the Native-land laws should be swept away, and that definite titles should be issued—say, Crown grants—the Court to simply issue Crown grants and nothing but Crown grants in all cases. Where there would be an advantage in it, the Court could allocate different portions to the different owners, and give them a Crown grant as a title.

JAMES MACKAY sworn and examined.

504. *Mr. Rees.*] You are a licensed interpreter?—And land agent.

505. What means of knowledge have you had, and what experience dating back in time, in relation to Native land cases in New Zealand?—Thirty-three years. I commenced to deal with Native land for the Government in February, 1858.

506. Where?—At Nelson, and also extensively in this Island for the Government, and for private individuals as well.

507. Can we assume that since 1858 you have been directly and indirectly connected with Native matters?—Yes; I was acting from 1858 till 1869, and engaged in all Native matters that the Government had in hand.

508. What purchases did you effect in Nelson and Westland?—I purchased the land from a place called Kahurangi Point, thirty miles south of Cape Farewell, down to Milford Sound, and extending inland to the watershed range.

509. About what area?—Seven and a half millions of acres; and, in addition, for about two and a half millions of acres on the east coast of the Province of Marlborough, from near Awatere to the Hurunui River.

510. For the Government?—Yes. Besides that I had to clear up all omissions in connection with Sir Donald McLean's purchases. He made large purchases adjacent to Cook Strait, and there was a great deal of unfinished business I had to attend to. Besides that and goldfields work I filled the position of Assistant Under-Secretary, which position I held up to the time of the Waikato war.

511. Did the purchases made by you on the west coast of the Middle Island contain the gold- and the coal-fields now being worked in that Island?—Yes. I may state that in 1857 I took the first piece of coal seen in Nelson from the site of the present Brunner Mine. Mr. Brunner found coal in 1847. I found it in 1857.

512. What was the price paid for this land?—Three hundred pounds, and 10,000 acres were set aside as reserves. There were only about a hundred and ten Natives in the whole district. It was practically unoccupied territory. Sir Donald McLean was of the opinion that there was only a handful of Natives altogether—about thirty—and I was sent down to deal only for 2,000 acres of reserves and £200. But they wanted to have reserved for themselves all the land between the Grey and Hokitika Rivers to the sources of both—the most valuable portion of the land. I came back in 1859, and saw Governor Gore Browne. He said it was an absurd price, but that it was his duty to see that there were sufficient reserves. His words were: "The reserves would be of greater value to the Natives when the rest of the district was occupied than if the whole country was left in its then condition." The country on the East Coast was all pastoral land. It was a partly overlapping purchase. It overlapped some of the work which Mr. Hamilton, Collector of Customs, had done at Canterbury. All the money I gave to the Ngaitahu was £300 and 10,000 acres of reserves.

513. Can you state what is the rent now received by the Natives from time to time for the reserves made for them on the west coast of that Island?—I cannot say. I had nothing to do with the leasing of these reserves. They were all leased after my time.

514. Still, you can say they are of considerable value?—Yes; but I fancy from what I heard when down on the Grey a few years ago the rent has been reduced. The reserves on the east coast of the Province of Marlborough were not dealt with so far as I know.

515. You had to make several of the arrangements with the Natives, had you not, about the goldfields in the North Island?—Yes; I procured the cession of all the lands ceded to the Crown except the Tokatea Block—that is to say, in the district extending from Cape Colville on the north to Te Aroha Mountain on the south, and including the Thames and Coromandel Goldfields.

516. I believe that up to the present time you have been engaged in Native matters, and are still, so far as there can be said to be any Native matters now?—Yes. I may tell you the manner in which I conducted the negotiations for the goldfields, as it will throw light on our dealings with Native lands. That peninsula of which I have just spoken was held by four divisions of the Marutuahu Tribe, commencing at Cape Colville on the north, and ending at Te Aroha on the south, and these four divisions were known respectively as the Ngatimaru, Ngatiwhanaunga, Ngatitamatera, and Ngatipaoa. The holdings of these divisions of people were all interlaced, here a strip belonging to one, there another strip, and then perhaps a long patch belonging to another tribe. We had no Native Land Court, and only a surveyor or two. I went on the ground and arranged not only the whole of these boundaries between these four large divisions of the tribe, but also the hapu boundaries. I firstly walked the ground, getting individuals from each tribe to accompany me. I would say, "Now, then, where is that boundary?" Sometimes they would agree as to where it was; at other times they would not. I eliminated from it all they agreed upon, and then took the disputed points. I will give you an instance of how we settled these things; it relates to only a small piece of ground. The disputed portion began about a mile from the beach. They agreed as to the boundary from the spur to the main ridge. Then one party contended that the ridge was the boundary, while another held that a neighbouring stream was the boundary, the distance between the two places being only 44 yards. I asked how long they had been disputing about this. They said, "About seven generations." I remarked that it was a trumpery piece of land to be disputing about for seven generations. I ascertained that the dispute began shortly after the intermarriage of a man and a woman, one each of the contending tribe; and it seemed that the man had gone upon the woman's land, and the woman upon the man's land. As a rule the husband acquired no right to his wife's land: they separately remain and are known as the man's land and the woman's land. After discussing the affair for half the day I put in my peg midway across the disputed portion—22 yards from ridge and stream—and thus settled the dispute. In this way I settled matters; and generally compromises of this sort were agreed to. There were many other difficult cases to settle—very old-standing disputes. In fact, when Dr. Shortland became Native Secretary, and I was appointed to be Civil Commissioner for the Thames district in his place, he left me four or five of what he called Native legacies, saying, "If you settle them you will be a very lucky fellow." At any rate, I did manage to settle them.

517. What was the method of dealing with the Native people in those days?—I dealt under the old land-purchase system in the Middle Island, and was mainly engaged there in fixing up the reserves. Generally what the Government was most particular about was that the Natives should have ample reserves, and that was the first thing we were instructed to do—see that the Natives had proper reserves. After the Taranaki war it was thought better to have some tribunal for dealing with the land, and the Native Land Act of 1862 was passed in consequence.

518. That was to decide as to who were the proper owners?—Yes; because it was said that if proper care had been taken to inquire as to the owners in that case the war would not have arisen.

519. Both before and after the establishment of the individual title, what was the real method of dealing with the Natives themselves?—We simply used to call meetings of the Natives, telling them we were willing to give so much money for certain land. Perhaps the arguments would last days and weeks at a time, but agreement would be come to at last, and then, when the reserves were fixed up, the deed would be signed by all the Natives present.

520. Did every man, woman, and child who was interested sign?—Yes, every one you could get hold of, once they were satisfied with the purchase.

521. In many instances were not those who signed representative people?—Some of the older deeds were signed by only a few people, but in later years we got as many to sign as we could.

522. As a matter of precaution?—Yes.

523. I suppose when the matters were all done in public in that way, and were thoroughly understood, there never was very much difficulty afterwards, no matter who signed the deeds?—They were thoroughly understood, and the chiefs then had a power they have not now. The Native Land Court put in all the rag, tag, and bobtail, and Jack became as good as his master. That is one of the effects of the change.

524. Would you say it is a good or evil effect?—It is very questionable. It has its advantages, but also its disadvantages, it strikes me. You see the Natives became suspicious at the practice of putting in these ten names of *quasi*-trustees in the grant, but with none of the liabilities of trustees; and, as a result, these individuals in many cases made ducks and drakes of the purchase-money.

525. As in Hawke's Bay, for instance?—And in many other places I have seen instances in which the chief has handed over everything perhaps but £1 to the tribe, and left them to divide it amongst themselves. I have seen Moananui, at the Thames, do that.

526. Still, he kept the authority (mana) to dispose of it?—Yes.

527. In your opinion, supposing the ten persons whose names were put into the grant under the Act of 1865 had been treated as trustees, and forced to account to the tribe, would it have been more successful?—Yes; but I think all moneys should go into the Public Trust Account.

528. All that were received by way of sale or lease?—Yes; and that they should only emerge therefrom when the trustees had made an arrangement for the equitable division of the moneys amongst the owners. I would give these trustees the right to sell or lease the lands.

529. That is to say, Committees chosen by the Maoris themselves?—Yes; this is part of my own scheme as set forth in the book I have written on the subject. My system would be shortly this: There are three large tribes in the country north of Auckland—the Rarawa, Ngapuhi, and Ngatiwhatua. My idea would be to appoint one or more Commissioners for all that district. Their first duty would be to go on the ground and settle the division of the lands as near as they could between the Rarawa and Ngapuhi. Then of course there often would be disputes, and these would have to be adjusted, and that could generally be done on the principle of give and take. There would not be as much difficulty there with these tribal divisions as in other parts of the colony, as these tribes have never been conquered since they first landed in New Zealand. Having then accomplished so much, the next thing would be to ascertain how many hapus there were, and fix the boundaries for each hapu in the same manner as that followed in fixing the great tribal boundaries. It would then remain for the surveyors to go on with the surveys, and ascertain which were the Crown lands and which the Native lands inside the block. For instance, there might be the case of a hapu having 50,000 acres in its own right. Then say the Natives required 10,000 of these as reserves. If they agreed, the reserves should be grouped in as large blocks as possible, because, when intermingled with the lands of Europeans, they would prove a nuisance to the Europeans, and quarrels would ensue through the pigs of the Maoris trespassing, and the cattle of the Europeans destroying the Maori crops. Let us assume that hapu A has 50,000 acres belonging to it; 10,000 would be set apart as reserves, and the remaining 40,000 clothed with a title, so as to be sold. I would propose to clothe both with the same sort of title. In sections 39, 40, 41, 42, pages 45 and 46, of my pamphlet entitled "Our Dealings with Maori Lands," I provide for the election of seven adult male owners to act as trustees: "In any case where the owners named in the certificate of title to be made for any parcel of 'disposable land' shall exceed seven in number, the Commissioner, at a meeting to be specially convened for that purpose, shall call on the owners (male and female) then present to nominate seven adult male owners from among those to whom any parcel of land has been allotted to act as trustees in respect of the land comprised in such certificate." In each case the hapus would be divided into families; and the head of each family, and all the members of it, would be put in the certificate of title for the reserve land, and would also be put in the certificate of title for the disposable land. They would elect seven adult males to act as trustees, and then these trustees would convene a meeting to ask the Native owners whether they were willing to sell or not. As soon as that is settled in the affirmative the land is surveyed, and under section 47 the purchaser pays his money, handing it over to the Commissioner, and, in the presence of the Commissioner, both parties to the transaction—the purchaser and the trustees—execute the conveyance. On payment of the money the European purchaser at once enters into possession of the land. It does not matter whether the money remains in the Commissioner's Trust Account for five or six years. The title to the land passes, and the purchaser can take immediate possession.

530. The land is made immediately available?—Yes; and the purchaser, whoever he is, gets a title right off. Then arrangements are made for the Commissioner to ascertain from the Natives whether they agree to the amounts to be apportioned among them. For that purpose, the trustees are handed a form, like that given on page 57 of my pamphlet, and they set forth a scheme of subdivision among the families interested—such scheme to be submitted to these families at a meeting convened for the purpose. If they agree they sign their names opposite the amounts set down respectively for them; but, if they do not agree, then the Commissioner shall fix a day for hearing and determining any such dispute between the families. In case of disputes between any of the families the Commissioner apportions the amount among them.

531. You have devoted a considerable amount of time, have you not, to a study of the nature and effect of the different Native-land laws of the colony?—I have. I went through every Act I could find bearing on the subject when I drew up that pamphlet.

532. You have also taken the trouble to frame an Act which you believe would facilitate the equitable disposition of Native lands?—Yes; that I drew out in 1887. I may state that it is an old scheme of mine, and one which I proposed to Sir George Grey shortly after the Native Land Court was established. I was one of the first Judges. I was appointed along with Messrs. Fenton and Rogan. Mr. Fenton and I never agreed as to the system which should be adopted for the disposi-

tion of Native lands. I only heard three or four cases in my capacity of Judge, and Mr. Fenton never liked my system of apportioning interests. I had a great deal of work to do as Civil Commissioner—more than I could get through in the troublous times of the war—and so I resigned the Judgeship. I settled a very troublesome case—one of Dr. Shortland's legacies—connected with the Island of Waiheke. That is all I did as Judge. I was appointed with Messrs. Fenton and Rogan as one of the Judges of the Compensation Court, which dealt with compensation to loyal Natives for lands in the Waikato that had been confiscated under "The New Zealand Settlement Act, 1863." We firstly settled all the land round about Auckland—Mangere, Pukekohe, and along the Great South Road extending to the watershed range between the Waikato and the Thames Gulf—that is, all north of the Miranda, Esk, and Surrey Redoubts. Subsequently it was necessary to appoint a Crown agent for conducting these cases in the Court, and, as the Rev. Mr. Turton was then incapable of undertaking the work, I was appointed and represented the Crown in all the cases that were heard in the Waikato. Our first sitting was at Port Waikato, and subsequently there was a very large Court at Ngaruawahia, which sat from the 1st January, 1867, till the 31st March of that year. Judge Fenton conducted the Court at Port Waikato, and Judge Rogan at the Ngaruawahia. In the case of the latter Court there were some thirteen or fourteen hundred claims to be disposed of. Only some five or six of these were heard in Court; all the remainder I arranged out of Court; and the lands, with the exception of one or two large blocks, were allotted in sections. This had to be done without any maps or surveys, and yet no question respecting any title in the Waikato has since arisen. There have been no difficulties, nor any Supreme Court cases, over these arrangements.

533. No litigation?—No litigation at all.

534. Then, generally as regards your ideas, we may take it that this pamphlet of yours, published in 1887, and the draft Act contained in it, embody the fruits of many years of thought on the subject on your part?—Yes; and I may also point out that in that pamphlet I made provision for the settlement of those troublesome incomplete purchases and dealings on the east coast of this Island.

535. Now, can you state when and how the individual system came into vogue?—Of course, among the Natives the unit was the family, then the hapu, then the tribe. Not very much before 1868. Under the first Act there was nothing done.

536. That of 1862?—Yes.

537. In 1865 the land was all vested in the tribes by name, or in the names of ten of the owners?—Yes.

538. In 1867 the names of all exceeding ten had to be indorsed on the certificate?—Yes.

539. Then, in 1873 it was made requisite to have the names of everybody?—Yes, they went to the other extreme then.

540. Would you say under whose auspices or influence these changes in the law were made?—I think Judge Fenton drafted that Act.

541. I may tell you that Mr. Baber gave the credit entirely to Mr. Fenton?—I am of opinion that Mr. Fenton drafted both Acts—that of 1867 and that of 1873.

542. That brought about a new principle in connection with tribal holdings; instead of the owners being mere tribes they become mere lists of individuals?—Yes.

543. And these were distinct from tribal holdings?—Yes; and thus caused one great difficulty—an almost insuperable one. For instance, I know of one place on the East Coast where there were about thirteen hundred owners in the certificate. There were memorials of ownership in 1873. Subsequently they substituted certificates of title. There are cases where the numbers of Natives brought in are so large that it is utterly impossible to get a title, because, even if you went about it with the utmost zeal, you would never complete it, the reason being that the Natives die off in large numbers on that coast, and for the interests of these people the names of successors require to be filled in. Under these circumstances it is impossible to complete the title. There is, for instance, a little piece of land on the west side of the river at Turanganui, the area being 10 acres only, and yet there are three hundred persons in that.

544. It is close to the township?—Yes.

545. Is the individual holding brought into existence by the Acts of 1867 and 1873 in accordance with Native custom?—According to Native custom, the lands were generally divided amongst the hapus of the tribe, and there was very little subdivision over and above that.

546. The Native custom is tribal and communal holding?—Yes; they all have the right to cultivate and occupy.

547. That is to say, they all have the usufruct?—Yes.

548. It belongs to the people?—Yes.

549. In dealing in ancient times, according to the ancient traditions of the Maoris, as between Europeans and Maoris, was it considered that every man, woman, and child ought to sign the document?—No; the Maoris were so numerous, and with the imperfect facilities that prevailed then for getting at all the people a title could not have been obtained in that way. Take, for instance, the case of a great public document—the Treaty of Waitangi—and see what a small number of Natives signed it in proportion to the strength of the tribes concerned in it.

550. Of course, the chiefs would not allow the women and children and common people to sign?—In those days the women, except those of high rank, would take little part in such matters.

551. Then, in what you propose in your pamphlet—that is, that the representative people, the trustees, or whatever you like to call them, should act for the body of the owners—you are seeking to return to the Native custom and usage in dealing with the land?—In the case of reserves, I would have no trustees, but group them into families.

551A. That also was the custom?—Yes. The mother might be in one hapu and the father in another.

552. In proposing to deal with the representative people, and getting their assent on behalf of all the owners, you are going back to the ancient custom—that is, dealing by all the people carried into effect by their representatives?—Yes.

553. Of course, in the old epoch it was the chiefs who were appointed?—Yes. I cannot see how, otherwise, we could have dealt with them.

554. Then, in your proposal you give, in addition to the ancient custom, a legal safeguard. You go back to their simplicity, but you add something of our own legal safeguards?—Yes. I would point out another advantage. It would do away with translations of deeds. It would do away with interpreters, who would resolve themselves into Native land agents, or, if the Commissioners understood Maori, everything could be done before the Commissioner, and his book would show the money that had been received for the purchase or lease, which would be treated as trust money.

555. Then, too, you do away with deeds, Trust Commissioners, clerks, perjury, forgery, and impersonation?—Yes.

556. In fact, you give the Natives safeguards which they do not possess at present?—Yes.

557. *Mr. Mackay.*] And it would simplify the proceedings of the Native Land Court?—You would not want the Court at all. The Commissioner would settle the title. This puts me in mind of a good simile. I have had a great deal to do with goldfields in my time, and the disputes about claims, and these were always more satisfactorily settled when the Wardens went on to the ground and determined the disputed points there and then than since so much litigation has taken place over these matters. I believe that a person going on the ground and seeing the land for himself would be able to arrange such matters, and that the Natives would look on the Commissioner as an arbitrator between them. If there was any very troublesome case it could go before two Commissioners. Years ago I spoke on this subject to Sir George Grey. When I had told him my scheme he said, "Mr. Mackay, it is not worth while upsetting the Native Land Court—the existing state of affairs." I said that it would be better to do so, and that my plan was plain and simple, and that I thought I could arrange the titles to all the lands north of Auckland in twelve months. Sir George Grey observed that it was a good scheme, but he was afraid that it was not worth while disturbing existing institutions. I may also state that on many occasions I conversed with influential chiefs on the subject and described this scheme to them, and I never found them make any objection to it. They said it was a good plan and agreed with their desires.

558. *Mr. Rees.*] Having for many years thought out this subject, and having been conversant with proceedings as they have been going on under the laws existing, are you still of opinion that the system you propose is better than the existing system?—I have thought it over very constantly since I wrote my book, and I do not see, at the present moment, that I can suggest any amendment of what I there propose.

559. Do you still consider that what you propose is the proper system, as contradistinguished from the system that now exists?—Certainly.

560. You have seen no ground to alter that opinion?—No.

561. On the contrary, do you say that there are grounds which strengthen that opinion?—I do; because the difficulties in acquiring Native land seem to be increasing every year, and that it is quite time some alterations were made, as the present system is unsatisfactory to both the Natives and the Europeans.

562. Nor to the public?—Nor to the public.

563. Do you think that any amendment of the present laws would be of any use?—No.

564. You think an entire change is necessary?—An entire sweeping-away of the present laws. I will point out how these things are done. In one Act alone—"The Native Land Court Act 1886 Amendment Act, 1888"—on pages 5, 6, and 7, there are numerous amendments and repeals of different clauses and portions of clauses—in fact, most of them merely portions of clauses—of former Acts. This illustrates my statement that it is impossible to carry in the human head the perplexities of the Native-land legislation which is now in existence and force. I may also point out that, in decisions of the Supreme Court, some of the Judges have read the Acts in one way as to the disposal of Native land and that some of them have interpreted them in quite another way. This especially refers to that portion of the Acts which deals with the acquisition of individual interests in or part interests in blocks. There is a great conflict of opinion between the Judges as to what should be done when the whole of the block is not disposed of, although the Act makes ample provision for subdivision, and in some places says that certain portions shall be cut off for the purchasers and some for the non-sellers. There is a conflict of opinion how that is to be interpreted.

565. Could there be, under the system which you propose, or some other system on the same principle, any of the complications arising which have arisen in the last twenty-five years between Europeans and Natives?—I do not see how there could if it were carried out fairly, and by persons of ordinary intelligence.

566. Would the present expense, and the annoyance and trouble and incentive to misbehave held out by the practice of the Native Land Court, exist under your system?—The expense to the Natives would be very much curtailed, because they now have to assemble in towns at great distances from their places of abode, and to stay there at a greater cost of living than they would be at if they remained near to their own settlements. This, too, would curtail the drinking that accompanies their assembling in the towns, and the consequent demoralisation which takes place at all Land Courts. Infirm and imbecile people also are not able to attend the Courts. That is all set out in my pamphlet.

567. It has been said by several witnesses that if the boundaries were decided by Committees of the Natives themselves by common consent in runanga of the Natives the Natives would be more likely to speak the truth at such meetings than at the Native Land Court?—That is my idea also, because the whole of the tribes interested would be present. If due notice were given of the Commissioners going to settle certain boundaries the Natives would assemble there, and would not

be able to say, as they do now, "Oh, we did not see the Government *Gazette*." Constant complaints are made on that score. I may state there has been very considerable dissatisfaction lately —that where formerly there was one rehearing there are now several. In fact, there are constant rehearings of cases. I am now engaged in four applications for rehearing, and the Chief Judge is making quite as exhaustive an inquiry into the grounds of these applications as if he were going into the matters of title themselves. I said to him the other day, when we were coming up in the steamer, that he was going so exhaustively into the matter that he ought to have brought another Judge with him, and have the rehearing at once. I said, "I thought what you would have done in these cases would be to read the evidence given on both sides, and then ask the Natives about any part of it that was ambiguous, and ask the parties applying for the rehearing if they had any other grounds than those set out in their application." Formerly an application of this sort went to tho Government, and not to the Judge.

568. Do you consider that the Native Land Court since its commencement has improved in efficiency in the discharge of its duties?—I do not think it has improved. A great many of the appointments that have been made to it of late years have been of men who knew nothing at all about Native custom, and who could not speak Maori, whereas the original Judges were men who had been engaged in Native-land transactions for the Government, and were well acquainted with the Maori language and customs. I am not reflecting upon anybody in what I now say. I am simply speaking of the practice. Judge Smith himself has admitted that there should be some alterations in these laws, as they are too cumbrous, and lead to a great deal of time being wasted.

569. At the present time dealings between Europeans and the Natives for the purpose of settling Native lands are practically at a standstill?—Yes, for land purchases. I have generally had a good deal of this land work when there was any to be done in Auckland; but I have not done as much during the last four years as I formerly did in six or eight months. I know that in some districts the Natives are very anxious to sell their lands.

570. And in some districts they are anxious to lease?—Yes. I was in the King-country recently for the Government, on some railway-compensation cases, and I there found the Natives complaining of the low price the Government was offering them for the land—not more than 5s. an acre—while there were Europeans willing to give them £2 or £3. In fact, I think we valued some of this railway land as high as £2 per acre.

571. *Mr. Mackay.*] That included good and bad?—Yes. The land there may be grouped into three classes as to value. The lands on the alluvial flats are valuable, partly from their contiguity to the railway, and partly because of their good soil. Then there are the lower ranges, which in that country have generally good soil. Finally, there are the hill-tops, some of which are very broken. In fact, all the land on the West Coast as far as Mokau is a broken, rough country, but is mostly of limestone formation, and would carry good grass. I reckon the best lands, taking them in blocks, to be worth £1 10s. an acre; the better class of hill-land, from 7s. 6d. to 10s. an acre; and the rest, from 2s. 6d. to 5s. an acre.

572. Do you believe, from your knowledge of the Native character and of their present disposition, that if some simple method of dealing such as you have yourself suggested were made law, and were surrounded with safeguards to insure fair dealing, there would be any difficulty in getting the Native land thrown open for sale or lease?—I do not think there would if the Natives saw that their interests were properly looked after.

573. And the expenses brought down to a minimum?—Yes. Of course it would be necessary to make the reserves first. Formerly, under the Native Land Acts, restrictions could be put in the certificate of title. There is no such safeguard now under the Act. The Natives ask for a piece of land to be made inalienable, and it is done. But a few persons may wish to get this restriction taken off, and they manage to get it done. It only requires them to make the application and to state that all are agreed. The application was formerly made to the Governor, but is now made to the Native Land Court. There is no safeguard against fraud, except when the Natives go before the Trust Commissioner. He would ask them if all the parties interested had other lands, and in nine cases out of ten the applicants would lie and say they had lands elsewhere. Many an old Native who has no children will say, "I am sick now; I am going to eat this land, and I am not going to leave it to the rest of the tribe." Of course, it was to provide against this sort of thing that it was tried to impose restrictions. But if reserves were set aside, and the balance of the land clothed with a title, the Natives would dispose of it.

574. Would you be in favour of these Native lands being leased instead of being sold?—No, I do not believe in perpetual leases. I believe that people coming to New Zealand look to getting the freehold of lands.

575. Is not the perpetual-lease system of the Government at the present time the most favourite method of taking up land?—Yes. Would you allow reserves to be dealt with?—I would have no trustees for the reserves, and I would not allow them to be sold or disposed of in any way.

576. *Mr. Rees.*] These should be made absolutely inalienable?—Yes. As for dealing with the rest it might be done in this way: The purchase-money might be funded if the Natives desired to have it so, and that would give them an income.

577. You think it would be a better plan to give them perpetual incomes in this way than to allow them to have the substance of the purchase-money and squander it at once?—Yes; section 57, page 49, of my pamphlet deals with that point.

578. Do you think that under the old system of tribal dealings, a return to which, assured by modern safeguards, you are attempting to provide for in this pamphlet, any of these complications and offences—and crimes in some instances, perjury, forgery and so on—could have arisen, or that such immense expense would have been incurred as has been the case under the existing system? —I certainly think they would not have arisen. We should not have had such roguery. Another thing that I may remark is, that the first Native Land Acts educated the Natives to be dishonest.

579. In what way?—Formerly, if a European paid money on land the Native would not repudiate the bargain; but when the Native Land Acts said that all these transactions were illegal, and that there were no means of recovering money paid on deposits, the Natives were taught to repudiate bargains.

580. In fact, you say it offered a premium to dishonesty?—Yes. I know a case up North where a man had purchased land. A certain portion of this was awarded to him under the old Land Claims Act, and another part was taken by the Government. I do not know whether you are aware that when a man was found to have land in excess of that quantity which he was assumed to have bought the Government took the surplus. In this particular case the Government took one piece, the European was given another, and the chief who had been dealt with was returned a third piece. And this chief, until lately (he is now dead), maintained that it was the pakeha's land—that it was not the Government's or his. Now the Natives see they can make a bargain and afterwards break it.

581. Under the Native Land Acts?—Yes; that was one defect; it taught the Natives to be dishonest and to repudiate bargains.

582. Do you think that under the present system of Native-land laws, and the administration of those laws, it would be practically possible to settle the country?—No, it would be impossible, owing to the incidental troubles and restrictions of various kinds that exist now. First of all there is the investigation of the title. When that is done you have to go before a Trust Commissioner; and, under another Act, after the Trust Commissioner makes his inquiry, you have to go before the Native Land Court, where again inquiry is made into the *bona fides* of the transaction. The other day I had a case or two before the Trust Commissioner. A few days afterwards I saw a notice that these same cases were again to be brought before the Judge. The same Judge was sitting as Trust Commissioner. He called the cases on, and began to inquire where the purchase-money had been paid. I said, "Excuse me, but you are not sitting now as a Trust Commissioner." He replied, "Oh, pardon me, I had quite forgotten that I am sitting now as a Native Lands Commissioner." I brought two Natives before the Court who had signed the deed. One of them was very sulky, and said he must be paid his expenses. I said, "All right; I will give you your expenses." The other was a woman, and she got up and said, "I shall not give evidence unless I am paid £2." These instances only show the opportunity that is afforded the Natives to levy blackmail. These witnesses had to be paid to give evidence in an inquiry into the *bona fides* of a transaction upon which the Judge had previously satisfied himself while sitting as Trust Commissioner.

583. Do you consider that any Act which provides for every individual signing and making these documents it is possible that the country can be settled?—It never can be. It is utterly impossible. If it is merely a matter of ten, a dozen, or twenty signatures it would not signify; but when it comes to six hundred, seven hundred, and to thirteen hundred names, as in one case that I have mentioned, the thing becomes impossible.

584. Do you consider that it would be in the interest of the whole of the people interested in these blocks to cut up the land so as to subdivide it amongst these immense numbers of owners?—It would be practically impossible. They would frequently have long narrow strips like roads.

585. Take that case at Gisborne, where there were 300 owners for a small piece of land?—No, it could not be done.

586. Then, as regards very many of the larger blocks, would not the whole value of the land go in subdivisional surveys and other costs?—Yes. First of all the subdivision is sketched on the map, and the surveyor lays off the areas; then his map has to be examined by the Survey Department, and, after that, go before the Judge again. He has to be satisfied before the certificate is made out. It is a cumbrous, roundabout system.

587. Would the blocks be useful to anybody if cut up as I have indicated?—They would not be fit for settlement. They would be long narrow strips. I have seen land cut up into strips a mile long, with only a few chains of frontage. Of course, another thing in the scheme would be the laying-out of public roads. I think I have made provision for that also. Section 84, page 53 says: "The District Surveyor shall from time to time lay off within the district such lines of road as may appear to him to be necessary either for present or future requirements. And he is further required to ascertain approximately the position and area of any lands which may hereafter be taken for railways or other purposes within the meaning of the Public Works Act." There is another provision I inserted. I found that in some of the highway districts where the Natives have only a small piece of land they are not able to pay rates, and I therefore put in section 70, page 51: "Lines of road surveyed by any District Surveyor through or over any 'reserved' or 'disposable land' which may be required now or hereafter shall be vested in the Crown, but in return for the cession of such lands for public roads by the Native owners free of charge no highway or other rates shall be levied on any reserved land." That is for highways, not for railways. I do not know that there is anything more to inform the Commission upon.

588. *Mr. Mackay.*] Would you permit dealings with the "disposable lands," as it were, in the way of free-trade, or would you approve of the resumption by the Crown of the pre-emptive right of purchase in respect of Native land?—That is very unpopular with the Natives. When the Native Land Administration Act was in force the Natives would not listen to it on that ground.

589. *Mr. Rees.*] Would you say that if they were given what you may call free power to dispose of their land under regulations drawn up under the present Native-land laws they would be satisfied?—I do not think so. I have drawn this proposed Act of mine largely with the view of the Natives assisting in working it; and under it, when any person desires to buy land from the trustees, the trustees have to go before the Natives interested and ascertain how many assentients and how many dissentients there are to the sale. Supposing a settler wants a block of 1,000 acres: a certain number of the Natives, representing, say, 300 acres, might say, "We will not sell." In that case they would have to cut off this quantity, and make it up from other pieces of land. That is my proposed way of disposing of the lands. I would not have the Natives sell if they were not willing.

The trustees and the whole of the Natives would have to work the thing out before the Commissioner. Of course, the Commissioner would not allow a contract to buy land at some ridiculously low sum. He would see that the business was done fairly as between the Natives and the European. One great advantage of this method would be that the European, on the completion of the transaction, would be enabled to at once enter into possession.

590. Could not that be done under simple regulations, a valuation of the land being taken, and the Natives consulted as to how much they would sell, and ample reserves being made?—So long as the Natives made the bargain; but they would not allow Europeans to make bargains on their behalf without consulting them, no matter at what price they valued the land.

590A. For instance, the Natives might object to sell to a particular person, whom they did not like to have near them?—Yes.

591. Is there anything else that occurs to you?—Another mistake that is made at present is to disturb the sittings of a particular Court, removing the Judge or Judges away to hear cases at distant places. Now, in the Thames district there is no doubt that the most convenient place for the sittings of the Native Land Court is at Shortland, because the Natives can come there from Waiheke, Cape Colville, Coromandel, the Waikato, and other places very conveniently, seeing that it is approachable by steamer, and by land conveyance. But now and then certain Natives, acting under the influence of publicans and storekeepers, get up in Court and ask that the sittings be held at Paeroa or some other place, and if the proposal is assented to all the rest are put to great trouble, expense, and inconvenience. That is one of the matters that require attention. For instance, in the cases in which I am now engaged the Chief Judge goes so exhaustively into these matters that he does not allow himself sufficient time for the purpose. No sooner does he get to the Thames than he has to leave again and act elsewhere. The whole thing is drifting into utter confusion. Under this proposed system of mine, there would be a great deal less expense in surveys. As it is now, it frequently happens that the survey is made of a certain block, and then afterwards the adjoining blocks have to be surveyed as well, and some of the same lines gone over again. Then again the Maoris dispute about a boundary, one saying it is here, and another that it is there, instead of first of all settling these disputes on the ground, and making the survey after the boundaries have been settled.

592. You refer to the survey for boundary, and not for mere subdivision?—Yes. The surveys now cost a great deal more than they did in the early days; but I will say that they are now done much more accurately because the surveyors are better men as a rule than we had formerly.

AUCKLAND, 18TH MARCH, 1891.

FRANCIS DART FENTON sworn and examined.

593. *Mr. Rees.*] You were the first Chief Judge of the Native Land Court, were you not, Mr. Fenton?—Yes, so-called. Mr. Domett was Commissioner of Crown Lands, and to a certain extent fulfilled the duties under the Act of 18 , which I also fulfilled under the Act of 1865. But perhaps a comparison can scarcely be made between the two, as the issue of a certificate under the Act of 1858 had no effect until it was approved by the Governor, and Mr. Domett had to see that everything was correct before he allowed the Governor to sign.

594. You remember the passing of the Acts of 1862 and 1865?—Oh, yes: I made a mistake. It was the Act of 1862 I was speaking of, not the Act of 1858.

595. The Act of 1862 was in reality the first Act reserved for the assent of the Crown, and it paved the way for the Act of 1865?—There was a preceding Act, which had had little or no operation—that is to say, Mr. Richmond's Act, called the Territorial Rights Act. It was, if I remember aright, disallowed in England.

596. That was still further back—in 1856, I think. It had little practical operation?—None, I think.

597. You have seen the commission under which we are sitting, have you not?—Yes, I presume that I have.

598. Here is a copy which you may keep before you?—I wish I had had longer notice of the Commissioners' intention to examine me.

599. We did not know that you were in town until a day or two since. You know that complications have arisen between Natives and Europeans in regard to their mutual dealings about Native lands?—Yes.

600. They seem to fall into two classes, one class comprising cases in which particular requirements of the law have not been complied with, although the dealings are fair and just as between the Natives and Europeans. The other class of cases seem to consist of those in which there are matters really in dispute between the Natives and Europeans?—Matters of a fraudulent nature, do you mean?

601. Sometimes of that nature, and sometimes where the law itself is in default; sometimes cases in which there have been restrictions, and in which purchases have been made in defiance of the restrictions; sometimes cases in which there have been Proclamations, and in which purchases have been made in defiance of these Proclamations?—There are such cases, but those are more numerous where errors have been made by the Land Court. Of course, you cannot manage large transactions of that kind without making errors.

602. Do you think, in relation to that class of cases where no fraud is alleged, but where the dealings have been in good faith and fair and honest, do you think it right that power should be given to some tribunal to rectify all such errors?—There can be no doubt about that—certainly I do. It was the want of some such tribunal that caused the Taranaki war. If there had been such a tribunal there would have been no war at Waitara. The remarkable thing is that I had to sit on that case afterwards.

603. To take evidence into the conflicting claims of title as between Wiremu Kingi and Te Teira?—Yes. The Court, however, gave no judgment; it was such a serious matter. We did not hear King's case, because he was in the bush at the time— *i.e.*, secreting himself. We only heard Taylor's side, Ihaia Kirikumera, Tamati Tiraurau, and others, friends of Taylor (friends of the Government, as they were called then), alone giving evidence. In those days Natives were "friends of the Government" who were inclined to sell land to them. That was the great division between these so-called friends of the Government and the others—the land leaguers or land retainers.

604. That was, as it were, the line of demarcation between the friendly and the opposing Natives?—Practically it was.

605. Then, having heard the evidence of Taylor and his friends, what was the result?—There were three Judges, of whom I was one; Mr. Monro (the best of us) was another, and Mr. Rogan was the third. Ought I to tell you the rest?

606. Well, it was a public Court I suppose, and this is a matter of history?—Yes, it should be known. We were so much struck with the facts elicited in evidence that we adjourned the Court and made a communication to mutual friends that some of the Ministers ought to be sent down and prevent judgment being given. A Minister did come down, and asked for an adjournment for a week, which, of course, we were very glad to give, and at the expiration of the week there was no appearance of anybody, so there was no judgment.

607. I suppose we may assume, as a matter of historic fact, that the evidence given proved that the land really belonged to William King?—I will tell you, and as a lawyer, Mr. Rees, you will at once understand the position. Some six generations ago there was an influential chief whose name I forget. I have still got the pedigrees by me, and Waitara was his. That was admitted by everybody. He died, leaving two daughters, what we call co-heiresses, and Taylor and King traced their descent from these two girls, so that, according to our own and the Native law, King's and Taylor's rights were equal to that extent. But then there was this distinction between the two: that William King had the advantage of one or two antecedent generations over Taylor, and consequently had the right to conduct all sales in respect of the land as long as he lived. After his death, Taylor would take King's place.

608. Then, during King's lifetime he had the mana over the land according to Native custom?—I do not like the word "mana" as applied to land. As applied to land it is the invention of the pakeha; I would prefer to say that, being nearer in descent to the ancestor I have mentioned, he had an absolute right of forbidding any sale.

609. According to Native custom?—Yes.

610. And the Judge, finding this to be the case, and that it was a very grave political matter, communicated with the Government through a mutual friend, and the Government then took such steps as they thought advisable?—That is so.

611. In regard to complications which have arisen, where the law has been to some extent broken, or where there are claims of alleged fraudulent dealing between Natives and Europeans, do you consider it would be advisable to elect a tribunal having power to deal with such disputes upon a broad basis?—Oh, yes.

612. And that from such tribunal's decisions there should be no power of appeal?—I should prefer that there should be no power of appeal in any case as the result of my experience. When I provided for an appeal under the Act of 1865, which I may say was my Act, my idea was simply this—the means of communication and other things being then very different from what they are now: that when the Natives were prevented by floods or difficulties of that sort from getting to the Court, or where they had not received notice or been made aware of the sitting of the Court, my intention was, in cases of that kind, and not for every case, there should be opportunity afforded for appeal.

613. Not for the multitudinous reasons that are now urged as causes for appeal?—That was never in my contemplation, nor in that of my friends, Mr. FitzGerald and Mr. Richmond, illustrious men of the days that are gone. There were giants in those days. I suppose it is a fundamental principle of human nature to be *laudator temporis acti*.

614. Now, in regard to the Act of 1865, when the title was ascertained under that Act, the certificates had to come under one of two forms; they were issued either to the tribe by name, or, in the case of a block of less than 5,000 acres, the ownership was to be reduced to ten individuals?—Was there a limit of 5,000 acres in it?

615. Yes. A certificate could not issue to a tribe by name for less than 5,000 acres. Do you know of any instances in which certificates were given to tribes by name?—I think there were two. That chapter of the Act has been very much misunderstood, partly because it has been construed and looked over and amended by persons who knew nothing about the Act. I might suggest the present Chief Justice (Sir James Prendergast) when he was Attorney-General. Perhaps, as it has been so misunderstood, its meaning might have been better expressed. At any rate, the intention of these clauses was simply this: At that time the great bulk of the Natives of New Zealand would not recognise a Crown grant. They would not have anything that implied a connection by the Crown with the dealings in respect of their lands, or that their right was improved by a grant from the Crown. These clauses were put in for that reason, so that if any tribe would not accept a Crown grant, and in order that intertribal quarrels should be settled, we should issue a title to the tribe without any reference to the Crown whatever.

616. The certificate, in fact, would go in the name of the tribe, whatever it might be?—Yes; and the boundaries were defined so as to provide against intertribal rows.

617. Then it was found, was it not, that under the Act of 1865 most of the certificates were issued in the names of individuals, and that these individuals, instead of being trustees for the people behind them, as they were intended to be, dealt with the land as if it belonged to themselves?—That is another question that has been misunderstood. As one illustration is as good as twenty, I will confine myself to one case as showing what was meant. I will take the case of the Ngatihaua

Tribe, then settled at Cambridge—the Ngatikoroki, the Ngatiruru, and their subordinate hapus known to the Europeans under the one great name of the Ngatihaua, William Thompson's tribe. This trusteeship is said to have arisen there. All that land about Cambridge was not ancestral land. It was territory conquered and occupied by Ngatimaru, who were in their turn driven out by the Ngatimaniapoto, the Ngatihaua, and others. That conquest was completed in 1831, at the great battle of Taumatawiwi. Soon afterwards the conquerors entered into possession of all these conquests made in 1831, and occupied, planted, and retained absolute possession of the land until the Court sat in 1866. We found them there then in the same state. The land had not been divided in any form. It was simply treated as a conquest made by these people where the individuals could go as they liked. Some of the people, with the tacit consent of the tribe, had taken and occupied defined portions. Thus William Thompson and his friends had taken possession of Matamata, and others had likewise pitched upon certain land, and these pieces were recognised by the tribe because, although there was no formal partition amongst themselves, a few of these people had partitioned pieces for themselves which were tacitly assented to by the rest. Of these cases I am not now speaking. I am speaking of the bulk of the territory as it was in 1831, and when we went up there. It had not been divided. Was there not some provision limiting the number for the certificates to ten people?

618. Yes. Well, we were in this position: that there were, say, four hundred owners, and we were limited to ten names for a tract of country covering I do not know how many acres—ten miles, at any rate. We explained our difficulty to them, and they said, "You must cut it up," and they proceeded themselves to do so, ten names being selected for this piece, ten names for that, ten names for a third division, and so on right throughout. The land was then surveyed, and titles were issued. Then this ten sold their lot, that ten sold theirs, another ten sold theirs, and a fourth ten did not sell, and then these people who had sold and assumed their proceeds jumped down upon the land of those who had not sold, saying, "It is tribal land; you are trustees, and we are entitled equally with yourselves to occupy it." That claim met with a certain amount of sympathy with people in Wellington; and, in fact, it was the origin, to a large extent, of this doctrine of trusteeship which was then set up, and which was absolutely wrong, as I contend, as applied to newly-conquered and unapportioned land. When you set up the trustee doctrine you must discriminate between territory that is ancestral and territory that has been acquired recently by conquest, and never divided.

619. In relation to ancestral land, we might take for instance, I suppose, the case of the Heretaunga Block, about which so much litigation has taken place?—At the Bay of Islands?

620. No, at Hastings, Hawke's Bay, in respect of which there has been so much litigation between William Russell, Tanner, and others. That large block of 18,000 acres was vested in ten, and yet there were hundreds of owners?—Yes, I should think so.

621. Then the owners behind the ten complained that the names of these had merely been put in for all of them, and yet the ten had sold all that land except the Karamu Reserve, and thus dealt with the proceeds?—Yes.

622. Now, do you remember the Act of 1867 being passed? The Act of 1867 differed, you will remember, from the Act of 1865, because although it places, by the 17th section, the ten names upon the face of the certificate, yet on the back of the certificate all the names of the remainder who had proved a title were indorsed. Can you state why the law was altered so as to require the names of all the remaining owners over and above the ten to be placed on the back of the certificate?—I cannot tell you. It was Mr. James Richmond's Act, drawn up with Judge Prendergast's assistance.

623. Then, we should be likely to get information on that point from Judge Prendergast?—That is very unlikely. He simply, I suppose, put in legal form what Mr. James Richmond told him he wanted.

624. Do you think it was deemed necessary to place the names of all the people interested on the back of the certificate because it was found that the ten persons whose names had hitherto been used in each of a number of cases were appropriating the land for themselves?—No doubt. I thought at the time what a very bad remedy it was. The true remedy was to compel the tribe to subdivide. Supposing the number still limited to ten, to subdivide amongst themselves until each ten of the tribe had got his share. That was the true remedy, instead of indorsing these names on the certificate, which, to my knowledge, was productive of very great confusion afterwards. The objection to the scheme of subdivision was the expense of the survey, which of course was a real objection; but you cannot subdivide millions of acres without hardship and difficulty in some cases. The true remedy, however, would have been the refusing to do anything until they had marked off for each ten men their own share.

625. Then, coming to the Act of 1873: Do you know anything about the drafting and the intention of that Act?—Yes, I know a great deal about its drafting and about the intention of it. The intention was to do celestial justice, which I always believe to be impossible in this wicked world. The Act was Mr. Clarke's, and it was said at the time to be the work of Mr. Justice Richmond, but he told me himself he had nothing to do with it. I think we may put it down to Mr. Clarke largely, and the draftsman, of course, was Mr. Curnin, a very able man. The first part never had and never could have any operation; and the latter part, you will see, Mr. Rees, as a lawyer, is a mixture of plans, the leading idea being the establishing of something like a copyhold tenure, and then that gets mixed with other ideas until, practically, it was a very confusing and injurious Act, I think—too complicated altogether.

626. That provided, however, for the subdivision of the lands, and allowed no sales or leases to be made without the concurrence of all the owners in a block of land?—Yes. So far the principle of that was good, but the saying that "all" must consent was too much. I think that no one recusant should have power to lock up land.

627. Do you consider in any future legislation that the views of the large majority should determine the course of procedure?—I do.

628. You think that is just, and according to Native custom?—Yes; according to Native custom. Under the Act of 1869, which was mine, provision was made requiring the assent to a sale of the majority in value; but the Court in administering that Act found it to be practically impossible to discriminate between the values of individual Natives; and the shares of the owners were practically treated as equal, not because it was right, but because the Court could not do anything else. *Argumentum ab impossibili multum valet in lege* is the maxim.

629. Then, the doctrine which has arisen of practically treating the interests of the Natives as of equal value is not according to Native custom nor real right?—No, it is not; but the Court could not do anything else.

630. Under compulsion?—Under compulsion. I have a judgment about it of some length, and, I think, carefully written. I remember it occupied my thoughts a good deal when the Compensation Court was sitting at Taranaki, where cases came before us in such a form that we could not avoid settling them on some principle. It had to be done. You know the principle of that Act. There was a block of confiscated land. I was Chief Judge of the Court, and sat to determine what land in a block belonged to loyal Natives. Their land was to be preserved to them, and the Government was to take the rest. The enemy were still in the bush, and as for the people before the Court, who were called the loyal Natives, their object was to say that the people in the bush had no title at all—that they were nobody in so far as the land was concerned—and that the real men who were entitled were all before the Court. It was a very laborious business. In each case we had to go to the origin, and trace the people down to that day. I will illustrate my meaning. The Court having only one side before it might be easily deceived. So we were compelled to go back to the original ancestor, and discover all the descendants through fifteen or twenty generations until we had the names of every individual alive at the time. We then had to inquire into each case thus: "Where is Tamati?—In the bush. Where is Hone?—Shot by the soldiers. Where is Rewini?—Here. Where is Martha?—In the bush," and so on through the whole list. We then added up the names of those in Court who had not gone to the war, and, having also added together those who had gone to the war, we found the numbers to be: say, seventy of the one category and seventy-two of the other. Then came the statement from the claimants, "Those men [the absentees and killed] were nobody; we are the men." Under the circumstances it was impossible to entertain the question of the relative values of the interests claimed as between the individuals, and we were compelled to lay down that rule of the equal value of the interests. As a fact, the greatest men were generally rebels. The result was that we gave half of the land to the Governor, and half to these people in Court, drawing an arbitrary line on the plan, making two divisions.

631. Was there such a thing according to Native custom as individual rights belonging to every man, woman, and child in the tribe or hapu, and could they be defined over any particular piece of land?—I will reply by giving you another instance. There was a case in Waiheke where a husband got a piece of land marked off for himself out of the land of a different tribe, to which his wife belonged, as compensation for adultery.

632. That was a special gift as compensation for injuries?—There are a few cases of that sort; they are not numerous. Mr. Davis, who was a very learned man in Maori matters, said there is no such case except that at Waiheke, but I think he is wrong.

633. These would be striking exceptions to the general rule?—Yes; but, as I have given a judgment on this question, I should refer you to that for my opinion, as it is authoritative. I think it was the Kaitorete case, near Christchurch, reported in "Important judgments."

634. The general rule is the tribal or hapu right?—That the land belongs to the hapu, subject to the suzerainty of the tribe.

635. I suppose the hapu would be a collection of families forming a sort of sub-tribe?—Yes, sometimes only one family. Of course, what you call "mana" does represent a certain idea that runs over the whole of these questions: that if attacked by any outsiders it was the business of the tribe to defend this hapu and its rights.

636. Then, the mana would be a species of authority without a title?—Yes. I remember hearing the word bandied about very much in the House of Representatives. I thought there was something in it then, because I had not then any experience; but I found subsequently that the word was not used in that way. Wiremu Kingi's was not mana, but title—the supreme title as long as he lived. Mana is simply, in the Maori use of the word as applied to an individual, personal influence.

637. What was the method of dealing with the Maoris for their lands in the olden times? How were the transactions conducted? In private dealing with the Natives and in Government dealing with the Natives, what was the mode?—I have no knowledge or experience of private dealing with the Natives. I have seen some Government transactions, and they were of this character. Again I will give you an instance.

638. The Commissioners would rather have instances?—I was present at the completion of a purchase at Tokatoka, that queer spiral mountain on the Northern Wairoa. The price had been settled at a general assembly of the tribe. Then came the question of payment, which of course was the most important part of the transaction. There were the chiefs seated round a circle. It was disputed land in the old days; but the dominant man and the most warlike chief in the old days in that district was old Tirarau, chief of the Parawhau, a hapu of the Ngapuhi Tribe. He occupied the place of honour, and next to him was Parore, his brother-in-law, a chief of the same hapu. Then, there were Paikea, Te Wheinga, Pairama, and Manukau, chiefs of the Uriohau, who were the original owners. Tirarau and Parore might be called the *conquistadors*, and along with them there were the representatives of the subdued tribe, as I have stated, which was a branch of

the Ngatiwhatua. They were all assembled in a circle, and their people sat behind. Mr. Johnson was the Land Purchase Commissioner, and he had with him a bag containing eight hundred sovereigns.

639. That was the price agreed upon at the runanga of the people?—Yes. Mr. Johnson was an experienced man in these transactions, and he put his bag of sovereigns down in the centre of the circle. There it was, and there it remained for half an hour, and not a word spoken by anybody during that time. At last a ragged old chief named Te Wheinga got up. I may say that he had been banished to an old settlement on the other side of the river for having committed murder. It was not a *tika* or correct sort of murder, and he had been boycotted accordingly. Te Wheinga lifted up the bag, and put it down alongside Tirarau. There it remained for five minutes. Then Tirarau got up and gravely replaced it in the centre of the circle, where it remained for another five minutes. Then he lifted it up again, and placed it alongside Parore, his brother-in-law. Another five minutes elapsed, and then Parore, in his turn, returned it to the centre. During this proceeding I was struck with the dignity, and simplicity, and the consideration for one another's feelings which were manifested throughout. At last Pikea, chief of the conquered people, rose up, and put the bag alongside Tirarau, and there it remained. Another half-hour elapsed, and the feelings of the principal men having now been conciliated, Tirarau lifted up the bag, and, putting in his hand, took out a handful of sovereigns, and gave them to one of the chiefs. All were served alike, Tirarau in no instance troubling to count the money; but the amounts appeared to be pretty equal. I notice, that he gave a great deal to the ragged old chief Te Wheinga. Then, when all the money had been distributed, he lifted up the bag with both hands, and shook it to show that none remained. He did not leave a single sovereign for his own share. That took place in the days when the Maori chief was a gentleman. They would not do that now.

640. *Mr. Rees.*] Wi Pere is like that. I have known him to act in a similar manner to that.

Witness: He still preserves the old gentlemanly feeling then.

641. That was the method, then, of dealing with the land in the olden times. It was done in the presence of the whole of the people—publicly carried into effect, and the money was distributed by the representative people, the chiefs?—Yes. In cases where that was neglected it frequently happened that fresh claimants turned up, and had to be dealt with after the whole transaction was supposed to be completed. I remember that it happened on one occasion, when Mr. McLean—Mr. Stafford, I think, then being Premier—went to make the final settlement for some lands that had been purchased, he found that there were fresh claimants, and as these turned up they had to be paid also in order to complete the affair, for, of course, he was compelled so to acquire the land that colonists might safely occupy. Thus, there is the instance of the Island of Rangitoto, in the harbour of Auckland, which was bought four times: that was a good specimen. I do not know whether the records are in the Native Office. Some Natives claimed the island, and I sat upon the case. It turned out that the Government purchased four different times, and finally they got the right owners.

642. *Mr. Mackay.*] That will be in Mr. Turton's book, will it not?—I do not know, but I should think not.

643. There are copies of all Native deeds in this book—all that could be found. There is, for instance, the copy of the Orakei deed? There are many cases in which these deeds could not be found. There was the case of Tiritirimatangi, in which fresh claims were constantly being put in against the Government. The Government could not disclose its title, for it did not know it. The Court finally decided that the Crown was in possession, and no one else had shown a better title, so the claims must be dismissed. It turned out afterwards that there was a man in Court named Graham, who used to be something in the English Commissariat Department, who could have thrown much light upon the affair. He subsequently said to me, "I could have told you all about it." I said, "Why did you not then?" "Because," he replied, "the Government treated me in that matter very badly. I bought that land in 1838. It was taken from me by the Crown, and I have got nothing at all for it. That is the title of the Crown." I beg to refer the Commission to the report of this case, published in "Important Judgments."

644. In cases where the public negotiations were conducted properly, and due notice given to the Native claimants to appear, and in which the arrangements for the sale were made at Native meetings, the Natives being also publicly paid at these meetings, was there any repudiation on the part of the Natives of such contracts?—I do not know that I ever heard of any; I think not. That is, of course, assuming they were the right people.

645. Of course. You are aware that things have now drifted into such a position that the settlement of Native lands is at a deadlock?—You mean, by Europeans.

646. Yes?—I believe that it is so. For the last few years I have been up in a balloon, as it were, so far as these things are concerned. Still, I have had experience of that in my own case. I bought seven acres of land—a corner of a block of 300 acres, of which I held a twenty-one years' lease—because it contained a convenient landing-place for my boats. There was only one owner. He asked me £10 for the seven acres, and also wanted me to surrender the lease. I surrendered the lease, and paid him the £10 for the seven acres. He was perfectly satisfied, and thought he had done a good thing; but I cannot get a Crown title.

647. Why not?—The law does not provide for such cases. You can get a title for an undefined peice of land, share of an estate, but where it is defined you cannot get a title. My case has one advantage. I have full confidence in the vendor. I have his deed, witnessed by a Native Land Court Judge, and passed by the Trust Commissioner according to law, and the land was fairly bought for a due consideration. There I am on my land, and I escape all rates and taxes through want of a Crown title, so that I am not so very badly off after all.

648. Yet you cannot get or transmit a title?—No, nor do I want one so long as I am alive, or while my children are alive. We do not want to sell or to part with it.

649. In regard to dealings with large areas of land by Europeans through the Crown, or by private Europeans, do you think it possible to raise up a representative body to conduct all dealings for the Natives in public—a representative body similar to the old chiefs, but which should be amenable by law to the people for the proper distribution of the moneys received?—As agents?

650. Yes?—That, to my mind, is the true solution of the Maori question. But there should be a dominant European influence in such a body. I myself introduced a private Bill on behalf of the Arawa Tribe at Rotorua, about two years after I left the Government service, in which I elaborated that principle of agency as well as I could do it.

651. You think that Commissioners should be appointed for districts, to work with a Native Board, such Commissioners to be appointed by and responsible to the Legislature?—Subordinate Commissioners to one principal body, do you mean?

652. This is what I mean. Do you think this would be advisable: that the whole of the Maori country should be portioned into districts; that Parliament should appoint for each district one or more Commissioners, to work along with the Native Board or Native Committee, or whatever else they might be called, in each block?—I think it might be made more simple than that.

653. What would you propose?—I think that, having established a central body, I should allow any Native tribe which wanted to deal with their lands to do so, subject to the authority of the central body. If not, you will have every pakeha-Maori opposed to you—and in using that term I cast no reflection, for some of them are very respectable men. I think the power given to the central Board sufficient. I would not scatter these Commissioners throughout the country.

654. Would you propose that there should really be one central body which should have control over the dealings in Native lands?—Yes.

655. And working with the Native Committees?—Do you mean the kind of Committee set up by the statute? I would abolish that altogether. The Natives do not like any interference by the Government with their land.

656. I was thinking rather of the hapus in each tribe. They would want reserves and small works, and each hapu should have power to attend to these things for themselves. Then you propose one central body, appointed by Parliament, which should take the management of Native-land dealings, and give titles for the benefit of the Natives?—When you say "give titles," do you mean by the Native Land Court?

657. No; the work done by the Native Land Court and the Native signatories combined?—

658. This central body would have the power of executing all deeds?—Yes. I think the operation of this central body should commence after the Land Court has issued its title.

659. *Mr. Rees.*] After the title has been ascertained and the boundaries fixed?—Yes; that the conveyance should then issue. If this Commission achieve that they will do a great thing.

Mr. Rees: Well, I think I speak for Mr. Mackay, and I know I do for Mr. Carroll, when I say that we are very much pleased to find that your opinion runs in the same way as our own—that, instead of having all these hundreds of Natives dragged about the country to sign deeds, that the deeds be executed by the persons who carry out the contracts on behalf of the Natives, such persons to be those having the greatest amount of experience and knowledge in Native matters.

Mr. Mackay: We are all in accord as to that.

Witness: I will send you a copy of my Bill.

660. *Mr. Rees.*] Do you consider that, after the title has been ascertained, and the names of the tribes have been enrolled in the Court, they should have power to form Committees amongst themselves for any interior management—as for instance, of these reserves?—I would leave that to the central body. If the Natives ask for a Committee, let them have it by all means.

661. That is, if they desired it?—Yes. I have no doubt that, with good men appointed to the central body, they will act with great discretion, and will assent as a matter of course to anything of that kind. There are men who have an influence amongst the tribes that we cannot understand why they should have that influence—such men as that man now dead, who was the late representative of the Northern Maori District—Hirini Taiwhanga. I have watched his career, and knew his position and ancestors, and, although he certainly had some rank among the Maoris, I never could understand why he had such power over them. But such men do exist. In Taiwhanga's case I repeat I never could understand why he should have the influence that he undoubtedly wielded, except that it may have arisen from the fact that he spoke English. It would not be wise to have a Native Committee where such men existed. You would get nothing but confusion. You must give this Board almost unlimited power. You must not bind the members of it up by long clauses, or fence them in in this or that direction. Every clause defining their duties must end with the proviso, "at the discretion of the Board."

662. Do you think that it would be wise to provide for the Natives picking out of the block all the reserves they themselves would require, but dealing with the remainder of their land under fixed regulations, so as to leave Native contracts to be made? Would you deal with these Native lands as Crown lands are dealt with, or as the land of private persons is dealt with?—I think it would be advisable, considering you have this overruling power, to leave everything as free as possible. To do otherwise would not be satisfactory to the Natives; they like to feel that they have a voice in the matter.

663. *Mr. Mackay.*] Would you not be in favour of making it absolute that the Crown should have the pre-emptive right to deal in Native land with the owners? That is, with reference to this Board?—Through this Board? Not unless you furnish a limit of "time," which to my mind is suggested by the term "pre-emptive." My mind is prejudiced in that direction, for it was my view ever since I was able to form an opinion. As a matter of law—of which, by the way, I speak with deference in the presence of a lawyer like yourself, Mr. Rees—I could not understand—and I have corresponded with persons in England who also could not understand why in the preamble to the

Act of 1862 the Government of New Zealand having once renounced its pre-emptive right over Native lands it could at any subsequent time resume it. Having once renounced that right, it was not within the competency of any authority in New Zealand to resume an abandoned prerogative of the Crown. It came by treaty, rightly or wrongly, judiciously or otherwise, and it was abandoned; and how therefore you can resume it I cannot understand. That is a matter of law apart from the equity or justice of the thing. Apart from bare abstract law, I think it from every aspect inexpedient that the Crown should have any pre-emptive power over the lands of the Maori.

664. Then, would you leave it an open question whether the Natives, after their land had passed through the Court, sold or leased to the Crown or dealt with private individuals?—I should prefer that. You will find that if the Natives were left to deal only with the Crown the Crown would only get the bad lands. The jealousy of the Natives is very great. I got, quite recently, a letter from a tribe about a block of land near Tauranga called Papamoa, asking me to take up their case against the Crown, but I did not think it proper for me to do so. And, mind, it is a losing business. Perhaps you will remember that return which was laid before the House of Representatives by Mr. Bryce, I think it was, when his Government came into office—I mean the Government of which he was a member; I forget who was Premier.

Mr. Mackay: Sir John Hall was Premier.

Witness: Yes, it was Sir John Hall. That return extended over ten years, and it gave the amount expended in the purchase of Native lands, exclusive of the liabilities (which I suppose were as great) and unclaimed money. That amount was two millions odd. You will find the receipts for the same period £658, of which half was paid in the form of scrip. I have a copy of the return. It is very instructive. I assure you, as a man who has been engaged in cultivating land, that I would not have land in places like the Kaingaroa Plains at 1d. an acre, if you consider that the cost of fencing a square mile—640 acres—in accessible country, to which wire for the fencing is easily brought, is at the lowest price about £60—that is, £240 for the 640 acres. Mr. Tetley, I think, put sheep on those plains and never got one of them again. They all disappeared. How, I know not; but they say that there is something poisonous up there to animal life.

665. *Mr. Rees.*] Speaking of fencing in large blocks of land where there are numbers of owners, especially in broken country and poor land, if the land were to be subdivided amongst all the owners, would not the cost of the surveys and the Court-fees swallow up the whole value of the land?—Entirely. I can give you, as an illustration, my own case, because I can speak of that with great confidence. I have been four or five years now in possession of the property to which I have referred, and now my two sons are on it; in fact, it belongs to them now. We worked hard, and before we could make it pay expenses we had to make thirty miles of fencing, including necessary subdivisions; because when you get sheep it is an advantage to keep them moving about, and not to confine them in one paddock. But if they are allowed to run about over the country they harm themselves, and do no good. Fencing under such circumstances is a thing that you must do, and it is impossible for a poor man to pay for it.

666. *Mr. Mackay.*] Would that fencing cost you about 15s. a chain?—About that.

667. *Mr. Rees.*] In all these large blocks owned by large numbers of Natives, carrying out the same idea you have expressed, you say it is advisable they should be dealt with as tribal lands by the consent of the people, and that the titles should be given in some cheap and inexpensive way?—I think so, decidedly. I should allow leases. I may be contrary to the spirit of the age, but, speaking from my own experience, I would say that if you can find a large purchaser who will be likely to fence in the land and spend money in turning it to account, you will get much more money for taxes, and do better for the money, for by getting wool and other articles of export from the land we shall be all the better able to pay the interest of our national debt.

668. *Mr. Mackay.*] Should there not be a condition that the purchaser should utilise the land within, say, a certain time, or the lessee—as the case might be?—I should not like to answer that without consideration. I think the more restrictions and burdens you put on capital the less capital you will have to restrict. The man who has got 10,000 acres of land bought it in order to get something for his money, of course; and a man when he is purchasing an estate takes all these little things into consideration—taxation, cost of fencing, and so on—and if you add to them inconvenient restrictions he declines to have anything to do with it.

669. *Mr. Rees.*] I suppose you can speak of your own knowledge as to large areas of land held by the Natives being suitable for settlement?—Suitable or unsuitable?

670. Well, both?—There are large tracts which are entirely unsuitable, and there is also a lot of good land, but in small quantities, when you get south of Rotorua. From Rotorua to Taupo, as you ride in the coach, it gets worthless, in my opinion.

671. But down towards Kawhia and Taranaki? There is fine land there; and if you want land for the smaller class of settlers that is the place for them. It is broken but fertile, and, being broken, it is not the kind of country adapted for large landowners to run sheep and cattle upon. Even cattle become expensive when there is such difficulty to find them once they get into a forest. But a place like that might do very well for small settlers.

672. It is a good fruit-country, is it not?—Yes: in my time Waihorakeke was a forest of splendid peaches, and it would be a very fine fruit-country.

673. *Mr. Mackay.*] I suppose they have got their enemies here, the blackbird and thrush?—They are awful pests, those birds. I have nearly exterminated the sparrow at my place. As for these caterpillars with which we were threatened after the destruction of the sparrow, they have not appeared at all.

674. Do you think that the Judges who administer these Native-land affairs should have the same status as Judges of the Supreme Court?—I do, strongly. I thought so in 1865; but I could only get the principle applied to the Chief Judge during good behaviour, and even that was afterwards taken away by the Act of 1873. I always thought that the great principle should be that

the Judges of this Native Land Court should be men who had had a legal education. After sitting with another Judge for twelve months they would pick up the Maori education. But in he case of those who had not had a legal training I found that there was a general disregard of the leading ideas in lawyers' minds—that is to say, precedents. I have known cases quoted to some of these Judges showing that a certain decision had been come to upon some particular point, and no notice was taken of it. The result is a great number of conflicting precedents. Laymen do not understand the importance of forming a common law in these matters. I should be very glad myself—to speak strongly; because I am not concerned—in favour of these Judges being appointed to the same status as Supreme Court Judges, and holding office during good behaviour.

675. Do you think this Court might be affiliated to or become a branch of the Supreme Court? —It is a subject I have not thought much about, and I would rather decline to answer that question if you will allow me.

676. Do you consider that the present system which obtains in the practice of the Native Land Court of the Judges running to and fro all over the country is advisable, or would you suggest their being fixed for certain districts?—I think it is better they should be strangers, and know nobody, as it were, in the places where they are called upon to adjudicate. I tried the other system, of locating one Judge at Wellington and another at Hawke's Bay; but it was not satisfactory, and during all my time I followed the system of sending strangers as much as possible. I found, myself, that in practice the less you knew about what was coming before you the better it was, not only in the Native Land Court, but in other Courts as well.

677. It preserves you from bias?—Yes.

678. *Mr. Rees.*] Do you think that the Native Committees or the Natives themselves in their meetings could facilitate the probable findings in the fixing of the tribal and hapu boundaries?—Do you mean that statutory Committee?

679. No; Committees appointed by the Natives amongst themselves. I mean the natural heads of the hapus and tribes?—Oh, yes! quite so. Having settled the matter amongst themselves, they could take the surveyors with them, show them the boundaries, and that would be the end of it.

680. And the working of the Court could be simplified by their practically fixing their own boundaries?—Practically it is so now. They produce their plan, and, as far as they are concerned, it is never objected to. Outsiders may object. It is a very singular thing, when you have a map showing the lands in question, and place it on the table, it seems to be accepted by everybody. It is not a question of boundaries with them; it is a question of title. They will take the plan as that of the block, and fight their case upon it, not even troubling about the boundary.

681. *Mr. Mackay.*] They would fight the question of ownership?—Yes.

682. The Court would then have to decide who were the proper owners?—Yes. I have seen in some cases a man who had not put in a claim, say, pointing to the block shown on the plan, "I am interested here;" and, the other side having said, "Yes, that is true," the man would have his name put in the title, and the plan would remain.

683. Would not a system of official agents tend to greater economy in the dealings between Natives and Europeans?—Oh! dear, yes, it would save a heap of money, and would secure them altogether from unjust dealings.

684. It would put a stop absolutely to unfair dealings, because the transaction would be carried on publicly, and by organized bodies?—Yes. I think we should get that system established, and it would tend to counteract the opinion formed in the other colonies of the character of our Crown grants, whose value has been greatly injured. By adopting such a system we should induce a greater number of purchasers to come and settle in the country. It is a serious thing to have the Crown titles of the colony falling in esteem amongst its neighbours. There are two blocks of land, called Pokohu and Matahina, in the Bay of Plenty district, near the sea. The title passed by purchase. Of course I did not know of this at the time, but learnt some parts of it subsequently; I was only concerned with the effects of what was done. The title passed by Native-land purchase to three gentlemen in Sydney, of whom Sir John Allen, a man of position and of wealth, was the principal one. I was afterwards down in that part of the country myself—that is to say, shortly after the Court had sat—and I was told that the question of ownership was decided to a large extent on one point. One party of claimants said that their houses were on a certain place, their cultivations were on another, and that the chips of a canoe which had been constructed by this party were to be found on another, and so on. The other party said that there was no such thing; that they did not exist; that the houses and everything else were a pure invention. The presiding Judge said, "Oh! here is a clear question of fact, and I will send the Assessor to see for himself." Both parties swore with the greatest confidence. They accordingly sent the Assessor, and he came back after three days and reported that there was nothing to be seen, and the judgment was greatly decided by that report. When I was there I found that this party had got hold of the Assessor and made an appointment with him. They took him away with them and made him comfortable in the way the Natives used to do, and in the morning they took him twenty miles off from the place that was to be examined and pointed out to him places where the houses, cultivations, and canoe-chips, according to their account, were said by the other party to be. Of course, they were quite remote from the places that had really been indicated. I inquired into it, and I found that it was as alleged. I thought it my duty to report to the Government, and I did so, asking them in the first place to dismiss the Assessor. The result was that the Government put a clause in that Act which Parliament used to pass every session, called "The Special Powers and Contracts Act," directing the cause to be reheard *de novo*, and destroying the old grant. Somebody in the House got up and said, "You ought to provide that in case any of the old owners who joined in the sale prove to be owners in the rehearing they should have no new claims; because it is true that they sold, and, as the £5,000 has been paid, it is only fair that their share should go to the European purchaser." That was fair; but the Government would not have it, and the clause passed, and half of the estate went to the old

sellers, who got new titles and the money too. Of course the Sydney purchase was gone, and Sir John Allen and the other two gentlemen lost their money; and, of course, all respect for New Zealand titles was gone too. I was not present during the discussion in the House of Representatives; I state simply what I was told. Then there was that case of which we have all heard—that of Grice and Benn, for whom Mr. Walker was agent.

685. The Pukekura case, Grice and Benn against Ani Waata?—Yes.

686. Such things as that, if the dealings were carried on by the Board, would be impossible, because the Board would ascertain to whom the land belonged, give a title to the land, and receive the money for those who were rightly entitled to it?—I think so.

687. And the trustees would have to fight any question of title?—Yes. A knowledge of these cases of all descriptions that come to my mind during a long career as Judge of that Court has settled my mind absolutely in the direction you have mentioned—that the true system is a system of agency. Of course I take for granted that the Government would put good men on this Board, and that the Act would preclude Government interference in any form whatever.

688. And provide for necessary precautions?—Yes.

689. But would you not say that the titles given should be absolute?—Yes.

690. And that the only question of quarrel, if quarrel there should be, would be as to the Natives entitled to the proceeds?—Yes. If any loss happens to anybody from the operation of the Court, I look upon it as the business of the Government to compensate the honest sufferer. I do not think he ought to suffer just because some Government officers had made a mistake, and when the man proved that he had done nothing wrong. Then, if you do what I have indicated, you will make New Zealand to have a much happier appearance. I think so, at any rate. I observe—I do not know if it was intentional on your part—that in most of your questions—in fact, all through them—you speak of Parliament doing this or that, not the Government. I suppose that was done by intention. I entirely approve of that. If you can make these things permanent it will be a triumph. The less the Government have to interfere the better.

691. *Mr. Rees:* Of course, my idea personally in framing these questions, and I believe that of the other Commissioners also, is to remove the matter as far as possible from the sphere of party politics. We are quite agreed as to that, if it can be achieved. That would be a grand thing.

Mr. Mackay: The object is, in fact, to have automatic machinery, as near as possible, to do the work.

692. *Witness:* Absolutely excluding the Government. I wanted to take this opportunity, having present a member of the House who has had a legal education, to remark how objectionable it is to see in so many Acts the formula, "It shall be lawful for the Governor in Council" to do such-and-such things. I always strove to get these things eliminated when I was in the Legislative Council. Take the case of the Sheep Act, a most important statute, which is read by all interested in farming pursuits, whether they are educated or uneducated. You have clauses there dealing with ear-branding and important things of that kind, and then you read, "Provided always that these clauses shall only come into operation upon Proclamation to be made by the Governor in Council." How is a settler living perhaps remote from the centres of settlement to get to know whether the Governor in Council gives his authority for any of these provisions to come into effect? You do not find it in the English Acts.

Mr. Rees: There it is only found in relation to subsidiary and minor things—things of a very minute nature. It is a great mistake to devolve powers of legislation to the Governor in Council.

Witness: Yes; it is a great temptation to the draughtsman who gets weary of his work to get rid of difficulties in that way.

Mr. Rees: It is also a great temptation for Committees of the House to get rid of difficult questions.

693. *Mr. Mackay.*] Have you thought of the question of the Public Trustee being trustee for all Native reserves?—Is that the law now?

694. Yes, for the Native reserves that have been made in the South Island—at Greymouth, Hokitika, and Westport?—It was not so in the old days.

695. *Mr. Rees.*] The office has grown up within the last eight or ten years, throwing these things into the hands of public servants who are almost irresponsible?—I object to anything of that sort very strongly.

696. *Mr. Mackay.*] Would you be in favour of all Native reserves at present under the control of the Public Trustee being transferred from him to a Native Land Trustee, who would be more in touch with the Natives?—Would you not give the authority to this Board—the central Board which I have spoken of? I strongly advocate that. I would put in its hands the administration of all Native lands, with power to appoint its own officers. I would not have independent officers as you suggested, Mr. Rees. Let the Board have its own people and deal with them.

697. Who should be under the control of the Board in the same way as the railway staff is now under the control of the Railway Commissioners?—Yes. It does one good to hear there is a chance of some such thing.

HONE PEETI sworn and examined.

698. *Mr. Rees.*] You are an Assessor of the Native Land Court?—Yes.

699. How long have you been an Assessor?—I was first appointed in January, 1875.

700. Before that time had you had experience in the working of the Native Land Court?—I was not thoroughly conversant with the working of the Native Land Court prior to that date.

701. Had you means of knowledge of the way in which contracts were made between Europeans and the Natives regarding land before any Native Land Court existed?—What I am acquainted with is the purchases made by the Government before the time of the Native Land Court.

702. How were these purchases conducted? What was the method?—The Native Land Court was not in existence at that time. The officer of the Government who was purchasing the land would go upon it along with the Natives, and view the boundaries. I am speaking of the lands that were dealt with by my hapus. In many instances no surveys would be made. Then, sometimes, if a survey would be made a purchaser would go upon the land and see the boundaries.

703. What then?—Then the pyament would be made. But are you inquiring as to what there was paid for the land.

704. No. What I want to know is the mode of dealing between the Europeans and the Natives who conducted the negotiations—whether it was public or private—talked over with the people or not?—The whole matter would be first discussed in public before the people, and then there would be no trouble from that day till this over this purchase. The terms would be discussed, the price arranged, the payment made, and the document would be signed.

705. Now, when payment was made, was the payment portioned out by the Government officer, so many pounds and shillings being handed to each person, or was the money left to the chiefs and the representative people to distribute?—The money would be laid down in a lump in the presence of all the people, and subsequently it would be disbursed amongst them. The Government purchaser in those times was Henry Kemp.

706. Was it according to Native custom that each individual claimed a distinct portion of the land, such as now obtains on the subdivision of the land amongst the individuals of the hapu—the men, women, and children?—The land belonged to the whole of the hapu, the descendants of the ancestor. The land would belong to the hapu who were in possession of the soil; but these people when they got the money might give some of it to some remote connections that had branched off some three or four generations previously, and to people who were living in different places. There are cases in which the money would be given in that way to people who were of importance through their descent in other hapus, or, being big people and connected with the sellers of the land, they would get some of the consideration. But people distantly connected and of an inferior position would not be regarded. In the case of a person who was two or three generations removed in relationship and who lived at a distance, he, having maintained the cheftainship of the hapu, would be right in coming to these people and saying, "Give me a portion of the money." He would have that right on account of his position as chief, but, if he were a man of no importance and who had attained no important position, he would not have the right or courage to go and ask for anything.

707. Now, since 1875 have you been continuously an Assessor?—Yes.

708. Does the Native Land Court work as swiftly and as surely now as it did in 1875, when you joined it, or is it slower in its operation now?—When I first became an Assessor of the Native Land Court the work was done much more easily and much more expeditiously than it is at present. Then, numbers of blocks could be put through the Court in two or three weeks, whereas now it takes two or three months to put one block through; and if it is a question of title to be investigated the work is at the present time very bad, because many grounds are hunted up and sought after so that the Natives themselves may exclude their own relations from the ownership of the land. And it is the increased knowledge of the Natives that causes this. They know more, and they make and get reasons for prolonging the case. That particular species of knowledge they have acquired from the Europeans. That is my idea. In former times there would not be these great delays. Spokesmen would be chosen, they would say what they had to say, and the case would be determined.

709. Do the Natives suffer now from being brought to the Courts from distant places—to attend sittings of the Court far away from their homes and cultivations?—This is a very grievous cause of hardship and inconvenience to the Natives. I think it would be better, if the Commissioners intend to go to the Bay of Islands, that I should reserve what further I may have to say until they get there.

710. I dare say you would like to speak in the presence of the people?—What I would like to ask in the first instance is, will the Commissioners go to the Bay of Islands or not?

711. Yes, we propose to go there?—Then I would prefer to say what I have to say before the Commission there. I would like that word should be sent to the principal people up there who would attend the Commission and give evidence, so that they might have time to prepare, and not be taken by surprise.

712. *Mr. Mackay.*] What are their names?—Wiremu Katene, who lives at Te Ahuahu, Waimate; Hete te Haara, Ohaeawai; Honi Mohi Tawhai, Waima, Hokianga; Hoterene Maihi Kawiti, Waiomio, Kawakawa; Te Maanga, Papakia, Hokianga; and Eparaima te Mutu, M.H.R. Wi Katene and Heta could best fix the place of meeting. There are many important matters that I and my hapu are interested in and which we wish to speak about. The general bearing of our disputes is between us and the Government. There is also a large number of complaints that the people have to make with regard to the Native Land Court generally; but perhaps I had better reserve that until the Commissioners reach the Bay of Islands. I am going there myself.

AUCKLAND, 19TH MARCH, 1891.

FRANCIS DART FENTON (examination continued).

713. *Witness:* You asked me about the Heretaunga Block. Some years ago Mr. Rogan was stationed at Gisborne by Sir Donald McLean, and I received instructions merely to do such formal acts as the statute required. Mr. Rogan and Sir Donald McLean would take and manage that district. I had very little to do with the East Coast. Mr. Rogan used to send me up cases to be published, and formal papers for me to give effect to. I used to do simply the formal things which the law required from the Chief Judge as administrator. That is pretty nearly all I know. I

informed the Commissioners that I made an attempt, after I found that the men who acted as Judges disregarded precedents, to have men appointed who had had a legal education, and who therefore, of course, would have a religious regard for precedent. I observed that under the present system a rule of that sort was entirely disregarded through the men who are appointed having for the most part had no legal training.

714. *Mr. Rees.*] And who know nothing of the Maori language or the habits and customs of the Maoris?—Exactly so. As a rule, if you appoint men with long experience, such as you may find among the Registrars of our Courts, the appointment would be to the public advantage. You may think that impertinent.

715. *Mr. Rees.*] Any suggestion of the sort, so far from being impertinent, is very pertinent indeed to the subject in hand?—I remember perfectly well the remark of Mr. Richmond, now Justice Richmond, long before he was called to the Bench. It was in Colonel Browne's time, and the remark carried great weight and authority. He said, "The Maori difficulty is a great difficulty, but one that can be dealt with easily if I can only find the men." That was very true indeed. Another point I have to speak upon was a question as to whether I desired an appeal to the Supreme Court, and I think I said I would defer giving an answer to the question. I have been thinking it over, and my idea is that the less you have to do with the Supreme Court the better. All the principles which guide the one tribunal, and which are founded on the original principles of equity, are entirely absent from the Supreme Court. The Supreme Court has the advantage of being guided by a long series of decisions from the learned men who have gone before us; and I say with all respect, men whose minds have been trained in that direction are almost incapable, at first at any rate, of beginning at the beginning and asking themselves, "How did this principle arise?" They find it, and apply it; but when they are forced into the position they make one for themselves, and go to first principles. I think that that is about as unfit a tribunal as can be to deal with Native matters.

716. *Mr. Rees.*] You consider that in dealing with these Native lands, and attempting to apply our system of administration to Native customs, we must resort to first principles?—Yes, until you have established a common law. The Native Land Court must respect its own precedents, or you will never build up a system of common law. I will, if you please, send you a dictum, of which I have a copy.

717. Thank you; it may be of use as illustrating the difficulties connected with this matter?—You also asked me, with reference to the Heretaunga case, about the Equitable Native Land Act.

718. We did not ask you about the Act, but about principles?—I think it an absolutely just principle, which you cannot abandon. Of that Heretaunga case I know nothing. But I do know of cases in which titles to ancestral land have been given to one individual (one or more) by the consent of the people who owned the land; and the individual said, "Yes, the grant shall be in my name, and I will hold it till it is divided amongst the true owners." He subsequently makes leases and sees that it is done to his own advantage. Then, when advised that as grantee he should make a will, he does so, setting up his own devisees. There is also a purchasing-clause in the lease in favour of the relations of the grantee, the real owners standing aside altogether. Therefore we must have some safeguard of the sort I have indicated. The Equitable Claims Act of 1886 suffices, I think. I was going to say, with reference to these wills, which seem to create some confusion, that I am strongly inclined to think there ought to be some authority to control, or restrain, or guide Natives in the making of wills. I think that Native wills containing the statutory attestation-form should be regarded with grave suspicion. Another thing I would suggest: The Act guards the interests of people by providing that Native interpreters must be uninterested in respect of anything they have to do with in respect of land, such as the interpreting of a deed. I think this rule should be extended to solicitors. If a solicitor is employed he should not be allowed directly or indirectly to acquire any rights in the land. I do not know that human nature is different in solicitors from what it is in interpreters.

JOHN ROGAN sworn and examined.

749. *Mr. Rees.*] How long have you been connected with Native transactions in any way whatever—with the Natives or with Native transactions?—For about forty years.

750. That is, since 1850?—Since 1850; yes.

751. I believe you were one of the first three Judges of the Native Land Court?—Yes, I was the first judge appointed.

752. These three were yourself, Mr. Fenton, and Mr. James Mackay?—Yes.

753. I suppose that was under the Act of 1865?—Yes.

754. Prior to that you had been conversant with Native matters for about fifteen years?—Yes.

755. Were you aware of the manner in which these transactions between Natives and Europeans—whether those Europeans were private Europeans or Government agents—were conducted?—Yes.

756. Would you be good enough just to describe the steps through which any transactions passed as a general rule?—With regard to private transactions at that period (1850) I knew little or nothing, but in Taranaki somewhere about 1848—a little beyond the period to which I just now limited my knowledge of the Natives—I was witness to public transactions connected with the purchase of Native land in the vicinity of New Plymouth.

757. For the Government?—Yes, for the Government. I was not absolutely employed by Sir Donald McLean at that time, but I was attending the Court because I was an officer in the New Zealand Company's service. I was requested by Mr. William Halse, the resident agent, to attend the meetings. Therefore I gained an intimate knowledge of all their transactions, and the way in which they were conducted.

758. Will you be good enough to describe how the transactions were conducted?—It is not necessary for me to give an account of the state of Taranaki at that time?

759. No.—Mr. McLean was the Land Purchase Commissioner appointed by the Government at that time, and the European settlers had been driven up by the Natives into the township. Meetings of the Native owners of the land were repeatedly called and speeches were made, and at last, after a good deal of trouble, the boundaries of the land were fixed. A time was then appointed to pay down certain instalments of the purchase-money.

760. Was the price agreed upon?—Of course, after a considerable time and after a great many meetings the price was agreed upon.

761. In public, I suppose?—Yes, in public. It was perfectly well known. There was nothing done in private. The Natives were paid in the Resident Magistrate's Court. Any one who thought proper to do so could have gone in. That was the first time I got an inkling of the manner in which Native purchases were made. The Natives were divided into hapus or families, and there was an arrangement by which each family got, perhaps, £5 or £6. The money was put into pieces of paper, and the heads of these families were called in—not the whole of them—and the money was given to them, and after signing the deeds they went outside. Nearly the whole of the land in New Plymouth was acquired under that principle.

762. That amounted, then, to a public dealing with all the people, carried into effect when the land to be conveyed and the price to be paid had been agreed to by all the people through the heads of their hapus or families?—Yes.

763. As representing their respective hapus?—Yes. The heads of the people took the money away outside and divided it amongst themselves.

764. That was their look-out?—Yes.

765. Was that the Native manner or custom of dealing in relation to their lands?—Yes. I say so because I remember asking a chief at the time if that was according to their custom.

766. To your knowledge, when all matters were publicly conducted in that way, and a public understanding arrived at—when the deeds were signed by the heads of the families, and when they were paid in that manner—was there anything in the sense of repudiation by the Natives of their contracts?—No. Although in Taranaki the Native question was perhaps the most difficult one in the whole Island, yet, when these transactions were conducted in public, and the moneys were paid, there were never any disputes.

767. *Mr. Mackay.*] In what particular part of New Plymouth was this land?—One block of land was called the Fitzroy Block, another was called the Grey Block, and the third was called the Tataraimaka Block.

768. The Fitzroy and the Grey Blocks are on the north side of New Plymouth?—Partly on the north and partly on the south. With respect to my former answer *re* disputes, it has just occurred to me that there was one dispute, and that was in reference to the Waiwakaiho Block.

769. Am I safe in presuming that the only cause of dispute was after the purchase had been made, when the Natives said that the wrong Natives had sold?—Yes.

770. *Mr. Rees.*] But the Natives who made the contract never repudiated or went back on it?—No.

771. Do you recollect the prices paid for such land at that time?—The price, I think, was about 2s. 6d. an acre, but I am not certain. I have the figures at home. It might be 1s. 6d. or 2s. 6d. an acre. It was a very low price. It could be easily ascertained, for it is on record.

772. In the early days of the Native Land Court, were the Judges in the habit, when the Natives were disputing a case of boundaries, of themselves going on the land?—Oh, yes! I may say that that was one of my duties as a Judge of the Native Land Court, and, if I may be allowed, I will give you a short account of my own practice: I had been a very successful Land Purchase Commissioner long before going into the Native Land Court. Shortly after this period of which I have spoken to you, Mr. McLean was aware that I had a tolerable knowledge of the Native language by attending these meetings and through correcting some of the things taking place there. He was in a difficulty to get a surveyor. I am a surveyor by profession. A person having a knowledge of the Native language was needed at a place called Mokau, on the west coast of this Island. I went there to call public meetings of the Natives, in order to ascertain whether they were willing to dispose of any land in that part of the country. I met the Natives in different parts of the country. Some of them opposed any sale being made. But one chief in particular, named Takerei (father of the celebrated chief Wetere te Rerenga, who lived up there till lately), was very favourable to the sale. I was successful in getting the Natives to agree to the sale of a block of land and in putting everything in train. Afterwards Mr. McLean returned with me, taking with him the necessary money, and he purchased the first block of land at Mokau, from Takerei. I travelled with him for some time, and his practice was that which I attempted to describe just now, of the division of the money amongst the heads of the hapus or families. He carried the money there, and the whole of the Natives there agreed to Mr. McLean handing over this £500—which was the price agreed upon—to Takerei for that chief to divide, as he was a man of great consequence amongst them. He succeeded in getting their signatures to the deed, and the money was handed over in public, in presence of their own missionary and all the neighbouring chiefs, at the mission-station. After a time this chief (Takerei) came forward and divided the money, and there was such a scene on that occasion that I shall not forget to the latest day I live. The Maoris were there in their true savage character—they were very wild. After their dance was over the money was divided amongst them, and there never has been a dispute over the transaction from that day to this.

773. Takerei divided the money?—Yes.

774. Did he reserve very much for himself?—Very little. The only thing he asked for was two sections of 50 acres each for his two boys. Afterwards I made a survey of two other blocks of

land there. I divided the money myself. I took a great deal of trouble getting the names of the Natives from the chiefs and in writing them down. They never disputed the boundary.

775. In those days you did not have that trouble in getting the title to land there is now?—No. Money was very scarce in those days, and the sale of a block of land was a matter of great importance. The Natives were collected together for a month or six weeks before you arrived to carry out the transaction with them.

776. There was no private dealing with the Natives; it was all public dealing?—It was all public dealing. I did have one difficulty in respect of a small block of land. That was a disputed block. Takerei, this chief whom I mentioned before, found ten or fifteen young men to survey this block, which was called the Mokau Block, and the Mokau Natives who were non-land-sellers sent messages to these people who were surveying, telling them to desist. Finally a party of them, all armed with spears, came on the ground. I had commenced the survey, my party being with me, and the opposite party came along as we were proceeding along the land to mark off the boundary between this block and a portion of the land belonging to a party of the Mokau people. There was a great number of reserves in this block that my Natives admitted to belong to the opposing party. I was careful in a rough survey to distinctly mark off all these reserves, and to cut them out. When I got a certain distance the two parties closed together, Te Waru, the head chief of the objecting Natives, being a well-known fighting-man. He was dressed in a light costume, and had a spear in his hand. I said to him, "Is this land yours?" He said, "No," and, putting his spear into the soil, added, "This land is yours;" and then, moving the spear about half an inch, "but this is mine. I am going to die here, and these people are prepared to do exactly as I tell them." I saw at once that it was a very serious matter. I said, "Now, you have come here at my request. The land is very valuable, but it is not nearly so valuable as the men who are upon it. You are going to be very disagreeable over this matter. Now stand on one side." And I then told the other chief to stand on the other side. I said, "We want the direction of that line. I have come here now to mark off the boundaries." The direction of the boundary was then marked on the ground. I then said, "I may return in a week or a fortnight. I will give you fair notice when I am coming. The survey will remain." They then went in to the missionary, and Te Waru said, "Rogan is a wiser man than we thought. Write to McLean that that man has saved all our lives. I would be dead but for him. I had made up my mind to fight if the other party went an inch further." In what I did I was justified to a certain extent, for £100 of Government money had been paid on the land. The Natives honourably acknowledged that the money was paid, and up to the present day that block remains very much in the same position as it did then.

777. Then, in truth and reality, in the old public dealings with the Natives there was a great deal of honour and extreme fairness exhibited?—Yes, to a great extent.

778. There were not the same accusations of fraud, perjury, forgery, and cheating which have grown up since?—No. It was that circumstance to which I have referred that caused me to be appointed a Land Purchase Commissioner. I was only temporarily employed at that time. I was removed from there to other parts of the country, chiefly the Kaipara. I had the whole of that country placed at my disposal. I had surveyors appointed to do what I directed them; and I may say I purchased nearly the whole Kaipara district, some of the land being purchased at 8d. an acre, some at 1s., and some at 2s. 6d. This was in 1858.

779. When you were appointed Judge of the Native Land Court you say that the custom of the Judges was to avail themselves of the man's knowledge of the boundaries, and so on?—I do not know what the practice of the other Judges was, but my own was not to take a large party and go on the ground if they could settle the boundary satisfactorily in Court. But where there was anything in the shape of a disputed survey I found it necessary for me, or some officer belonging to the Court, to go on the ground and investigate the matter, in order to save time. I never had any difficulty at all with such matters. I think I may decidedly say that I never had a dispute before me which was not satisfactorily settled by going on the ground in that way.

780. I think you always attempted, did you not, to get fair and equitable arrangements amongst the Natives themselves, and even between Natives and Europeans?—Yes.

781. Of course I am alluding now to the case of the Makauri Block, in Poverty Bay?—Yes.

782. I think the upsetting of your arrangements in respect of that block has absorbed about £15,000 in costs and delays?—Indeed! I took a great deal of trouble in connection with the Makauri matter. I went on to the ground in the first instance, after having some little trouble about it previously. I had a survey of the boundary, and also a subdivisional survey, which satisfied me as to the only fair subdivision of the estate that could be made amongst the Natives. It was a mere matter of arithmetical calculation as to what quantity of land each party should have. It gave me a great deal of trouble, and I endeavoured, with all the power and strength of mind I possessed to settle that Makauri affair satisfactorily; but I am afraid it was a signal failure.

783. Your work was not a failure, for we have carried out the arrangement based upon it, but only after litigation in all the Courts of the colony, and in the Privy Council as well. After litigation costing £15,000, and twelve years of delay, your suggestions have been adopted?—I am glad to hear that they have been carried out. I do not know of any other principle upon which a settlement could be made.

784. In relation to Native-land laws, can you state how it was that legislation ran in the direction of forcing individualism on the Natives, instead of allowing them to deal in the old style, collectively, and through the heads of the hapus and families? These laws ended by making them a mere collection of men, women, and children?—The impression made on my mind is that the first Act which went in this direction was the Act of 1865, in which ten Natives formed the limit for carrying out a transaction.

785. You will remember that a tribe could take a title under that Act by name, but if individuals were put in the deed the number was limited to ten?—Yes, and the effect of its operation was

seen in connection with the Heretaunga Block. It was a very valuable block, and, of course, every ten people whose names were included for one or other of its subdivisions had absolute power to dispose of the same. The principle, of the ten persons considering themselves absolute owners, spread throughout the country. It was this that gave so much offence to the Natives in Hawke's Bay, for in many cases the ten chiefs whose names were registered for a block of land got the whole of the money, and did not share it with the other Natives; and yet perhaps a hundred others, who might be equally entitled as the chiefs who received the proceeds, would derive no benefit whatever from the transaction. A great many accusations of fraud were made, and dissatisfaction was rife among the Natives. At that time the first object with the Europeans of the colony was the extinguishment of the Native title to land; and the next idea was, that the country would never be prosperous until the title of every Native in the whole country had been ascertained. I am speaking of the general opinion of the time.

786. And it was embodied in the legislation?—Yes. At the present time we hear nothing about the extinguishment of the Native title, and we hear nothing about the individualisation of the Native title, because it has become a practical impossibility. Therefore I believe the subsequent Act of 1873 was made for the purpose of rectifying these errors.

787. The Acts of 1867 and 1873?—Yes.

788. *Mr. Mackay.*] Did not the Act of 1873 also enlarge the scope of these difficulties, and thus increase them, by that clause in it setting aside 50 acres of land for each man, woman, and child in the hapu?—I am not aware that that increased the difficulties, because I do not know that that particular part of the Act was ever carried out.

Mr. Rees: I do not think it was; because recently the Native Department ordered the Trust Commissioners not to certify to deeds unless it is carried out.

790. *Mr. Mackay.*] Did not the Natives know there was such a clause, and did they not put forward more names to be inserted in the orders of the Court, the certificate of title, or Crown grant, in consequence of that clause, than were entitled to be put in?—I am not aware that they did.

791. *Mr. Rees.*] The individual dealing with the land, of course, rendered the Trust Commissioner's Court necessary?—Yes.

792. It rendered necessary all the restrictions and safeguards which the Act raised up?—Yes.

793. And did it not, in your opinion as an expert—as a Native Land Purchase Commissioner and as a Judge of the Native Land Court—open the way for fraud and deceit in many cases?—I believe it did.

794. And thence, of course, litigation arose?—Yes, litigation arose.

795. Now, if the old public dealings had been maintained—dealings tribally, and by hapus, and in public—would there have been any necessity for the Trust Commissioner's Court?—I do not think there would have been the slightest.

796. There would have been no necessity for deeds to be signed in some cases by hundreds of people living in different parts of the country?—No.

797. The expenses of those old transactions were much less than are the expenses now of making deeds?—Oh! very much. There is no comparison. In my transactions I extinguished the Native title to the whole of the Kaipara district, and to many other parts of the country, and yet would have only one Native Assessor with me. I did it all myself, calling in respectable people as witnesses. I have had as much as £2,000 to pay to a number of Natives who had been collected at a particular place for a week or two, and in those days it was a matter of some consequence to get £2,000 in cash to a place like the Kaipara. Of course, I had a policeman with me, and I would arrange with two or three settlers to be there on the appointed day in order to witness the signatures, and that was done at no expense to the country. I got the signatures of these Natives, and then paid over the money.

798. It is very different now?—Yes.

799. And in purchases conducted tribally—not by individuals—I suppose you could arrange with the tribes about the reserves to be made for them?—Yes. In my case I was particular with their reserves, and had them surveyed beforehand, except in one or two cases.

800. Because that was the matter of primary importance?—Yes, for the future.

801. Now, with your knowledge of the state of affairs, do you believe that under the present system of Native-land laws the settlement of Native land can go on profitably to the Natives or to Europeans?—No; and I have watched it. Of course, I have been out of the world, as it were, for the last ten years; yet Natives come to me very often over these matters. Possibly it may be that a Native chief will come to me, and, being generally complimentary, will say, "Your way of dealing with these matters was very much better than it is now." The Natives, after assembling at a particular place for a month, and after having spent their time and money for months, together have come to me and said that when they thought the matter in hand was settled some one has proved to be dissatisfied, and has applied for a rehearing, with the result that the whole thing, as it were, is passed over, and another hearing is granted. There was a case of that kind before the Court recently. There were several men in the grant, and they were about to sell the land, when, fortunately for those who were intending to purchase, they were advised not to do so—in fact, I spoke about it myself to them, and suggested that they should be very careful of their money until the whole thing was completed. They are very thankful now that I gave them that advice. They have their money, and there may be several hundreds of Natives interested in the land in question, instead of merely the few who were selling.

802. Do you think it will be necessary to revert to the old public tribal dealings in some fashion or form before any real settlement can be come to, or to some method of dealing in that way—tribally, and by hapus and families?—In order to do anything with Native land it will be necessary to come to some different arrangement from that now existing. My own idea is, that

something very much based upon the system that was adopted by the old Land Purchase Commissioners will have to be adopted—that is to say, that those who are intrusted with the negotiations should go out into the country and call meetings of the Natives—of course, after the title has been ascertained, and by some responsible persons. It is a most important question, and there is a very great responsibility attached to any one who is sent into the country to hold meetings with the Natives for these purposes, whether it be for a private individual or whether it be for the Government. He has to be trusted by the Government, and must therefore be a man of great integrity, and possessed of a great knowledge of the country and of the Natives themselves, if he is to carry out with any degree of success the business placed in his hands. Of course he ought to be a Government officer.

803. Do you consider it would be possible, when the Native owners are ascertained in a block, for them to appoint a Committee which would choose their reserves for them, and then for the remainder of the land to be leased on their behalf by the Committee and a Government officer?—I should think so. I do not see any difficulty in that at all.

804. That would simplify the matter?—That would simplify the matter. You would have to associate some of the Native chiefs with it. If you have a block of 8,000 or 10,000 acres to deal with, you should get ten or fifteen chiefs to act, and the officer who is selected for the work must be one who understands the business he is about. In such a case he will very soon find out those of the people who have power amongst the Natives, and if he selects these people to assist him his task will be greatly facilitated, for it is the chiefs who have the real power with the ordinary Natives, and they will take much greater interest in the transaction if the chiefs conduct their business for them.

805. *Mr. Mackay.*] Should not the people, however, express their opinion, and be represented upon all these Committees?—I should say it would be most advisable to have a discussion amongst the people. They would settle that themselves outside the Court. My view when a difficulty like that arose was, as is well known, merely to say, "It does not appear to me that I can settle this matter. I will therefore adjourn the Court for a short time, and if you will discuss the matter outside you will do much better." In nine cases out of ten they would discuss the matter outside; and, having come to an agreement, I would accept the agreement as the basis of settlement. Other Judges disapproved of that practice of mine.

806. Because they seemed to think they could do everything themselves?—I may say that I was the only Judge who did that; and very few of the Judges ever went out on the ground. They perhaps settled a case more scientifically than I did, but I settled it practically and satisfactorily. Up to the present day there has not been an acre of land in the Kaipara disputed.

807. Do you think it advisable, supposing the Legislature saw fit to do it, to establish a Native Land Board, consisting of certain members appointed by Parliament and certain members appointed by the Maoris, which Board should give titles, like the Land Board gives, when the Native owners of the blocks have chosen their reserves and said what should be done with the rest of the land, such Board to be responsible for the proper distribution of moneys derived from the leases or sales of these blocks? Do you think that would be likely to work?—I think it would. There would be great power with the Board to see that everything was carried on in a business-like fashion. Of course I have no practical experience of the manner in which Native purchases are conducted at present, when a person goes all over the country taking the signatures of persons interested in the block under negotiation. I suppose it is the only system they can adopt under the present laws. In my manner of treating with the Natives for the purchase of land I never did that; it was always public.

808. So far as you are aware, the present system leads to absolute confusion and litigation?—Yes. I think I may say that I know of such cases arising in consequence. You are aware I have not had much practical experience lately.

809. Judging from what you have heard, do you think things are getting better or worse?—They are getting worse. Of course, in that respect you will recollect that, as I said before, I am not concerned in these Native-land transactions. I have not been brought into contact with dealings lately. I have not been purchasing land from the Natives. But gentlemen from Australia—men of capital—have come and asked me what they should do, as they were wanting 30,000 or 40,000 acres of land, and perhaps did not want to do much with it for the next twenty or thirty years—men who merely wished to put their sons on the land, and who wanted some secure title—some security for putting their money down for these lands. I may have said on such occasions that I did not think it safe to do so, on account of the nature of the titles and the state of the Native-land law.

810. *Mr. Rees.*] In one case there were three titles to the one piece of land?—That is a very unsatisfactory state of things.

811. Do you think it would be possible in cases of large areas of land, where there are hundreds of owners, and where we leave the land to the process of going through the Native Land Court, that, after subdividing this land amongst the Natives, and when the surveys have been accomplished and paid for, there could be anything left of the money-value given for the land?—I do not think in many cases that the worth of an acre would be left. It would cost the country really a great deal more than the land was worth to award each individual portion to each owner.

812. Whereas if that land—say, a block of 100,000 acres—were cut up for the purposes of settlement, and not for the purpose of subdivision amongst the Natives, and the usual title were given, there would be some practical and beneficial result?—The land would be occupied, instead of lying waste.

813. *Mr. Mackay.*] What is your idea of the policy of the Crown resuming the pre-emptive right of purchasing or leasing Native lands?—The Government had that right of purchase under the Treaty of Waitangi, and they waived their pre-emptive rights twenty years ago.

814. *Mr. Rees.*] More than that; it was in 1862?—Yes; twenty-nine years ago. I was a Land Purchase Commissioner at the time, and I was told by the then Native Minister that the

Government had not a shilling with which to buy land, and they were going to waive their pre-emptive rights. The only difference I had with the Natives about this part of the country was that the Government would not allow them at that time to sell to private individuals, who would pay them a very much higher price for their land than the Government were willing to give. They complained that I was only paying them 6d. an acre. I purchased one block at that price. They said to me, "Why don't you tell the Government to pay a higher price?" I replied, "I am only acting for the Government, and have simply to carry out my instructions. But you should recollect that I, on the part of the Government, buy from you all land, the good as well as the bad, and that this 6d. an acre is paid for those sandhills which are being blown away, as well as for the good land. The private purchasers would not do that. Where we extinguish the Native title we buy the good land as well as the bad." They replied, "We will keep the sandhills if you will allow us to sell to any man we like." The Natives throughout the country at the present time will be very discontented if the Government resume the pre-emptive right, and thus shut out all competition.

815. *Mr. Mackay.*] Would it cause them to be very disinclined to part with their lands?—I think it would; that is what I mean: they would be discontented, and unwilling to part with their lands to the Government.

816. *Mr. Rees.*] That is the state of things in the King-country?—Yes.

817. But if the Government were to act as agents for the Natives—if this Board of which we have been speaking were to act, deducting some of the proceeds by way of commission, do you think the Natives would assent to that, the Natives being represented on the Board through their chiefs?—Yes; I think they would fall in with that, the Board working in concert with the Natives of the different blocks, and ascertaining how much they would sell or lease outside of their own reserves. I think that would be workable.

818. Do you think that they would object to the Government charging a species of commission?—I do not think that they would be unreasonable. It could be said to them, "Here is the Government acting as your agents in this matter. You cannot do it yourselves, and the Government cannot do it for nothing. It is enhancing the value of your own estate, and you should pay for it."

819. You think that they would look at it in that way?—Yes. By doing what has been suggested the Government would be enhancing the value of the Native estate, and the Natives, I think, would be willing to pay for the advantages they gained.

820. Do you think that the Native Committees and the Native runanga could be utilised for doing a portion of the subdivisions into hapus—defining the tribal and hapu boundaries?—I think so. My opinion is that many of these boundaries could be described in this way in a very short time. Suppose there is a block of land of which the exterior boundaries are correctly surveyed, and there are four or five internal divisions in the block. The various points are all fixed and determined. After the case is called before the Court and the Natives are there, the Judge finds eight or ten of the principal people come forward as witnesses, and their evidence is taken down. They commence by describing that the particular land in question belongs to some particular tribe. After some time the Judge ascertains the boundaries, as well as he can by the evidence given. From the statements of these witnesses he gets an approximate idea of this boundary, and then he goes on to deal with the other boundary in the same manner, and so on with all the rest. You have seven or eight respectable people who know the land perfectly well. They give the necessary information, and you find, by paying careful attention to the Native names and writing them down, that afterwards the surveyor will be able to go out upon the land and make an accurate survey. The surveys, approximately speaking, are perfectly fixed; but you may go on with the survey of this land in such a way that in a small place the cost of the survey would absorb the value of the estate. Formerly, on the East Coast, surveys were sketch-surveys, for the Government had not the money to pay for complete ones. They adopted the natural features of the country, the mountains or rivers.

821. Supposing the Natives have chosen their reserves out of this block, and the Land Board were to cut up areas for settlement without making any surveys, the Court could fix what the respective interests of the parties were in the proceeds?—They could.

822. And no survey is wanted for that?—No.

823. There is a great saving in that, is there not?—Yes, a vast saving. Instead of proceeding with about a hundred and fifty claims to this land, the Judge takes any number of people who come forward. Here is the chief. He gives the history of his hapu. This man gives a similar account of his hapu, and so on. Instead of taking the evidence of fifteen, twenty, or thirty Natives upon the same matter, take merely the statements of some of the leading individuals. To my mind the taking of so much evidence is only a waste of time.

824. And of money?—Yes. And if there is a dispute these seven or eight representative men will settle it, and thus save the Judge very much trouble, and these matters would be very much better settled than they are now.

825. *Mr. Mackay.*] They would clear the way for the Court to give a proper decision?—Yes.

826. *Mr. Rees.*] In your day the Court did not want £1 a day from every man paid down on the nail before going on with his case?—No. One of the difficulties I had as Judge of the Native Land Court occurred when notice was sent to Gisborne by an opposing party of Natives for the Natives to leave my Court. I had to try to induce the Natives to come into Court.

827. I suppose you would say this, after full consideration: the laws and the procedure must be changed if anything satisfactory is to be done?—Yes, I think so.

828. I mean, no mere amendment of a clause here and there, but an entirely different system?—Yes. It will only make matters worse if you continue to tinker with the laws. What is wanted is to simplify them as much as possible, so that the Natives will have no difficulty in understanding them. At present they are confused by so many laws.

WAIMATE NORTH, 2ND APRIL, 1891.

HONE PEETI, examination continued.

Witness: The Commissioners will remember that I broke off my evidence in Auckland because I wished to conclude here what I had to say. Let me follow in the path that Wi Katene took up here to-day—that is, with reference to the Native Land Court. I have truly seen that the troubles arising from the Native Land Court from the beginning are now rapidly increasing. The persistent making of new laws is the cause of the difficulties so increasing. Scarcely can two years pass without there being new laws made, which add more and more to the difficulties that have already arisen. Another thing that I see is that new regulations have been made with regard to lands in the southern part of the Island. I do not know in what manner or by whom these regulations are made. If the regulations were made in this way: that the Judges would meet and assemble the Assessors together, and lay down regulations for carrying on cases according to Native custom, then the position would be better. But they do not do that. Another great burden that is placed on the people is the demand for heavy fees. In former times the weight to be borne was much lighter, for small fees were requested, and then afterwards, although fees were charged, they were not demanded; but now the weight has become very heavy indeed, because the payment of large fees is insisted upon. The only single thing that remains now in all the Native-land laws is the name that the cases are to be tried according to Native custom. The name is the thing that remains, and that too shall be gone from us in a little time. Even that at present is getting shaved away, and I cannot tell how soon—perhaps in a year or two—the Native custom will be altogether neglected, and the Native Land Court will deal only as a European Court. It will deal wholly and solely with the English law. As things are going now, every vestige of Native custom in the dealings with our land will be swept away. Another very serious thing is, that in cases where the Native owners do not wish their interest in the land individualised the Court takes upon itself to individualise the land by dealing with blocks with twenty owners in them. We find that the fees to be paid are very oppressive indeed, and the people are also subjected to great trouble in having to attend the Court, travelling night and day from distant places, and they are at the same time reduced to great inconvenience through having to obtain food—perhaps fruit—sufficient to last them for the month or so that will elapse before they can return to their places of abode. Another objection to the Native Land Court is the continual adjournments that are made from one place to another, and from one time to another. I do not say that the Judges are altogether responsible for these adjournments, for the conductors of the cases before the Court frequently apply for the adjournments to be made. Another trouble that we experience is owing to the persons who conduct cases for us in the Courts taking the whole conduct of the cases upon themselves, and not consulting the general body of the owners. In that way the conductor of a case is enabled at the close of the case to put in a list of names which he himself approves of, leaving out other owners, perhaps, whom he does not care for. This affords the conductor the opportuity of inserting the names of persons as owners in respect of the land for private or personal reasons of his own; because the persons who conduct these cases are people of more ability than the others, and consequently have the control pretty well to themselves. Then, there is another trouble with lawyers conducting cases in Court, for the Native conductors of cases try to follow the example of the lawyers by adopting the same mode of procedure. What I mean is, that the conductors prolong the cases just as the lawyers would, so as to get large fees. In that way the one class follows the other. Another thing is that the agents, who are licensed, prevent to a certain extent persons from conducting cases free of charge for the Maoris. That is to say, where the Maoris might want a person from a certain hapu to conduct a case for them in Court, that person cannot do so unless he is licensed as an authorised agent. I think it is quite right that the agents should charge for what they do, and that they should have licenses; but what I object to is that persons who are not agents, and who have no licenses, are not allowed to act for the Maoris. There are many difficulties arising out of the working of the Native Land Court that weigh heavily upon the Natives; but I cannot speak about all these difficulties now. I think that the proposal, or the suggestion, made about Committees inquiring into land matters for the Natives, and having a Government officer with them, is a very good arrangement indeed. I approve of it—that is to say, of the views the Commissioners have expressed. It would be a very clear and simple thing for the Native Committees to adjust the troubles between the Natives themselves with regard to their lands, so as to render them clear as to their respective rights to the land according to Native custom. They would be much clearer in coming to a fair decision than the Native Land Court, with its Judge and Assessor, because on these Committees there would be many people, and they would know the claims of the persons to the land, and where one member of the Committee might not know the circumstances connected with particular claims others would, and in that way all the facts and the truth of the case would be arrived at. The whole circumstances would be clearly laid before the Committee, and collected together, and an accurate decision would be given as to the ownership of the land. In cases where an endeavour was made to foist false evidence upon the Committee it would be immediately detected by the members of the Committee themselves. That is the reason why I think these Committees should be appointed to deal with such matters, and that their decision should be given to some tribunal to be newly appointed for final confirmation. I say therefore that these Committees should be appointed, and that they should be intrusted with the investigation of the Native titles to land. I approve thoroughly of what the Commissioners have said with regard to the payment of fees. That is all I have to say upon that point. If the Commissioners have any questions to put to me with regard to what I have said I shall be very happy to answer them, or, if they prefer it, I shall proceed now to another branch of the subject.

829. *Mr. Rees.*] The opinion of the Commissioners is, you have gone so clearly and decisively into all the questions you have yet spoken of that they are left nothing to question you about. No

questions could elicit any more information than you have given us. The Commissioners would therefore be glad to hear you upon any subject that you have not yet taken up?—I wish before saying anything further to ask a question with regard to the circular issued by the Commissioners. I have spoken with respect to the regulations of the Native Land Court. I wish now to ask a question with regard to the word *tuku* (transfer) in the Maori circular issued by the Commissioners. I do not mean the word *hoko* (sale). We will come to that presently. The word *tuku* is used for "transfer," "dispose of," or "alienate." That is, in reference to lands that have been disposed of not strictly according to law. What is the meaning of "dispose"?

830. It means any method of dealing with land, whether by sale, mortgage, or lease from the Maori to the European?—Would that include the case of a gift, where the land was given for nothing?

831. Yes; any method whatever by which the land passes from one to another. In many cases in the South of which you are not aware up here among the Ngapuhi, great numbers of owners have signed deeds to Europeans, and so particular have some of the laws been to defend the Natives, and so many things had to be done in a hurry and bustle, that one or two things were not done, and the omission of these destroyed the whole transaction. Because one little peg is not put in, the whole framework tumbles to pieces. For instance, there are fifty owners in one block of land?—That "disposition" would be in connection with the selling of land?

832. Yes; or a lease, or a mortgage, or even a conveyance by trust—a gift. Seeing, however, that up here there are but few of these cases to which you have referred, the Commissioners did not think it wise to take up time with inquiries under that heading. We understood there were but few of such cases here, and that they principally exist further south?—The reason why I put the question is, that I wished to ask about transfers or disposals of land from Maoris to Maoris. These disposals of land by one Maori to another were called "gifts," and are according to Maori custom strictly legal, and proper, and valid. From the times of our ancestors to the present time such disposal of land from hapus to hapus, or from individuals to individuals, have been regarded as just and proper and duly recognised. There are many instances of land being claimed in the Native Land Court by the right of gift from former ancestors, and gifts made in former times have been held good all through, and the descendants were not able afterwards to dispute those gifts or set them aside. Now, with regard to these gifts new difficulties have sprung up in the Native Land Court. Efforts are being made to set aside these old gifts. People arise and give evidence in Court, saying that they know nothing about these gifts, and that if they were gifts they should not be recognised. It is the Europeans alone who incite people to take up that position. Perhaps it is the lawyers or those other people who are acting for the Natives who have induced them to repudiate these ancient gifts. So in that way these old dispositions of land, made by way of gift, that would be and should be recognised according to Maori custom, are disregarded. That is only in instances where deceitful people get up and endeavour to destroy these gifts. Perhaps it is from European sources that the idea comes that these gifts are not good. That is the trouble that arises in the Native Land Court in relation to some land. My contention is, that it is highly improper to attempt by means of European laws to destroy a custom like that, which has been recognised by the Maoris. Such a custom should be recognised both as regards the past and for the present. It is a principle of honour amongst the Maoris to regard gifts of this sort, and these gifts therefore should be respected and given effect to. Now, with regard to the sale of land, I am not in a position to speak clearly, nor with regard to deceit and improprieties that have been practised in the selling of land. In cases where there are a large number of owners in a block, and one of them desires singly to part with his interest, difficulties often arise in consequence. The trouble is this: that there may be a hapu which may have only 1,000 acres, and So-and-so desire that they may have this land to live upon for themselves and their children; but one of them begins selling, and in that way the land passes away from them. Then, there is another difficulty: Should the land be subdivided, so that each individual owner knows his particular portion, scarcely will a year elapse before the whole is disposed of, and the people are left utterly landless. Thus, by the appointment of Committees, as has been suggested, they would be able to calmly review the whole circumstances, and then see what would be the best to do with the land. With regard to that portion of the circular in which the Commissioners state that they will inquire into difficulties that have arisen between Europeans and Maoris with regard to the land, I wish to ask the Commissioners if I may make a statement concerning the very great difficulty that afflicts us in respect of our lands.

833. Certainly?—This is a very great trouble indeed, and presses sorely upon the numerous hapus and people, but I am somewhat apprehensive that the Commissioners may not allow me to speak of this great trouble to which I allude. It relates to lands taken by the Government, but does not relate to lands that were purchased during the time of the Government in New Zealand.

834. So far from wishing to stop this sort of thing that you desire to speak about, we want to hear it fully?—I wish to say a few words upon a point that was omitted by Wi Katene. [See minutes of meetings with Natives and others for report of Waimate North meeting.] It is in respect to something important that affects the Natives through the rehearings—that is, the demand for a deposit of £5 or more, even up to £50, before the rehearing can be granted. This is one of the other matters in connection with the Native Land Court that press heavily upon the Natives. Another thing that the Natives object to is that in the case of surveys the amount to be paid is settled by the Court, and then that the Court can order it to be charged as a lien upon the land. We think that all expenses connected with the survey should be settled between the parties in the Supreme Court, or such other Courts as deal with these matters, and that the Native Land Court should not adjudicate upon the costs to be paid by Natives for surveys. Then, too, in the case of lands that were surveyed in past times, there were no maps produced, although the surveys may have been made as far back as ten years ago, or in some cases twenty years ago. Where the trouble arises to the Natives is that the money they pay for these surveys is all wasted. This

relates to land that we have not passed through the Court. Surveys were made years ago, but the maps were not prepared, and yet we have to pay again for surveys. These former surveys should be utilised to this extent: that the maps be approved of. Then, when application is made to have any of these cases brought before the Court, the Court will not accept the maps in cases where there are any, and will not accept the surveys either.

835. *Mr. Mackay.*] You mean that the Court will not accept the old maps?—Yes; maps made at the time that these old surveys took place. Some of the cases in which these old surveys were made were brought before the Court at the time; but the surveys in such of these cases as were not brought before the Court at the time the Court now refuses to accept.

836. The reason is that the country in those old days was not "trigged," but, having been "trigged," since then, some of the surveys have had to be altered in consequence?—That is not the reason. I will give an instance. In one case a surveyor named Fairburn surveyed the land, but did not send a map of the survey down to Auckland. Now, when the map is sent down to Auckland it is not accepted there. We have to pay for that survey, and yet it is held to be no good. I shall now refer to the case of some land that was obtained a long long time ago, before the Governments were constituted. This land went to Europeans at the time that the Maoris were ignorant of land-dealings, the land being sold without a clear knowledge as to its position. Then, when the Government came to the country, and the Treaty of Waitangi was established, the Government began to buy land. From about the time of the signing of the Treaty of Waitangi down to some twenty years ago, inquiries were being made as to the lands that were sold. For twenty or thirty years inquiries were going on as to the purchases made in that way by Europeans. The Government then determined what portions these Europeans should get to represent what they bought, and the residue of the lands the Government kept its hand upon. The Government called these lands the "surplus lands." My remarks will now bear upon such of these lands as I myself and my people are interested in. There was a dispute long ago with regard to some land that was handed over by our old people to certain Europeans. At that time no surveyors had arrived in New Zealand. At length the Europeans arranged with our old people as to the portion of land they should have, and as to the portion that should be returned to our old people. Then, when the surveyors came to New Zealand they commenced to survey off the portions of land that were to go to these Europeans. The surveys were made, and a portion went to the Europeans and a portion came to us. But the Government made no such claim to the portion that came to us as they did in subsequent cases, by calling it "surplus land." In another case the Government specially notified what were the surplus lands; in this case, however, to which I have been referring, they did not do so. About thirty years ago we got this particular land surveyed, and in the early days of the Native Land Court, when Mr. Maning was Judge, we had the case brought before the Court, and those Europeans who had got their portion of the land attended the Court to see that none of their land was included within our boundaries, and in consequence of their saying that a portion of their land was included in ours the case was not closed. It remained open so that an alteration might take place in the boundary, after which the judgment of the Court was to issue. But, owing to disputes among ourselves, the error in the boundary was not rectified. Nothing was done until 1889, when we again brought the case before the Court, and we then found that the Government claimed the surplus land, and we also saw that it was marked as Crown land. At the time that this land was brought before the Court the Government agents were present, and they set up no claims to this land. It was the duty of the Government representatives to see whether or not the Government had any claims in respect of any case brought before the Court. In this case I repeat they set up no claim. Yet in 1889 the Government claimed this land as belonging to itself. We had sent the application to the Native Land Court, and had had the claim brought before it. The map showing the survey of that land had been approved by Captain Heale long before, and there was also written, either on the map or somewhere, the statement that the Government had no claim over this particular land. But when the case came before the Native Land Court word arrived from the Government setting up a claim to it. There are many cases of a somewhat similar nature to this, in which the Natives are concerned; but in this particular case the existence of the Government claim over the land did not appear until 1889. I wish, without taking up the time of the Commissioners too long, to lay before them clearly the nature of our application to them. Now, in some cases portions of the lands excluded from old purchases by Europeans were subsequently sold by the Natives to the Government. The Government accepted these sales, and in no instance raised the objection that those lands were already the property of the Crown under the designation of "surplus lands." Henry Kemp was the purchaser on behalf of the Government, and those lands were paid for and dealt with as if they had belonged to the Natives, and had been in their original state. And if we had so wished at that time we could also have sold this particular land that was taken away from us in 1889, and Kemp would have paid his money for it. There are many blocks in a similar position to this, with this difference: that in no instance has this land been called "surplus land." We have been thinking about and seeking to understand why in the one instance I have described the Government should take our land from us in this way. There was no trouble in connection with any of our transactions with the Government in the old times, nor in regard to any of those old sales. Then, why does the Government come now and take away our land in this way? Nor was there any wrong done on the part of the Europeans in those times. It was not alleged that they bought land in defiance of any law that existed. It was subsequently, when we possessed a Government, that we were also placed in possession of laws. If it had been that some law had been broken, and that wrong was done by those Europeans in buying land, then perhaps the Government might be justified in setting up some claim to this land; but nothing of that sort occurred. We have sought, and sought hard, but are quite unable to discover any reason that will justify the Government in what it has done. Therefore we think it is but right that the land that was wrongly included in this purchase

of the Europeans should be returned to us. In all the times past we have worked this land, used it, dwelt upon it, and leased portions of it, and yet now we find there is this trouble about it. That is why I thought it proper, on behalf of myself and people, to lay this matter before the Commissioners, because they are inquiring into all matters in which there are troubles between Europeans and Natives. There is another case, but perhaps the Commissioners may be weary of listening.

837. *Mr. Rees.*] No?—Then I wish now to speak of a block of land to which we who are here have a claim. It was land that was given for goods years ago, in the time of the Treaty of Waitangi. It was sold by one individual Native to this European, who gave goods for it. When the whole of the people came to know of this sale they objected to it. Then our old man before he died had compassion on this person who had sold the land. He had compassion on him from a feeling of relationship, and because the land that this person had sold without the consent of the people was kept, while the goods had been retained. Our old man set apart some other land for him. This piece of land was to compensate the European for the goods this Native had obtained. The old man said to the European, "Here is a piece of land that will requite you for the goods you gave in payment of the other piece of land that you did not get." Then some of our old people said to this European who got this land, "Give to us further payment than you have already given for this land," and the European consented to do so, but no further payment was given us down to the time that the surveys commenced to take place. Then we went to the Crown to arrange as to what portion of the land should go to the European in payment of the goods he gave. The survey was made about thirty years ago, and the piece of land which it was agreed in the former time should go to the European was set apart for him and surveyed. In the meantime it is probable that the European had transferred his interest in the land to some other European. The matter was brought before Mr. Dillon Bell, the Commissioner, and he saw that the consideration was very small indeed, and Mr. Dillon Bell set apart 500 acres in consideration of the payment that was made by the European, and the balance of the land (900 acres) was abandoned from sale. The European then got into straitened circumstances, and was unable to give any further payment for the land. He died, and nothing further was done with the land. Then, what we are entitled to is the 900 acres that was surveyed, and declared to be in excess of the portion to which the European was rightly entitled. Some of the persons interested wanted to sell, but none did sell. We have a map of the land—that is to say, of the 500 acres that went to the European and the 900 acres to which we are entitled. In recent times we applied to the Native Land Court to have the title to the 900 acres ascertained. It was then that we discovered, having sent in a public notification, that the Government had taken that 900 acres for itself—that the Government had taken the valuable timber that was growing on it, and had sold it to Europeans. Then Hare Napia and myself telegraphed to the Government warning it against dealing with this land. That telegram was as follows [copy produced]: "To the Commissioner for Crown Lands, Auckland.—Protest against sale of kauri timber on Sections 18 and 29, Matawerohia. The land is not Crown land.—HARE NAPIA, HONE PEETI." We have seen in the *Gazette* a notification, dated the 18th May, 1890, that the kauri upon the land was to be sold. Hence our protest. The Government had included our 900 acres in those sections. The name of the 900 acres is Mokau No. 3. The reply from the Commissioner was, "Cease your impertinent work. You will be summoned if you do this." Then we sent a letter to Dr. Pollen, but he did not listen to what we had to say, and the whole of the timber on that land was sold. Then, when we went into the Native Land Court we were informed that the land belonged to the Government, and the case was dismissed. It would not be tried at all by the Court. The map we sent to the Survey Office, and it was kept there. We sent it there to have the subdivision of the 900 acres confirmed, and it was kept there. I have gone fully into the details, so as to place the matter clearly before the Commissioners. Then we sent a letter to the Government about the Puketotara Block. That is the first block I spoke about. The reply we received from the Government was that the land belonged to the Crown. That was all. There are a great many lands belonging to the tribes in the same position as these I have mentioned—lands that have been wrongfully taken by the various Governments.

838. In all these cases did the Government allege that they had purchased the land from the Natives?—No.

839. Did they allege any specific title other than saying, "The land belongs to the Crown"?—They did not explain the nature of the title. In our correspondence with them we asked them to do so. We asked them, "Have you made a law by which you are enabled to take this land? If so let us know."

840. Have you sent a petition to Parliament in relation to this matter?—No.

841. We will report that these complaints are made by the Ngapuhi, without mentioning the names of the blocks. Then you should send a petition to Parliament, signed by some of the leading chiefs of the Ngapuhi, setting out a list of the blocks in which these things have taken place. Then the Committee of the House will have our report that these complaints have been made to us, and will also have your petition before it. Then the Committee could have before it one or two of the older chiefs—men like you yourself, who know about these matters—and could examine them, as well as the Government officers, in order to see if the Crown has any title. Then, if it be shown that the Crown has dealt with your lands without your consent, and without having any deeds, no doubt the House will either grant compensation or in some way do justice in the matter. You will have to speak to Eparaima, your present member, about it, to Carroll also, and your other members, as well as to Sir George Grey; and I myself will give every assistance towards seeing that justice is done?—Then, that is all I have to say.

842. Do you think it would be advisable to have reserves set apart in the different districts for the education of the Maori children—that is to say, good, big landed reserves in the case of all Maori tribes, for the purpose of having their children educated properly, and not merely in the

style that now obtains? Large schools, with sheep- or cattle-farms attached, where fruit-growing was also carried on, and with skilled people to teach the boys how to make shoes, to do carpentering-work, and things of that sort. Would that be a wise thing?—Who would have the control over the land?

843. Committees of the district?—Committees such as you mentioned before?

844. Yes?—The reason that I have asked this question is that the present schools are not very well arranged, and the Government claim them as schools for themselves. And that is the reason why I think it would be a good thing for reserves to be made as you say, and the Committees to have the control over them. It is a very clear suggestion, and would be a most excellent arrangement, and should be given effect to.

845. Then, too, the girls could be taught the use of the dairy, how to work sewing-machines, and, in fact, everything that a woman should be instructed in?—I think it would be a very good arrangement indeed, for the Committee would have the control in all these matters, and these establishments should be set up so that the young people could be educated and taught how to work usefully.

846. Do you think it would be advisable and proper for a law to be passed to compel the Maori children to attend where there are good schools, food and clothing, and house-room, and not allow the parents to draw the children away perpetually? Of course they would have regular holidays?—That is rather a difficult matter, because in some cases it is the parents who are at fault for the children not going to school.

847. Then, would you have a law that the parents should be punished for their children not coming to school?—These are matters of detail that I think should be left to the Committee to determine. Once the Committees had the power in these matters they would see that what was right and proper should be done.

CAMBRIDGE, 25TH MARCH, 1891.

EDWARD WALTER PUCKEY sworn and examined.

848. *Mr. Rees.*] If you will be good enough, Judge Puckey, to give us the benefit of your experience, we shall be much obliged to you. We have examined ex-Judge Fenton, and Mr. Rogan, and Mr. James Mackay, the three first Judges of the Native Land Court, and, seeing that none of those gentlemen are now acting, we are anxious to obtain the opinions of some of those Judges who are now acting in the Court. You are acting as a Judge of the Native Land Court?—I am.

849. How long have you been a Judge of that Court?—Nearly ten years.

850. For what period of time prior to that had you means of obtaining any knowledge as regards the working of the Court and the Native-land laws?—Since the beginning of January, 1874.

851. Are you aware of the existence of disputes between Natives and Europeans in relation to titles to land?—I may say that I have heard of them, but personally I have known nothing of them.

852. But even in the Courts you preside over you have heard that such do exist?—I cannot remember any case which came before me in which there was any dispute.

853. You have heard of them, then, only as a matter of report?—That was all.

854. Are you aware of any case in which non-compliance with technical matters in the Native Land Act has invalidated the title—of course, I include the Native Land Court Act as well?—There is one case only that I can call to mind, and that was at Hokianga. A half-caste—who was also an owner—purchased the interest of some of the Native owners. The block was held under memorial of ownership, and applied to the Court for a division, and an order in his favour, which was made; but it now appears to be invalid.

855. Do you know of any case in which a grant has been declared invalid?—There is the judgment of the Supreme Court, I think, in the case of Poaka *v.* Ward.

856. Are you aware of other cases in which the titles to land have been invalidated by judgments obtained in the Supreme Court?—I have seen such cases mentioned in the papers, of course, do not remember much about them.

857. Now, are you aware of the feeling of the Natives in regard to the payment of fees in the Native Land Court?—Court fees?

858. Yes. Do they complain of these fees being onerous and heavy?—Not so far as I know. They pay cheerfully, and display a certain amount of gratification in being able to pay.

859. Do you mean gratification in paying, or in being able to pay?—In being able to pay, I think. A Native feels proud in being able to pay the fee. I think, myself, the fees are not onerous.

860. What is the rule as regards payment of fees? In cases in which there are four, five, or six contending parties, what is the rule regarding fees?—The principal claimant pays a fee every day; all the others only pay fees during the period they take up the time of the Court.

861. They pay when they speak or interfere in the case before the Court?—Yes. I generally allow them fifteen minutes' grace, and even if they should exceed that by a short time I do not charge.

862. If they interfere practically?—Then they pay the fee.

863. What is the fee?—One pound per diem.

864. Can you state whether the sitting of the Court at different centres is advantageous to the Natives who have to come some distance from their homes and cultivations to attend the Court, or whether it is disadvantageous?—I may say that I know of no case of any hardship. The Court generally fixes the sitting at as advantageous a position as it can. It would be impossible for the Court to go and sit at every Native village; besides, in many cases the Court would be at the mercy of the Natives. There was one case in which it sat at Ohaeawai, at the Bay of Islands.

When a certain case was called on, the man in whose house the Court was sitting called out, "If you take that case I shall jump on the table." I thereupon adjourned the Court to Waimate, much to his astonishment, and heard the case there.

865. What is your opinion and experience in regard to the itinerant character of the procedure of the Court—that is, of the Judges proceeding from place to place? Do you think it would be any improvement to have fixed stations and fixed districts?—I do not think it would. I think the present system is better.

866. Why?—Because it often happens that another Judge comes into the district. He would not hear remarks made by Natives and other persons upon his previous judgments; and I think the Natives have more confidence.

867. You think that the continued residence of the Judges among the Natives would be likely so to raise up a feeling of prejudice or favour as to render their judgments weaker?—I think it would, in the minds of the Natives. They are a very suspicious people.

868. Do you think that any of the work of fixing tribal or hapu boundaries could be with advantage relegated to the Maori Committees in the first instance, or public meetings—runangas?—I do not think so at all. I have not the slightest confidence in Maori meetings. My experience is quite the other way. It is very often advantageous to adjourn a case for a day to let them talk the matter over amongst themselves, but, as to any Committee doing any practical work, I think the idea is quite utopian.

869. Do you not think it would be better if, instead of, as you say, the Court adjourning for a day, the contending parties were expected to bring up some scheme to the Court for the Court to decide upon, and that in this way the work might be simplified, leaving the final appeal to the Court?—There might be one or two cases in which that might answer, but the Natives are very jealous of interference by any one.

870. You know practically little or nothing regarding disputes which exist between Natives and Europeans?—Practically nothing.

871. As regards the subdivision of land amongst the Natives, do you consider that it is wiser to subdivide the land amongst the Natives or to deal with the land in larger blocks by the rights of hapus or tribes?—Do you mean by "subdividing" the individualisation of title?

872. Yes?—Well, this individualisation of title is a very difficult and complicated question. I do not think any one has yet been able to devise a satisfactory scheme of dealing with it. I think it is likely to do a good deal of harm.

873. That is carrying to an extreme the individualisation of Native land, I suppose you would say, by reason of the expense of surveys, and the loss of time, and the cutting-up of unsuitable blocks?—Yes; it would eat up the whole value of the land. There would be nothing left at all—chiefly, of course, by reason of the survey-costs?

874. I suppose that would be the heaviest item?—Yes, very considerably.

875. Then, there would be the Court-fees, as well as the survey-fees?—Yes.

876. But then, if it were cut up in accordance with tribal and hapu rights would it be likely to be cut up advantageously for settling individuals on? Supposing there were 150 owners in a block, and you cut it up into 150 portions, striving to keep to the hereditary rights of the parties, would it be cut up advantageously?—I doubt very much whether it would, in the case of Native land of inferior quality.

877. Take the rough country on the hills, for instance?—Just so. Speaking of the individualisation of title, I have not the Act here, so I cannot point out the section, but I think it is section 12 of the Act of 1888, which requires not more than twenty owners to be in a certificate, if that is possible. The relative interests are also to be defined. This is followed by a subsection which renders it compulsory on the Court at the next sitting to divide the land without any application on the part of the owners. I think these are very bad sections.

878. *Mr. Mackay.*] In fact, inoperative?—Practically inoperative, but they are bad.

879. *Mr. Rees.*] If carried into effect they would be pernicious?—I do not think the land of any person should be subdivided against his wish.

880. So far as you have any knowledge of Maori custom, is it in accordance with Maori custom to cut up the land between the men, women, and children of the hapu?—Certainly not. They have no idea of it at all.

881. *Mr. Mackay.*] It is the exception, and not the rule?—Altogether.

882. *Mr. Rees.*] Judge Fenton gave us an instance where an individual Native title existed. A man claimed from his wife's tribe *utu* on account of her adultery, and her people then cut off a piece of land as payment for the aggrieved husband. Although Judge Maning thought that was the only instance, Judge Fenton knew one or two instances; but these were the only two in which an individual title was held?—I have had no case of that kind at all.

883. Then, the custom of the Maoris is to hold the land either tribally or by hapu rights?—Yes.

884. And the hapu would be the unit?—That is so.

885. Can you suggest any points in which the practice or procedure of the Courts might be amended advantageously?—No; I do not see that I can, unless it is possible to compel witnesses to speak the truth.

886. Independently of those sections of the Act to which you have referred as regards the individualisation of the title, can you suggest any other points in which the law might be amended?—There is one other point that occurs to my mind. It is a matter of succession orders. Only, unfortunately, again I have not the Act, and I therefore cannot quote the section. I think it is in the Act of 1886, which provides that a succession order shall take effect on the day on which it is made. It should take effect, as in a previous Act, from the death of the party to whom the applicant succeeds.

887. Of course that leaves a hiatus in the title?—Certainly.

888. Then, you would not be in favour of carrying the subdivisions, except, I suppose, in big cases, beyond the hapu?—Unless by common consent of the parties. I may say that I have had one case which has been most successful. It was done by the party themselves. It was a piece of land somewhere at Hokianga, and it was divided into more than eighty sections by the parties themselves.

889. Do you not think that could be carried into effect in other cases if it were put to the parties reasonably?—It might; but that is the only case I have known in ten years.

890. In regard to the disputes between Europeans and Natives, concerning which you have heard, do you think it would be advisable that a Court should be raised having full power to decide in accordance with what is generally known as equity and good conscience, and to give a final decision in such cases, instead of their being dragged to the Supreme Court and the Court of Appeal?—To tell the truth, that is a matter that never occurred to me at all, I practically having had no experience of any cases of that kind.

891. We have now dealt with subdivisional surveys, but there is another question with regard to surveys. The surveyors, I believe, allege that there is a great deficiency in the law, inasmuch as they are not able to recover the sums which they have expended and the moneys they have earned in their surveys of land. Can you make any suggestion about that?—I believe that what you have stated is practically true.

892. I believe that great hardship is often occasioned in that way?—Yes; but I do not see how it can be remedied.

893. Do you think, if the Government were to pay for all such surveys, and make these a charge upon the land, it would answer?—That is a suggestion I think I made in 1877—that all surveys should be paid for by the Crown, and made a charge upon the land. Of course, if the Natives choose to repay the money they would then relieve the land from the charge. But it should not be done with the view of acquiring land on behalf of the Crown at some future day.

894. What is your experience, and the opinion derived from experience, as to the Crown's right of pre-emption being enforced over Native land? What effect would it have on the Native mind?—It would not be at all pleasing to the Native mind. I rather think their experience in the past has been that the Crown land-purchasing officers have given as little as possible for their interests, and I think the Natives are now very suspicious.

895. Are you aware that at the present day, owing to the complicated state of the Native-land laws, the transfer of Native interests to Europeans is practically at a standstill; that in the settlement of Native lands there is practically little or nothing doing?—I know that it is much as you say; but whether owing to the state of the law is very doubtful: it may be from the low value of land, and the possibility of taxation being imposed in some form.

896. However, you know, as a matter of fact, that it is practically so?—Yes; people are disinclined to acquire Native land.

897. The expense attendant on the acquisition of Native land is very great, is it not—under the present system, I mean—owing to the signature of deeds by great numbers of owners?—No doubt it is. I should say so.

898. Can you mention from memory any large numbers of Natives as owners of any given blocks? What is the largest number of owners that you know of in a block of Native land before it is subdivided?—There is one block that I remember—Waimarino, in the Wanganui district—in which there were over 1,010 owners; but I think some fifty or sixty of the names were duplicates.

899. How many of these would be children under age, on an average—I do not mean you to state how many there actually were?—Possibly from one-tenth to one-fifth.

900. Then, how many would be married women—what would be an average?—How do you mean, married women?

901. Of course, married according to the law as it stands now?—I am afraid I cannot say. Possibly three hundred of them might be women.

902. And a considerable portion of these would be in some sense or other married?—Yes. The females amongst the Maoris are not so numerous as the males. There would be two women to every three men.

903. Is there any reason for that?—I suppose Providence has not been generous to the Maori as he has been to the European. There are a great many more Maori men than women in a tribe or hapu.

904. Is it practically possible, in a case like that Waimarino Block you mentioned, where there is a constant occurrence of deaths, requiring successors to be appointed, that if all had to sign the deed, as under the present law, one could get a conveyance or lease of that land?—Of course, the greater the number of Native owners who fall out through death, the more difficult it becomes to acquire, on account of successions.

905. Then, for all practical purposes of life, no person could hope to obtain a complete title to that block, or to any portion of it, if every person had to sign?—If the purchaser were a private individual I would say that he would never complete. Of course, with the Crown it is different. It has powers private individuals have not. I may say the block I named has been acquired. It took about twelve months to complete the title.

906. To the whole of the land?—Yes.

907. How about the interests of minors?—They were cut out; in a great many instances they were bought from the trustees. I am afraid there will be a good deal of trouble with this trustee question hereafter. I think that the Public Trustee ought to be trustee for all Native infants by virtue of his office.

908. You do not know the working of his office, I am afraid, or you would not say that?—There ought to be somebody, at any rate,

909. That leads up to what is practically the most important question of all—viz., as to the method to be adopted in future for the transfer of land from Natives to Europeans. Now, in answer to questions you have already pointed out that this is practically impossible if there are to be dealings with all the owners in a block—men, women and children?—Yes.

910. Do you think, if a plan were adopted by which a responsible body were set up like the board of directors for a company, or a Council for a borough or other corporate body, to act in a representative capacity and issue titles in the interests of all, that it would work?—I think you would find that it would not work.

911. Why not?—Because the Natives are so jealous of each other in respect of land proceedings.

912. Was that not the way in which the Natives conducted all their earlier dealings?—Very much in that way. They were not elective bodies. It was the chief of the hapu who sold the land, with the consent of the people. They are not the same people now.

913. Is that not owing to the laws?—I think not: it is owing to some great change in themselves.

914. Do you know of any other cause than that?—No, I cannot say that I do.

915. Supposing we could revert to the earlier system. Take this Cambridge district, for instance, and supposing Government Commissioners were appointed for it, and that in respect of every other block of land a Committee were appointed by their own chiefs, and they had to carry out Native-land dealings in concert with the Government Commissioners?—That has already been tried.

916. No; the Act to which you refer went to ofar in one way and not far enough in another?—I think any scheme such as that would practically shut up Native land; I do not think they would sell any land at all in that way. Of course this is only an opinion.

917. Do you think it would be valuable, supposing that Maori Committees were to act in concert with Boards which would be responsible to Parliament for the proper distribution of the money derived from the land? Would it be a more cheap and efficacious method of dealing with the land than the present mode?—I am not aware that the present laws require all the Natives interested in a block to sign the deeds.

918. *Mr. Mackay.*] In passing the title every person on the record of that title must sign?—If one-half or two-thirds of the signatures can be got you could apply for division.

919. *Mr. Rees.*] No; Poaka *v.* Ward is a case in point?—Surely, if a man has a freehold title he can do what he likes with it.

920. It is practically closed by the present state of the laws, as interpreted by the Supreme Court and the Court of Appeal. Supposing it could be done—supposing that representative bodies were appointed, under restrictions and safeguards for the due distribution of the moneys, the people themselves consenting, and also determining for themselves how much of the land they would sell or lease, as in the olden times, would that be more economical and simple than the system now in vogue?—I think, if they consented, it would be. I mean by that if they all consented.

921. Of course, there might be one or two dissentients here and there; but we need not pay attention to them, because if we did everything would be stopped. Supposing, if they consented, might not a reasonable scheme be worked out in that way which would be efficacious in giving titles economically?—I do not know about the efficacy of it. There are so many "ifs."

922. It would be a statutory title at once, so that there would be no question about the goodness of the title?—There are so many "ifs" in the way that it would be doubtful. You will have an opportunity of sounding the Natives on that subject yourself.

923. I know from the Native mind that it would work. I feel persuaded that the present state of things would stimulate them in that direction. There is one other suggestion. It is a thing that has occurred to my mind for a long time past with regard to Native titles. In every case, if possible, the title should be inalienable until the land has been divided. I think, if the title could be individualised without incurring the enormous expense that is at present attendant upon that operation, it would cause the Natives to wish for individualisation of title. At present the cost of the surveys stops them from individualising?—Would that not destroy the very object in view—I mean, without these expensive surveys?

924. How could you individualise without surveys?—That is my difficulty. I think you could find some way to do it.

925. It is impossible. If you could get them to deal tribally, would that not accomplish the purpose of dividing the land cheaply and efficaciously?—Yes, if they assented.

926. Can you propose any other method by which it could be done—that is to say, a method by which land not required for their own cultivations could be utilised for their own benefit and the benefit of the Europeans?—I am afraid that it is an exceedingly difficult question. Of course, it has to be done entirely with their consent?

Mr. Rees: Yes.

Mr. Mackay: Expressed through their tribal representatives.

927. *Mr. Rees.*] And the runanga meetings?—Yes; these meetings are held to be most conclusive as regards their wishes. I think it has been held so by the Supreme Court. No; I do not see that I can offer any practical suggestion upon that point.

928. Do you think that, in the interest of the Natives, and of the community generally, the constant rehearings which are granted should be allowed?—I think not, as a rule, unless there is something very wrong with the first hearing; because a case on rehearing is entirely different from what it is on the first hearing. There has been an enormous amount of evidence invented in the meantime.

929. In your experience during the last ten or twelve years, has the Native Land Court—I will not say for what reason—increased in the rapidity and efficiency of its duties?—It certainly has

not increased in point of rapidity; but, as regards efficiency, I say Yes. It stands to reason that the smaller the area to be adjudicated upon, the more stubbornly will the claimants fight. In the old days, as it were, every dog had a bone in his mouth. Now it is different. I should say that in 1876 or 1877 it began to get difficult. Now everything is obstinately contested. Very often in some cases probably more expense would be incurred in the conduct of the case than the land in dispute was worth.

930. Would it be possible to make the Natives reduce their evidence to writing, and send it to the Courts, in order to be cross-examined upon it afterwards?—I do not think it would. That would be with the view of shortening the proceedings, of course?

931. Yes?—No; I do not see that that would work at all. It is quite possible that in such cases some important point might have been omitted in the written statement, and the unfortunate witness would then not have the opportunity of putting it forward. I do not see any way of shortening the proceedings at all without giving good cause for a rehearing.

932. Is there any other suggestion you would think of making?—No. I may say that I had not expected you gentlemen. Of course, I knew yesterday that you were coming, but the whole matter has come suddenly upon me, and I have not had time to think it over.

933. *Mr. Rees.*] Mr. Mackay suggests to me that if, in thinking the matter over, any other suggestion in connection with the matter should occur to your mind, we would be very glad to have it; because we are anxious to get as many lights and shades of opinion thrown upon this subject as we can?—Yes. Thank you.

JOHN GWYNNETH sworn and examined.

934. *Mr. Rees.*] What are you?—A civil engineer and authorised surveyor.

935. How long have you been resident in New Zealand?—Twenty-eight years.

936. How long have you been conversant in any way with Native-land matters—surveys as well as agencies, or anything of that sort?—I made a survey of some Native land in the Whangarei district in 1865.

937. During how many years have you been intimately connected with Native-land surveys and matters?—About eleven years.

938. In this district?—Yes.

939. Have you been personally engaged during the last ten or eleven years in surveying Native land?—I have.

940. As regards these surveys, the Commissioners understand that surveyors experience a good deal of difficulty in recovering moneys due to them?—That is so. I myself have had very great difficulty. In one survey at Rotorua that I made about 1881, my account amounted to £400.

941. Have you got paid for it yet?—No. I got a judgment of the Supreme Court for the amount. The charging-order was served upon Judge Gill and Mr. Gilbert Mair, but, notwithstanding the charging-order, and the fact that they had money to pay the Natives, they paid it over to them without satisfying the charging-order, and my solicitor said it was not worth while following them up. Then, again, in 1884 I did some surveys for this Court of the Maungatautari Block, my account for which amounted to about £600.

942. That is in the King-country?—It is between here and Kihikihi, but it is outside the old confiscated boundary.

943. That is the King-country?—In that case there had been a general survey already made of the outside boundaries of the block, for which the Government had paid £409 12s. 6d. to Mr. Tole, the surveyor, and the Government were supposed to hold a lien over the land for the amount. I think that the amount of that lien should have been collected before the subdivisions took place. However, I was authorised by the Government and the Native Land Court to make the subdivisions according to the finding of the Court sitting in this hall, and I did so.

944. How many subdivisions?—There would be about thirty.

945. Hapus?—No; not hapus. There were three or four different hapus. They were subdivisions for certain numbers of individuals that agreed to have their lands cut out. I went and completed these surveys, and I then applied to the Natives for payment, but I could not get it. I then applied to the Government, but could not get it. I next applied to the Court, and was referred to the Surveyor-General. My counsel spoke to him, and, after keeping us waiting for nearly twelve months, he appointed his assistant to go through the accounts—Mr. Kensington, I think—and he certified for the Surveyor-General, Mr. Percy Smith being away at the time. When he came back he said he had no power to delegate his authority to Mr. Kensington, and that the accounts would have to be passed by him again. They were therefore sent back to him again, and after another six months or so he certified for a very much smaller amount than Mr. Kensington had certified for, and I refused to accept it, and asked on what ground he had made these deductions, but he could not tell me. There was no rule; just what he thought would be enough. I put the matter in the hands of Mr. Cotter, my solicitor, and a case was stated for the Solicitor-General, who was asked to say what course the Surveyor-General ought to follow in certifying for these amounts. That case was submitted by Mr. Percy Smith and myself, and approved by Mr. Cotter, and we got a reply from the Solicitor-General, which practically ruled that the Surveyor-General might certify for any amount he thought fit, leaving us the right, if we saw proper, to apply to the Supreme Court for a writ of mandamus to compel him to certify for more; stating also that if we did get a writ of mandamus it was not likely that the Supreme Court would award costs against him (the Assistant Surveyor-General). So that I would have to pay the costs of the action even if I proved successful. But that was not all. The case was referred to the Surveyor-General, and he certified for a larger amount—that is to say, in some cases for a little over the amount of my own claim, and in other cases for a little under my claim. I then brought the matter once more before the Native Land Court, under the Act of 1886 and the Amendment Act of 1888. The Court sat here. It was in January, 1888, that the Court sat here, and the Amendment Act had

not passed then. This is what happened: In one case, in which I had an account against Major Te Wheoro for £47 18s. 9d., the Assistant Surveyor-General, Mr. Percy Smith, certified for £64, and when that case came on for hearing here I was asked by Judge Macdonald if I claimed £64, and if I thought it a fair and reasonable charge. I told him that I did not think it a fair and reasonable charge, but that I thought £47 18s. 9d. was fair and reasonable; that the Surveyor-General, however, had certified in this case for £64, while in some other cases he had certified for a less snm than I had claimed; and that if the Court were going to take the higher and the lower amounts together I would be quite agreeable to that course. But the judgment of the Court was that in no case could I be awarded more than I claimed. So in this case I got judgment merely for the £47 18s. 9d. In the next case Mr. Percy Smith certified for £20 less than I claimed, and the Court said that I must take the lower sum in all cases. When my claim was less than the amount certified I must be content with the amount I claimed, but when Mr. Percy Smith certified for less than I claimed, I could not be awarded more than the amount he certified for. In that way about £200 was knocked off the aggregate amount of my claims.

946. Can you give us a copy of the form of certificate and of the lien?—I will give you one this afternoon. [The witness subsequently handed in a copy of the desired form.]

947. That is on the 10th January, 1888: were there many of the orders in respect of the £600 claimed by you given in your favour?—I should think about thirty—all my claims.

948. Did you get the money?—I got the money for about four of them. I got about £180 out of £600· The way in which I got these was this: Europeans purchased the land, and they had to pay for the survey before they could get a title.

949. That is to say, you got the money not from the Natives. but from European purchasers?—Yes; only from the Europeans who purchased.

950. Did you find no power under the Act to enforce your claims against the land?—I did; and three representations were made by myself and my solicitor; and there is no man in a like predicament. Clause 5, of the amending Act of 1888 repealed several of the clauses of the Act of 1886. When that clause was passed by the Government there was power to make these survey-claims a charge, in the character of a mortgage, against the property when it became registered under the Land Transfer Act. Then there was the difficulty of getting it registered under that Act. I may state, in respect of this £407 for the general survey, that the Government up to this time have taken no steps to recover under the Act. Two months after I got judgment they cut up this £407 into a number of subdivisions (twenty-two), spreading it over the land, and then registering it in the Native Land Court as a lien the Government had over the land. When I asked to have my charging-orders registered by the Native Land Court I was told that it could not be done because of the Government's prior charge over this land; and that until it was paid off they would not register mine; but that if I liked to pay this £407 to the Government they would allow my register to be made. I had a letter from Judge Smith recently about the matter I speak of, and he states that he has exhausted the law on the matter, and finds that he can do no more.

951. Then you have got no security nor no payment?—No.

952. *Mr. Mackay.*] The matter is still in abeyance?—I have been fighting it in different Courts in different places for the last six years, and I have almost given up hope.

953. *Mr. Rees.*] Of your own knowledge are there surveyors in a like position?—Yes; quite a number.

954. On different points, I suppose?—On similar points; practically non-payment by the Natives or Government.

955. I suppose, if the Government were to pay these charges, they themselves could have no difficulty?—None at all, because they could retain the title to the land until the charges upon it were paid; and formerly did so.

956. Is that privilege not accorded to private surveyors?—Well, it is not accorded the Government by law, but they do it without either law or anything else. Here is a draft copy of the last letter I sent to Judge Smith—it shows how this is done by the Government: "Referring to my letter to you of the 7th instant, complaining of the non-registration of my survey liens or charging-orders, in accordance with the Act of 1886, section 81, and with the Amendment Act of 1888, section 25, and your replies thereto on the 9th and 13th instant respectively, I beg respectfully to submit that, when the charging-orders were made by the Court in my favour, there were no liens of the Government or any other persons on these subdivisions. The only claim the Government had filed on the Court papers (in Maungatautari No. 4) was against an area of 21,000 acres on the 3rd November, 1885, of £409 12s. 6d. for Mr. Tole's survey; and they ought to have collected that amount before the subdivisional survey was allowed to proceed; but they neglected to do so, and until after I had obtained my charging-orders on the 10th January, 1888, when, on the 15th March following, the Assistant Surveyor-General furnished the Native Land Court Department with a pencil memorandum showing how he proposed to divide the £409 12s. 6d. claimed by him for Mr. Tole's survey of the outside boundaries of the block, over the subdivisions surveyed by me, and over which I then held charging-orders. No Court was held to inquire into these claims; but Mr. Hammond, although refusing to record or register the Native Land Court's own charging-orders in my favour against the titles, so far as they had gone in the Native Land Court, of these properties, actually, two months after the date of my orders, allows this old claim of 1885 for £409 12s. 6d. to be split up into twenty-two small claims, and recorded or registered in the Native Land Court as being twenty-two Government liens, for which orders were never made by the Court, to the exclusion of mine, for which I had obtained the orders of the Court. And, even if they had obtained an order of the Court for these twenty-two liens on the 15th March, 1888, I am entitled to precedence of registration, as my orders are dated 10th January, 1888, and there is no order of any date attached to the Court papers for these so-called liens or 'outstanding claims of the Government.' According to 1886 Act, clause 81, the procedure provided for a certified surveyor to

recover the cost of his survey is precisely the same that is provided by clause 85 for the Surveyor-General to recover the Government's costs, with an additional proviso that the Court may award the Surveyor-General 'a lesser sum where the amount is disputed:' thus showing that he must prove his claim in open Court the same as I had to do. And I contend that the Government can have no lien or 'outstanding claim' until they have done this."

957. In answer to that, you say, Judge Smith writes back that he has exhausted the law on the subject and can do nothing further?—Yes; notwithstanding that mine ought to be registered as well as the Government's, the Government still register theirs, and leave mine unregistered. He does not say that I am to get any relief, but merely that he has exhausted the law on the subject. Then, again, even supposing they were registered under the Land Transfer Act—I myself do not see how it can be—but supposing they were, in one case there are 157 children as owners—no adults at all. There are 2,000 acres in all. There are eighty trustees for these children. The land is awarded to these 157 children; then the Court appoints eighty trustees to take care of the land awarded to these children. I suppose you must wait for the children to become of age before anything can be done. Of the eighty trustees some are trustees merely for one child, some for two children, and some for twenty different children; so you could not call them tenants in common.

958. Tenants in common with equal undefined interests. That brings us to another point. Passing to this question of the ownership of land by children, and so on, is it, in your opinion, possible, while all the people are put in as owners—men, women, and children alike—in these large blocks of land, that any dealings can be had in respect of such land if all the people interested have to sign the deeds?—I do not think it is possible. They are continually dying, and fresh successors being appointed, so that the names of the owners are perpetually changing.

959. So that the owners to-day may not be the owners to-morrow?—Just so. One dies, and another is appointed in his stead, and generally there is some short time in which nobody has been appointed the successor.

960. And there is no title for anybody?—Just so.

961. You have mentioned a block of land in respect of which there are 157 children as owners. What is the area of it?—Two thousand acres; less than 13 acres for each owner.

962. Could that block be subdivided without the whole value of the land going to defray the cost of the surveys?—I believe that it would cost more than the value of the land to cut it up into 157 thirteen-acre pieces, giving access to each piece. In affording this access, the allotment of 13 acres to each owner would be reduced considerably—perhaps by a reduction of 2 acres from every 13.

963. Would it, then, be possible without immense expense to obtain titles to the land, if they wished to dispose of it?—It would take, I should say, a great deal more than double the value of the land to get a title to it.

964. Now, supposing that, for blocks of land like that, three or four of the trustees were chosen to act in concert with a Government Commissioner to conduct dealings in respect of the whole block, could that land be then easily and economically disposed of, either by sale or lease?—Yes. They would not require to have so much land taken for roads; and, the proportion taken for roads being less, the expense of surveying would also be less, so also would the expense of getting the deeds signed be less.

965. And there would be no dispute as to title?—Of course there would not be, as they would all agree beforehand.

966. *Mr. Mackay.*] Your answer, I suppose, has reference generally to Native lands the owners of which wish to lease or sell, and is not merely given with regard to a special block of 2,000 acres, or to one in which 157 children are the owners?—The answer I gave would apply to all blocks of nearly the same area. I know of many cases in which the partition has been brought down as low as 13 acres to the individual. I was supposing that, if the trustees were uniting to sell on behalf of the Natives, they would not divide the block into small portions, with perhaps a dozen or so owners in one block, but would cut them up into larger areas.

967. Would not the same principle of a few of the owners acting in conjunction with the Government Commissioner hold good also in respect of the large blocks?—Of course it would. The case to which I referred more immediately happens to be an individual case of my own.

968. You have heard the evidence given by Judge Puckey. Do you think it would be a difficult thing to get the Natives to see that this is an easy and proper method of dealing with their land? I do not think it would be so difficult as Judge Puckey seemed to think. Of course he has had more experience than I have have had, and more opportunities of judging their temperament and desires, but from my mixing with them I think they are all very much opposed to the Native Land Court. Nearly all the Natives I come in contact with speak against it.

969. What is your experience of their feeling regarding the Native Land Court?—That they are all decidedly against it, and they are talking of getting up petitions to have it done away with. They complain of the great loss of time they are put to in attending the Court, and of the great uncertainty as to when particular cases will come on for hearing. Perhaps five or six or a dozen cases will be gazetted for one Court. The Court that is now sitting here has been going on since September, I think, and only one case has been before it as yet, and the hearing of that case is not over yet. Then, of course, the parties to the other cases which were gazetted at the same time have all to hang about until such time as the Court is ready to hear them. They complain of no defined time being fixed for the hearing of a case, and of their having to hang about until their case comes on.

970. Do they complain of the fees?—I think not. If the Natives get to know that a certain fee is the fee of the Court, they are not inclined to quibble about it, for they take it for granted that they must pay, and they prepare themselves to do it. I do not think the Natives are so badly off for money as they profess, and as some people think they are. I believe that in cases where all are together and all interested, when they know that they will have to pay the survey-fees before they

can do anything, they find the money. They have money for this and for other purposes. They would find some means of getting it. They would go to their friends and collect it.

971. Do you think, from your experience amongst the Natives, they could settle amongst themselves a great portion of these tribal and hapu boundaries?—I believe it would take them a lot of time to do it, but they would do it, especially if they knew that there was no other means of getting their lands into the market. If it was said to them, "Instead of going to the Court you will have to settle amongst yourselves how you are going to divide it: as soon as you have done that you may come to the Court," they would do it.

972. *Mr. Mackay.*] They should know it was necessary as the first operation?—Yes; and they themselves would come to a conclusion as to who were the owners. My experience of their meetings is this: The whole thing is discussed, and perhaps half a dozen men out of the whole tribe will do the whole of the talking, the others sitting round and acquiescing, but not taking very much trouble about it.

973. *Mr. Rees.*] They leave it to their natural leaders?—Yes. I have been at several of their meetings, and I have watched their proceedings. All the talk was carried on by four or five persons; the others were amusing themselves by playing with dogs and so on.

974. *Mr. Mackay.*] That is not only as regards questions of boundaries between one tribe and another?—No; questions among themselves.

975. That would be more generally as regards hapu boundaries. But there is the primary position to take up; you must begin with the boundary as between one tribe and another?—Well, so far as I know, the tribal boundaries were fixed long ago, and the difficulty is only with the intermediate boundaries.

976. In some cases they are not fixed?—Persons in different tribes intermarry with one another, and there are cases of a wife having a claim on the tribe to which her husband belonged.

977. But there is an actual tribal boundary preserved, and the wife's share will be with her tribe, and should the husband belong to another tribe his share will be with it?—I have had a good deal to do with defining tribal boundaries, and in surveying for them, and generally I got a chief from each side to accompany me upon the land and fix the boundary. They will indicate the different points—sometimes a stone and sometimes a tree—and we afterwards go and survey these. I have an idea that between here and the Uriwera country pretty well all the tribal boundaries have been defined; but the hapu boundaries are not so well defined, and there is a good deal of squabbling amongst themselves.

978. Do you think they are quite competent to settle the hapu boundaries amongst themselves?—They do it, and have been doing it for years, because, although it may be said you are going to survey the land of a certain hapu, yet they have already decided the boundary between themselves and the next hapu. In such survey-work I invariably get a chief from each side, and leave them to fight out and settle the boundary. They will come to a settlement and tell you what is the boundary. It is in this way that I have avoided disputes. So that really they are doing the thing now.

979. That is, when surveyors pursue the same course as you do?—Yes. Most of them do.

980. *Mr. Rees.*] Throwing the responsibility upon the two chiefs?—Yes. Previously to this the hapus select from among themselves the men who know the most about the boundaries for their respective hapus. Sometimes they sit and argue with each other as to the reasons why one hapu claims a little here and the other hapu a little there. I take the opportunity meanwhile to have a smoke and a look round. They, in their turn, have a long *korero*, and then at last they come and say that they have fixed up the matter.

981. Then, from your experience and knowledge, you do not think it would be difficult to get the Natives themselves to decide these questions?—I do not, but I think it would take a longer time; and that would depend upon whether they were anxious to realise upon the land. If they were it would not take long.

982. Would it be of much consequence supposing a law were passed giving them a title for the land? Because they could settle the boundaries when they chose. If you were going merely to give them whatever was derivable from the land by rental or otherwise, they would have to settle the tribal and hapu boundaries before they could have a subdivision?—If the land were going to be occupied as I surveyed it I do not think it would be necessary to cut the hapu boundaries on the ground; they might be cut up only on paper.

983. You would survey only on the ground for settlement, and on paper for division of profits?—Yes. That is, for land that is to be worked. And in that case the boundaries should be cut between the Natives and Europeans.

984. *Mr. Mackay* (pointing to a pencilled sketch).] Assume that that is a block of land, that the tribal boundary contains 18,000 acres, and that there are 300 owners belonging to four different hapus, and the hapus, of course, have set out their boundaries in such a fashion that there are 4,500 acres for each hapu. They would reserve one-third of the lot for cultivations, pas, burying-grounds, and anything else that they wished to preserve their lands for, and then they would lease or sell these 12,000 acres—two-thirds of the whole—appointing four chiefs of these hapus to act as their trustees or committee in settling everything in connection with the leasing of the land, along with the District Commissioner. Assume, also, that the moneys derived from the sale or lease of the land passed into the hands of the Commissioner, and that, after deducting a percentage for the cost of the surveys, and for laying off roads, and so on, he paid the balance to the parties or the individuals in these hapus entitled to receive the money according to the shares that had been settled for them, the Commissioner or the Board at the same time granting an indefeasible title to the lessee or the purchaser, as the case might be. What do you think of that? Would that satisfy the Natives?—I think it would. I think they would all be satisfied with it. The only difficulty I see would be in setting apart the portion for burying-places and cultivations. You might manage for cultivations, but not so easily with burying-places.

985. From my experience, the burying-places would be cut out and fenced either with post-and-wire fences or with post-and-rail?—I think they would be very well satisfied with that. There are, for instance, two Natives, Ngati Maihi and Rangitutia. They have 2,000 acres in one block and 1,000 acres in another, and they have each got twenty or thirty acres additional upon which they are living, and they want me to act as their agent in trying to lease those blocks—in fact, they do not know whether to sell or lease. However, they only want some one to act for them; and I think if a person in whom they had confidence were nominated by the Government to act in that way they would all be satisfied. Their great difficulty is to get some one they could trust to receive and pay money to them. Their agents in most cases receive the money, but do not account for it.

986. Under this agent system the principal men of the tribe bag the money, and only dole out a few shillings here and there, or, mayhap, a pound or two, keeeping the largest proportion to themselves. And in many cases European agents have acted in much the same way?—I have known such cases.

WILLIAM MOON sworn and examined.

987. *Mr. Rees.*] What are you?—I am a farmer, and formerly I was a Native Land Agent.

988. What opportunities have you had, and during what time, of obtaining experience in relation to Native-land laws and the Native Land Courts?—From about 1867. I think it was in that year that I attended the Native Land Court for the first time; but I commenced to deal largely in 1872.

989. From 1867, then, you had means of observation, and from 1872 you have been interested in Native-land dealings?—Yes; largely interested.

990. Have you been since 1872 up to the present time constantly occupied in connection with Native work?—Nearly constantly—off and on.

991. Now, in your opinion, has the effieiency of the Native Land Court increased or decreased since 1872?—In my opinion, its efficiency has increased.

992. How about the incidental expenses?—Well, in the old Courts, I am not sure that fees were charged.

993. They were not at first?—Of course, the difficulty is the extra expense now entailed by sittings of the Court, and fees have to be imposed as a consequence.

994. That is owing to the time consumed in hearing the cases?—Well, perhaps there is now more time consumed and less work done outside than used to be the case. In the olden times the Maoris were more amenable to reason outside the Court than they are now.

995. Have the rehearings increased in number?—Well, I fancy that applications for rehearings have increased in number considerably. In the first place, blocks are now put through in smaller areas, and have to be made more accessible than used to be the case.

996. So far as you remember, has the reliability of the Native evidence increased or decreased? Do you think that the Native testimony now is more consistent or less consistent with truth than it used to be?—Well, in the first Courts a different class of Natives gave evidence. They were mostly old men who are now dead, and they were new to the Court; and I believe their evidence was more to be relied on than is the evidence given by younger men now. Of course, a great deal of it now is manufactured—that is to say, the evidence of young and clever men.

997. From your knowledge and experience of the Native character, would you say that ancient customs of the Maori in regard to land-dealings which have fallen into desuetude might be to some extent resorted to with advantage by casting greater responsibility on the Natives at their runangas and allowing them to settle there among themselves, or through Committees of their own, questions of boundaries and so on?—My personal opinion of these Committees is very poor indeed. I have tried that mode of settlement over and over again in the case of large blocks of land. In the case of the Wakamaru Block of 95,000 acres, I tried to settle the thing not in the Court, but on the ground. We had, as we thought, all the climants there; but the result was that the moment we tried to start the survey a party of Natives took to shooting—potting away at our heads. It was some of the people who were dissatisfied—just a small minority.

998. But, supposing the Whakamaru people had been told that they must settle the boundaries before going into Court, and that they must take their some agreement as to the hapu boundaries?—We forced them to do that eventually, but it was only by cutting out the land of the shooting party that we managed it.

999. It was done then?—It was brought into Court, and fought out bitterly there.

1000. Would it not have the effect of shortening the proceedings there?—I do not think so.

1001. Do you think that a system of peripatetic Judges—their wandering to and fro over the colony—is as useful as a system of assigning Judges to particular districts?—From my own experience, I should say that the assigning of Judges to particular districts would not be satisfactory.

1002. Why not?—It has been tried in one or two districts; and it would certainly seem as if the Natives had not the same confidence after a time in these resident Judges as in a strange Judge. They fancy that the resident Judge might be fixed up or biassed by his friends—that is, from the Native point of view, of course.

1003. Are you aware that there are disputes existing between Natives and Europeans regarding questions of title?—Of course, the only block disputed in this district was Walker's case, which is now settled; but this was really more owing to error on the part of a Judge of the Native Land Court than to anything else.

1004. In regard to the laws relating to the alienation and disposition of the interests in Native land, can you say whether at the present time there is the same amount of alienation of Native lands for the purposes of settlement by Europeans as in the past?—There is none whatever in this district, or, at any rate, very little. The principal reason is that the land is under restriction, being

included in the Rohe Potae, and the few blocks outside that have been acquired, or a portion of them made inalienable by the Native Land Court.

1005. In relation to lands that have been restricted or alienated, is the whole of these lands necessary for the support of the Maoris?—I should say not by any means. In all large purchases we made excessive reserves rather than that anything should be said about the Natives having been left landless.

1006. Then, with regard to these other lands which you say are made inalienable by order of the Court, would you say they are largely in excess of the present wants of the Natives?—In many cases they are. I am speaking of this district.

1007. Then, with advantage to the Natives themselves and the public, a large portion of such lands might be leased or sold for the benefit of the Natives?—Yes.

1008. Now, in regard to the method of dealing, do you think that it is possible to carry on, supposing this land were thrown open in large areas, with large numbers of owners, the restrictions being taken off—do you think it possible in the existing state of the law to complete the titles without immense expense and trouble?—Of course, trouble and expense are always involved where there is a large number of signatures to be obtained. We have always, however, been able to get a good percentage of the signatures—say, 75 per cent.—and we have always been able to get a survey-subdivision for the non-sellers.

1009. But are you aware that every such division has been upset by recent decisions?—We hold these lands under Land Transfer titles.

1010. It does not matter; they will all be caveated. Some of them have been caveated after fifteen years. It is held now by the Supreme Court and by the Court of Appeal that, although an order may have been made by the Native Land Court, after subdivision, in favour of Europeans, that that was not legal, and that the order should have gone to the Natives. That is the present position?—Then that capsizes every title.

1011. Yes; it quashes nearly every title in the North Island?—Then it is a very disastrous state of things for the colony.

1012. In such cases, where the dealings have been just and fair between the parties, and where there is merely some technical dispute, do you think it would be wise and just for a tribunal to be set up clothed with power to make the titles valid to all intents and purposes?—Undoubtedly.

1013. And in cases where the disputes between the Natives and Europeans are not merely upon technical points, but real disputes of any nature whatever, do you think it would be a good thing that a tribunal should be erected which should have power to finally close up such matters and to give titles in accordance with what it considered just and right?—There are no disputes worth speaking of in this district. On the East Coast there might be one or two, but here there is none except that one, now settled, of Walker's, of which I made mention. In fact, I was going to say there has been no Native-land purchase disputed here, and I do not think there is any by the Natives on this side.

1014. You were present this morning when the Commissioners were examining Judge Puckey?—Yes.

1015. Do you think that in the case of any large holding, in which large numbers of people are interested, if these people publicly resolved upon their reserves, and upon so much of the land being either sold or leased, it would then be a wise plan to allow these sales or leases to be conducted by representative people acting in conjunction with a Government officer, so that the titles might be completed cheaply and easily- that is to say, if the Natives consented to such an arrangement?—I cannot say that I would be sanguine of that.

1016. But if the Natives consented to it, it would be advantageous to the public?—Yes, where you are dealing with large areas.

1017. Do you consider it would be possible, in cases of large areas with great numbers of owners—in rough country especially—to individualise the title to such land without the whole value of the land being absorbed by the costs of the survey and other incidental expenses?—Not to personally individualise; but it might be possible to individualise for hapus without the whole value of the land being absorbed in that way. In the case of the Wharepuhunga Block of 137,000 acres for instance, I should say there would be very little difficulty and comparatively little expense in individualising the hapu rights—say there were four, five, or even six hapus represented. It would entail very little trouble to divide it even into blocks of 15,000 acres each—that is to say, in Court.

1018. Comparatively little expense, I suppose, would be entailed by such surveys?—Yes.

1019. Supposing that were done, how many people on an average would there be in a hapu?—I think the number of adult grantees in the whole block is about six hundred.

1020. And how about children?—three hundred or three hundred and fifty children. Nearly nine hundred people interested, including the children.

1021. Then a subdivision such as you think would be advantageous would be a subdivision into blocks of 15,000 and 20,000 acres with an average of ane hundred and fifty people in each?—Very often we make a separate reserve for the children, unless it is absolutely inalienable for the whole tribe.

1022. Would it be advisable to further subdivide the land in order to give each person a separate piece?—I should say not.

1023. Then you would consider the unit of subdivision to be the hapu?—Yes, or the family.

1024. That is in accordance with Native custom?—Yes. It would be almost impossible to individualise individual rights. Where you have five and six brothers and sisters to deal with, how could you individualise their interests?

1025. There is no such thing in Native custom?—No.

1026. Having reduced the title, then, to the individual hapu, do you not think the hapu might allow its chiefs—some of its leading people—to act for the hapu in conjunction with a Government

officer in dealing with the land—of course after ample reserves have been made—and the Government officer to be responsible for the due distribution of the moneys derivable from the transaction? —That would be far more feasible than attempting to deal with five or six hapus owning one large block.

1027. Is there anything you would like to suggest to us?—Well, although I am not a surveyor, still I have suffered a great deal through lying out of the money chargeable for Native surveys. Subsequently I have lost it.

1028. Can you say from your own personal knowledge and experience that this survey difficulty is a widely-felt matter?—I should say it is. I have so often suffered myself, and been unable to recover the money.

1029. Not merely from one survey?—No.

1030. Do you think, if the Government were to pay these survey-charges, where they have been properly incured, it would be a wise thing in the interests of the Government and of the Natives themselves, as well as of the surveyors?—If the Government had proper security for the money.

1031. They could take security over the land?—Yes.

1032. The Natives would not be put to such expense, as an end would thus be made of suits for the recovery of these charges?—Decidedly. The Natives are very ready to sign an agreement for a survey, not thinking at all of the day of payment.

1033. I suppose you know of numbers of instances in which the surveyors have sued the Natives on these survey-charges?—I have heard of several in this district.

1034. Then, costs would be heaped upon them?—Yes.

1035. Besides the surveyors being unable to keep their engagements with other people by reason of the money they have earned not being paid?—Yes, and the interest accrues under a recent Act.

1036. I suppose you would say, if representative Committees were chosen to deal with all those matters relating to the land, or a central body partly appointed by the Legislature and partly by the Maoris themselves, its power being surrounded with due restrictions, so that the money derived from the land should be properly distributed amongst the Natives interested, the plan would be likely to work well?—Well, yes. Of course, in all these land-purchase matters there are generally one or two Natives who have to take the whole onus of putting the land through the Court, and very often all the expenses connected with the affair from start to finish are borne by them, so that in talking of a distribution of the proceeds it would be hardly fair to these people who find the money to pay the incidental expenses, besides, perhaps, feeding those for whom they are acting, should have no consideration given them for this expenditure, and that the others should be allowed to reap the benefit of their expenditure.

1037. The claims of these people should be taken into consideration?—Decidedly. It is almost invariably the case that a few such people have to bear the whole cost of getting the land through the Court. You will find that perhaps one man in such a case will find the money. I know that, in the case of the Whakamaru Block, Hitiri te Paerata not only bore all the expense of putting the land through the Court, but that he had also to keep his people during the whole time the case was under adjudication—months together. And in other parts—in the Taupo district, for instance—there are cases of just the same character. There was no necessity for all those people to come to the Court, but they all came nevertheless, and he had to feed them all. I suppose that means that the expense entailed upon him of getting through two blocks, roughly amounting to 150,000 acres, must have come to £5,000 from start to finish. It would be hardly fair, therefore, to put him on the same footing in the distribution of the proceeds as those who had not spent a single shilling.

1038. Of course it would be manifestly injust. Is there anything else you would like to suggest?—Not at present. If anything further strikes me I might make a communication to you.

KAWAKAWA, 1ST APRIL, 1891.

MARY TAUTARI sworn and examined.

1039. *Mr. Rees.*] Are you a native of this district?—Of Hokianga.

1040. I suppose you have some knowledge of the methods in which matters are conducted in the Native Land Court?—Yes.

1041. In contested cases between the tribes and hapus?—Yes.

1042. The Native land in this district belongs mainly to the Ngapuhi, does it not?—Yes.

1043. What are the cases to be decided usually—hapu boundaries?—Yes. There are various sub-tribes as well, but they are all Ngapuhi.

1044. Is the working of the Native Land Court satisfactory in determining these sub-tribal and hapu boundaries?—No, and for this reason: The man who has acquired a knowledge of how to act in the Land Court carries his claim to the land to a successful issue, while those who are deficient in that kind of knowledge fail to establish their claims, and thus lose the land of which in many instances they are the rightful owners.

1045. Do you mean to say that clever and unscrupulous people know how to so manage their claims before the Court as absolutely to obtain judgment in their favour by making a fair appearance?—Yes. I have myself gone to the Native Land Court, and sat there during the progress of a case, just to see how it went on, and I have actually seen people who ought to have had the land absolutely lose it. It is the cross-questioning that kills them. It is impossible for them to answer it. If, however, a proper inquiry were made, I am certain every one would get his rights.

1046. What do you mean by "a proper inquiry?" Do you mean an inquiry conducted by the heads of the tribes?—Yes, I mean an inquiry at a general runanga, which should have the necessary authority for the purpose.

1047. You think that these clever people of whom you speak would not be so likely to succeed in deceiving the runangas as they are in deceiving the Judges of the Courts?—Yes.

1048. *Mr. Mackay.*] In fact, that the runangas could settle these matters better than the Court?—Yes.

1049. *Mr. Rees.*] Have the Natives in this district any large tracts of land undivided, and with the title undecided?—Yes, several. There is one block, for instance, at Waiomio. Mr. Clendon recently, on behalf of the Government, asked them to have it surveyed with a view to prospecting for coal. They refused to allow it to be surveyed, but offered to allow it to be prospected. They say that if they permit it to be surveyed they will lose it. I think this is wrong, because the Natives in possession know that there are several other sub-tribes which also have a right to this land, and they refuse to have it surveyed simply in order to stop these people from coming in.

1050. There is a great part of the land in this northern district sold to the Government?—Yes. Formerly a lot of it went to the Government as a sort of gift or makepeace with the Government. My husband had a deal of land given by his tribe to Marsh Brown to give to the Government.

1051. And the Government have also purchased land?—Yes. They purchased a great deal. In fact, they said they would not take it for nothing, but preferred to pay something.

1052. Have they now anything left to represent the money which they derived from their sales of land—anything on which they spent it?—No, they spent it all on drink. They drank fearfully in those times.

1053. They have not purchased anything else with the proceeds of these land-sales—other land or stock, for instance?—No, except a flour-mill up at Taumerere, which they bought for £1,500. They have always asked such an enormous sum for leasing it that it has remained on their hands idle.

1054. Do you think the wiser plan of dealing with the Native lands would be not to sell them, but to lease them in order to get a revenue from them?—That would be a very good thing—to only lease, so that their land would not be taken from them. They have the idea that the Government wish to take their land from them. They say that by the Treaty of Waitangi they were to have the power of dealing with their lands, and that they have been done out of it.

1055. You say that if a plan were adopted by which their lands were leased for their own benefit that that would be a very wise plan?—Yes.

1056. And that the great evils of sales are that they make free with the proceeds, and thus render themselves a landless people?—Yes.

1057. Do you think, in relation to the leasing of their lands, that it would be wise to have Committees, formed of the leading people of the different tribes, to act with the Government Commissioners, so as not to have these multitudinous signatures to everything?—That would be a very good plan.

1058. It would save all these expenses of subdivisional surveys would it not?—Yes.

1059. Has the individualisation of title been attempted up here?—Yes; and it seems to fail.

1060. First of all, is individualisation of title according to Native custom?—No; the land was formerly held by the hapu. They would say, "Your hapu will have that portion to cultivate, and ours will have this other portion;" but these divisions would only be for the purposes of cultivations.

1061. Then, the individualisation of title is an entirely new thing among the Maoris?—Yes, altogether.

1062. It seems to be feared?—Yes. My own people tried it very hard under Graham Tawhai, at Hokianga, and there is a large block at Waima which they took and subdivided.

1063. Do you not think that the plan should be to lease alone?—Yes; but as regards individualisation, is it not better for me to have my own shanty, so to say, to myself? I have an interest in two blocks—one of 7,000 acres and one of 11,000 acres. I should like my portion cut out.

1064. *Mr. Mackay.*] Of course the subdivision of land like that would not be so expensive?—No.

1065. *Mr. Rees.*] In regard, then, to the sub-tribal and hapu boundaries, you think that the Natives themselves would be both competent and more successful in defining boundaries than the Native Land Court?—Yes.

1066. That they would not be deceived?—Yes; all the parties would speak out freely, and would obtain a better hearing. They would not either, be confused by cross-questioning.

1067. Do you think that, before the runanga, the people who make up clever stories would fear to do so there?—They would be more afraid of doing so there than before the Native Land Court. These are people who constantly attend the Courts and who know how to manage cases there, whereas those who have not acquired that knowledge are quite ignorant of the procedure of the Court, and will ask what they have to do in going before it. Perhaps, then, they will be led in the wrong way by these clever, designing people, and put on a wrong track altogether. I have thought of this matter for a long time, for, as I have said, I have sat in the Court and witnessed these things. I have seen Natives lose their land straight out in that way.

1068. People whom you knew to be entitled to the land according to Maori custom and usage?—Yes. There is the case of this Puhipuhi Block, for instance. It was only because the Government had advanced money on that land to certain people that the land actually passed to the people who received that money; and yet they had no right to it. It looked very like as if the Government favoured the people who had received the money.

1069. Do you think it would be a good thing to empower Maori Committees in the different districts to make reserves for the establishment of technical schools whereat the Native children could be taught farming and things of that sort?—Yes. I have a small school myself. The Maoris, however, want to be made to send their children regularly to school, and not be allowed to keep them at home just when they please. There is a great waste of public money in connection with

the Native-school system from that very cause. The parents will send their children to school for a portion of the year, and for the rest of the year will keep them at home digging gum. The Natives, in respect to educational matters, should be made to do exactly as the Europeans are obliged to do. The Europeans have been playing with them too long. If I am to give my candid opinion I think the Natives should be made to have all their lands subdivided equally among the present generation, and not be tied up by the present generation.

1070. *Mr. Rees.*] And each have his own share?

1071. *Mr. Mackay.*] That is to say, each to have his share of the reserve land, and also a share of the land they dispose of?—Yes. There is too much monopoly among them. And, in addition to this division of the land, let them, as I said before, be compelled to send their children to school regularly.

1072. *Mr. Rees.*] You think the Maori Committees should take a part of the land for these schools, and have technical instruction imparted to the children, and that their attendance should be made compulsory?—Yes, it certainly should be made compulsory. Why, Pomare and I tried this thing over here, and we brought it under the notice of Mr. Pope. But he said it was a case for Parliament to deal with; that he could only deal with things as they were.

1073. It is in order that Parliament may obtain a knowledge of these things that we seek the opinions of the Natives. Our purpose is to elicit information for the purpose of enabling Parliament to make good laws?—Then Parliament should make a law compelling the Natives to send their children regularly to school and imposing a fine of £5 in cases where, without good cause, they keep them away. They take them away just when they are getting on nicely, and for no sufficient cause. Let them remove the child, if necessary, only at the end of the year. But to take them away in the middle of the year is hard upon the children, and a punishment upon the teacher. The child may be at school to-day and away to-morrow, and, if you ask the cause, the answer may be that it is kept at home to nurse the baby. I was inquiring after one absentee only to-day, and I ascertained that that was the cause of absence. The teacher, as well as the children, suffers from this irregular attendance, because good work can hardly be done under such circumstances.

1074. Is there anything else that you think should be brought under our notice?—In reference to technical education, I wish to say that when a pupil has passed the fourth village school standard with distinction it should be ascertained for what trade or occupation the pupil has an aptitude, such as for that of carpenter, blacksmith, boatbuilder, machine-fitter, and so on for the boys, and for the girls dressmaking, keeping books of account, nursing, cooking and domestic work, school-teaching or other suitable employment for females. The successful pupil should then be removed from the village school to a higher technical school for a period of not less than three years, under bond, or security, or fine, or such like safeguard to prevent the child returning to the Maori kainga or the gumfields, which is fatal to all further improvement or restraint from free or evil ways. And as regards mixed schools for Europeans and Maoris, I have no hesitation in stating from my own experience that such an arrangement will fail utterly, for this reason: that the children of the lower classes of Europeans, whether from ignorance, or mischief, or from what is called race-hatred, cannot help annoying the Maoris in a manner which they will not for a moment submit to even amongst themselves, and they will not attend the European schools. Therefore it is hopeless to expect for some time to come that any such arrangement will be acceptable either to the Europeans, who look down on the Maori race, or to the latter, who equally, from long habit, will not bear being treated as inferior or as servants to any one.

AUCKLAND, 13TH APRIL, 1891.

EDWIN THOMAS DUFAUR, sworn and examined.

1075. *Mr. Rees.*] You are a solicitor practising in Auckland?—I am.

1076. How long have you been practising in Auckland?—Sixteen years.

1077. Have you had experience during that time in land-transactions with the Natives?—Yes; more so, I suppose, than any other professional man in Auckland.

1078. I believe you speak the Native tongue, and know personally many of the leading chiefs in the North?—Yes.

1079. Have you, during the time you have been practising your profession in Auckland, had opportunities of watching the procedure of the Native Land Court?—Yes, I have very frequently attended sittings of the Court.

1080. Can you say whether, within your knowledge as a professional man, there have been disputes as to title in relation to the transfer of land—that is, disputes between Natives and Europeans?—Yes, there have been, but not so many here in the North as I have heard there are in other districts—Gisborne and Napier for instance.

1081. Have any of these cases that have come within your knowledge arisen from the omission of some technical point in the statutes or in the requirements of the law, without there being any allegation of fraud, so that, apart from the technicalities of the case, the titles would be quite as good as those that are held to be quite valid?—Oh! a great many. There is one case, for instance, where one man, out of sixty has not signed, and the subdivision order has not been obtained—that is by the ruling in Poaka *v.* Ward, in consequence of which decision the whole deed has been declared invalid.

1082. Can you say that there are many such cases?—Yes, there are many other such cases. There is a case pending at Kaipara, where the purchaser got all the owners, but because, through being away in Australia at the time, he did not register his transfer before the Native Lands Administration Act of 1886 came into force, the Court will not now accept it, and his title is consequently in jeopardy, although the deed passed the Trust Commissioner's Court, and the Natives received their money, and do not dispute the title. The area of the land is 2,200 acres.

1083. That is owing wholly to the state of the law?—Solely owing to the state of the law.

1084. Now, of course you are not acquainted with the ancient method of dealing with Native land, where the dealings were made in public by all the people, and the chiefs received the money and distributed it?—I have been present at some of these transactions. There is the case of a large block at Raglan, which I negotiated, and in which Messrs. Studholme, Young, and other people were the lessees. That was arranged in the presence of all the people interested.

1085. In your opinion, as a professional man, which is the safer method of dealing in Native land—dealing with the Natives individually, or in public with the whole people?—Well, in dealing in public you cannot be certain that you have got every Native there.

1086. But supposing that you have?—How could you be certain unless the Native Land Court had first ascertained the title?

1087. I mean, the title being ascertained?—After the title has been ascertained, and there is a public meeting, I have very seldom seen the Natives attempt to repudiate. They are much more honest than Europeans, unless there are Europeans behind them who spur them on. Of course, the system of the Native Land Court is wrong—that is to say, the system of giving the Judges and Clerks so much a day as long as the business of the Court lasts. In the opinion of many people it tends to lead to the prolongation of cases. I do not make any insinuation, but speak merely of the principle. I have seen Courts adjourned for four or five days—sometimes a week—where a little bit of push on the part of the officials would have brought the contesting parties together and secured a settlement. But while the Judges are getting a guinea a day maintenance-money—amounting in some cases to two-thirds of their pay—they will be content to let things go on in the fashion I speak of.

1088. *Mr. Mackay.*] They are only getting 12s. 6d. a day?—That is now. I do not say that they should not have their actual expenses. They should be allowed their cigar and glass of sherry or beer, but it should all appear. I do not believe in the present system of travelling expenses. Though the men do honestly enough what they have to do, it deprives them of any incentive to exert themselves. Look at the Court at Marton. It has been sitting since June last, and will continue to sit until the Natives are sucked dry—until, in fact, they have got no more money to spend. I think also there is not enough discretion left in the hands of the local Magistrates, who should be associated with the Native Land Court, where, especially: it is a case of Maori subdivision, where the magistrate is personally acquainted both with the district and the Natives. In a great many cases, instead of having a sitting of the Native Land Court, with all its attendant evils of drunkards, card-sharpers, and camp-followers present, the local Magistrate—such men, for instance, as Mr. Bush, Mr. George Preece, Mr. Bishop, and Mr. Booth, who know every Maori in their respective districts—could with advantage deal with them, and, in non-contentious cases especially, could easily and expeditiously dispose of them—his means of ascertaining all the owners being greater than an itinerary Judge; whereas, if the individual is left to his own resources, and has to work under the present system, perhaps three years may elapse before he gets his title. That is especially the case where succession orders are being taken out, as the Natives are dying off very quickly. I can mention a case at the Kaipara—any ordinary Judge of the Court would have passed the claim—where, before Mr. Clendon as Recorder, and who was also the Resident Magistrate, a Maori claimed the succession, swearing he was the true successor to the land, that he was the brother of the last owner, and that his brother had left no children. Mr. Clendon, knowing the wife of the deceased man, and that she had borne children to him, let the Native go on with his statement, and then said, "Did not your brother leave two children, who are alive and living with their mother's people, the Ngapuhi?" "Yes," replied the Native, "I had forgotten all about that." Now, there, Mr. Clendon, from his personal knowledge of the district and of the Natives, stopped this Maori at once. He said, "I shall not commit you for perjury, but I want the Natives to know distinctly, if they lie like this they will be committed." I believe the Judges of the Native Land Court should themselves go on to the particular blocks of land in respect of which titles are being adjudicated. I have seen cases in Court in which a Native has been clever enough in repeating boundary names to work out his points, and have them taught outside to those who are acting with him, and then these Natives will come into the Court and swear to the minor features of the plan, although they had no more knowledge of the land than I had. If, however, the Judges camped on the ground itself, a great many of the men who now lie so glibly, pointing out on the plan the various *wahitapus*, and old cultivations, and pas on the block, would not be so ready to do so.

1089. *Mr. Rees.*] A great many of the leading Natives have stated to us that the Maori Committees and Maori runangas could settle the tribal and hapu boundaries by talking among themselves, only leaving a very few cases in dispute for the Court to deal with. Do you think they could do so?—I think they could if they could have some European to smooth the way for them—if there was a Judge to call the contending parties together, to guide them in the matter, and acting more in the capacity of a mediator or arbitrator. He himself would be much better prepared, under such circumstances, to pronounce a decision than he would be in a great many cases I have seen in Court, as in meetings like this he would arrive at the truth where the Natives who were fighting were descended from the same ancestor. Where it is merely a case of members of the same family disputing what parts of the one block they should have, a Commissioner travelling with the Natives could settle nearly every such dispute. I may say that I saw this instanced at the Thames once, when Mr. James Mackay was dealing with a dispute between the Ngatipaoa and the Ngatimaru. It was with reference to land somewhere near the Piako. He got the leading people together, and the case was settled in a week; whereas, with the money they had and the expense they would have gone to in the feeing of lawyers—who, of course, trying to do their best in the interests of their clients, get all the evidence they can, in many cases quite superfluous—only tends to prolong the case,

1090. Have you seen tried the plan now in vogue with the Native Land Court of allowing agents to appear and conduct the cases? Does that advance the interests of the people?—I think that, except in very large cases, agents would not be wanted if an attempt at conciliation were made. The Court, too, might be a little more careful in the appointment of Assessors. Sufficient inquiry is not made as to their genealogy; and blood, you know, is always thicker than water with the Maoris. There seems to be a dearth of Judges who know the Native language and who have studied Native customs, and to a very great extent the lack of this knowledge throws them entirely upon the Assessors. The position of a man who presides in the Native Land Court without having a personal knowledge of the matters that are brought before him is extremely difficult. It is just like putting a civilian on the Supreme Court bench, and asking him to decide the case put before him.

1091. Then, in relation to the class of cases in which you state there are many titles imperilled by technical defects, and in respect of which there is no dispute as to these errors, you think it but just and right that these titles should be cleared?—I have always maintained that, if no Act is passed to validate these transactions, all our Land Transfer titles could be upset. According to recent decisions there is no Land Transfer title obtained since the Act of 1873 came into force that could not be upset. There is no security of tenure. I am in communication with a great many people who are willing to come here from Australia to take up land if I can but assure them that the Government are prepared to guarantee the title, and in every such case I am compelled to answer "No." But for this uncertainty we should have a very large quantity of land that is now lying euproductive in Native hands speedily taken up and settled upon. There are plenty of people such as I have mentioned who want to acquire farms of 100, 200 and 300 acres from the Natives for the purpose of *bona fide* settlement, but who cannot go to the expense of conducting large negotiations. In fact it is not worth while in the present state of things.

1092. Then, no law would be of use which did not vest all this land in the Crown?—It would not be fair towards some of the Natives, especially those who come in contact with Europeans—a very clever, sharp lot of Natives.

1093. I do not mean unoccupied Native land, but land in respect to which Crown grants and Land Transfer titles have been given, which would be imperilled by these technical defects?—They are supposed to be vested in the Crown or guaranteed by the Crown, I suppose, because the Crown granted them.

1094. They are not absolutely vested in the Crown, because the Crown has only changed the title deed?—Of course every individual tenure is but a Crown tenure.

1095. If the land be vested in the Crown there can be no question as to title unless fraud can be alleged, and where *scire facias* has been issued. Perhaps this is entering too largely into technical law. It is a question of policy for Parliament to determine?—There is one other point that should be attended to—that is the question of minors. Of course, we know as lawyers that no matter when a minor signs for land if it is shown that he is under twenty-one the transaction is not valid. Now, I maintain that there are thousands of minors who have signed, whose lands have passed away from them in consequence and who are not yet twenty-one. There ought to be a rule that if any person interested in a block of land be a minor the fact should appear in the certificate of title, together with the statement that he was so many years of age on the date that the Court issued it; because very few of the Maoris know the date, on which their children were born, although they know the year. There is nothing at present to prevent a minors after he has signed, or his children after his decease, from coming to the Supreme Court and upsetting a title, or obtaining so much compensation, by saying that he was under age when he signed. That is where there is a real danger.

1096. In view of all these things, do you think it would be better that the land should be dealt with tribally by a Maori Committee acting in concert with a Government Commissioner in each district, and that they should give title, like the board of directors acting for a corporate body?—I do not think you would satisfy the Natives: they have not confidence in each other, and resent direct control by the Government.

1097. But, supposing the Natives would be content with that, do you think it would be better in the interests of the public?—I do not think so. I do not think matters would be got through so quickly. I have seen every branch of the land-purchase system of the Government. One man who is personally interested in getting the title through will push the matter far more quickly than will the ordinary Government official acquiring land for the Crown.

1098. That is not my question. This is the question: Taking, for instance, a block of 200,000 acres of land in the King-country, where we are now going, and with 500 owners to it, would it not be better in the interests of the public for reserves to be made for the Natives out of that block, and that the balance should then be thrown open in a manner analogous to that in which Crown lands are thrown open, but that it should be done in the interests of the Natives? Of course the title should be ascertained first, but we would not have the Native signatures?—Then some—in fact, a large number—of the Natives might, and I am certain would, object to their land being dealt with in that way. There are a large number of half-castes—the Hettits, Hugheses, and Ormsbys, for instance—and those closely allied to them, who know as much about dealing with land as you or I do, and they certainly would object. Then, too, the Government would be selling this land as against the large estates which the Crown now holds. Naturally, any Government official would consider that his first duty was to try to dispose of the Government land, and he would take advantage of any demand there was for land by giving the preference to such as the Crown had for sale.

1099. But, supposing it were not left in the hands of the Government at all, but placed in the hands of a Board appointed partly by the Natives themselves and partly appointed by the Government?—I saw the Rotorua Committee working, and it gave dissatisfaction. The Natives had no

confidence in the Committee, and they sought to use the Courts as their ultimate appeal to which the title should be referred.

1100. That would be the question of title?—I am afraid, if this system of Committees were adopted you would get a large number of officials appointed in connection with them—clerks, interpreters, associates, and so on. It would be a nice sort of patronage for the Government to exercise, and if they had a friend to accommodate he would be appointed to a Committee.

1101. But, supposing the Government had no power to do anything of the sort, would it not be in the interest of the public if the land could be thrown open in that way?—There is no doubt the land should be open for disposal. From Otorohanga down to Napier there is a large quantity of very valuable land.

1102. And a good deal of it is suitable for settlement if the title were complete and easily obtained?—Yes.

1103. And that need not be so expensive if the present system of obtaining the individual Native signatures were modified?—Oh, no! that is a very costly proceeding. Up in the North, of course, you very seldom have a large number of Natives in the one block; but further south, and about Gisborne especially, very small areas are quite worthless, because there are so many Natives interested that it does not pay to acquire the land. I know of one block of only 300 acres for which there are no less than 800 owners. The rule at present is to pay about half a guinea for each signature: that includes travelling-expenses. The person employed is entitled by Act to a guinea for every time he reads over the deeds.

1104. In the King-country, of course, there are very large blocks?—Yes. If when the titles came before the Court an attempt were made to divide the block into hapu or family divisions, and a plan was prepared so as to afford an approximate idea of the country included, the proceeding would not be so encumbered with cost, and a person desiring to purchase would not have to acquire the interests of a thousand Natives. In the Whangarei district, where the Native land is divided into small blocks—say from some four to seven or eight Natives in each—it can be acquired easily. You can handle such blocks as these. I have found, too, that the Natives are accustomed to treat land held under the one Crown grant as if it were incapable of subdivision. If a Native has 50,000 acres in one certificate, he would sell his interest in the whole if he wanted to sell at all; but if the land were cut up into smaller blocks, then the Natives would sell a block (and not the whole) only, as they were compelled or wanted money, and there would be no "land-sharking."

1105. Although they are not so plentiful in the North, yet in cases where there are real disputes as to questions of principle, questions of fraud, non-payment of money, forgery, and so on, do you, as a professional man, think that a powerful Commission or Court should sit to dispose finally of such cases?—Yes; finality is absolutely necessary. I know not only of these people in Australia who would come here to take up land, but of others in England as well, if they were assured that when the Crown issues a title——

1106. After such a judgment?—After such a judgment that it could not then be upset.

1107. I suppose you would say as a professional man that all the recent Acts since that of 1873 have left the law at the present time in a state of terrible confusion?—In a state of chaos. You can read some sections just as you like. Looking at these sections every time under a new light, a man may construe them differently; the reason being that the Acts have not been carefully prepared. Our Acts up to 1865 were much more perfect in their verbiage than these Acts from 1873 onward, which are actually a disgrace to our statute-book.

1108. I presume from what you have already said that you are not of opinion that a lot of Natives should be dragged from their homes to attend a Court sitting at a distant place?—Certainly not. I believe in an itneriary Court and the Natives would be only too glad, if they were saved this expense, to erect a comfortable house for the Court in their own district; and you would find that under such circumstances the work of the Court would be got through much more quickly. There would be no sittings for months together, as is the case now.

1109. Do you consider it possible to individualise the land, especially in rough country, so as to give each person a fair share?—It would be very difficult. You could not give a share to each man; but you will find that they are so divided into families that the land could be divided into fair proportions as between the hapus and families.

1110. That would be the Native method, would it not?—Yes.

1111. The individualisation of the land is not according to the Native method?—No: although in the old days the chief used to have the control over the land, he always recognised his immediate relations. They always had their settlements or cultivations that were totally independent of the *ariki*, or head chief.

1112. We have had a great deal of evidence, especially from Natives, as regards the advisability, now that they have land, of setting apart reserves for educational purposes, such reserves to be chosen by the runangas or Committees in the different districts, and the land not merely to be occupied by the schools, but to be ample enough to afford opportunity for technical instruction in farming, trades of various sorts, and to render the institutions self-supporting?—Yes; I believe that not only would the Natives agree to that, but that they would give generous reserves for such a purpose. You would require to have them administered differently than by the method which has obtained in the Public Trust Office in Wellington. That is the fear the Natives have. There are so many complaints in connection with it, and that is one of the reasons why the Natives dread Government interference. They see that when a Native has a piece of land alongside that of a European the European will get £1 an acre for his land, while the Native will only get 2s. 6d. an acre from the Government. They do not understand that.

1113. If they had District Committees of their own, with Government Commissioners to assist them in having control of the moneys, do you think it would work well?—Of course you would have to be careful of the ultimate vesting of these estates, because the Natives are dying out. Any per-

son who has been concerned in Native dealings must know that. What will become of the reserves ultimately?

1114. They will vest ultimately, no doubt, in the Government for the educational requirements of the public at large; which would be a thing much to be desired?—That would be a desirable thing. At present the Natives have large areas of land, and they would not miss a few thousand acres, nor would they grudge them for such a purpose.

1115. Do you think that the fees which the Natives have to pay in the Native Land Court are unfair or unfair?—The Court charges the Natives more than the Supreme Court charges a suitor. The Supreme Court suitor starts his suit with an expense of £1, and 2s. 6d. an oath. The Natives are charged £1 each party per diem.

1116. *Mr. Mackay.*] The reason for that is to prevent unnecessary and irrelevant evidence?—In some cases I have seen some of the Natives absolutely compelled to leave the Court because they had not the money to pay the fees, although their claims were as good as those of the other Natives before the Court.

1117. *Mr. Rees.*] And they lost the land in consequence?—Yes. There was a rule requiring them to pay £1 a day, and when the case lasts for months, as nowadays many cases do, it becomes a serious matter with the Natives.

1118. *Mr. Mackay.*] What would you suggest as a means of repressing irrelevant evidence?—If the Judges had sufficient knowledge, and there was firmness on the part of the Bench to stop the Native from wandering in his evidence and to keep him to the point, no other means would be needed. I have seen some Judges who, from the time of their entering the Court in the morning until they left it in the afternoon, never asked a question nor looked even at a witness. The whole business of the Court was done like a machine. Whether the Judge was asleep or not I do not know, but here was the interpreter translating the evidence as it was given, and there was the Clerk taking it down, and between them the whole proceeding appeared to lie. That was at Maketu. In that way the business went on, until at last the Maori gave in, saying, "We might as well be talking to a stone. We will settle the case ourselves." They were actually wearied out.

1119. Then, would you say that the operation generally of the Native Land Court is unsatisfactory?—Yes, very unsatisfactory.

1120. *Mr. Rees.*] You think that the Natives themselves, if allowed to do so, could settle many of their tribal and hapu boundaries, and that where there were disputes the local Judge, if he took the trouble to go on the land along with the contending parties, could settle them in that way?—A great many of them. If Resident Magistrates who know the Natives and the language, and are mixing amongst them day after day, and were appointed to this work, and the Natives knew these men were appointed by the Government to start business in their little Courts at any time, these cases would always be settled and would be settled, one by one. The Natives now regard a Native Land Court sitting as a sort of big tangi. Numbers of people come to it who have no interest whatever in the land, but who attend merely to live upon their friends, and it leads to demoralisation of all kinds.

1121. I presume from what you have already stated that you can say, if the present disputes were settled, and the future dealings with Native land were made certain and economical as to title, there would be a great influx of money and people for settlement purposes?—I am certain there would be from the correspondence that I have had with people in Sydney, Melbourne, and Queensland. In all those places there are farmers—not speculators—who, if they were only certain of getting land at a fair price, and a secure title at little expense, would come here to settle down, on account of our climate and our rainfall.

1122. Have you ever regarded critically that provision of the Act of 1865—which, by the way, was the first operative Act with regard to Native-land dealings—which sets out that there are two sorts of certificates to be given: one to tribes by name as tribes, and one to a number of individuals not exceeding ten in each case?—Yes; and that giving of a certificate to the tribe led to very great confusion and very great uncertainty of title.

1123. I believe there were only two or three instances in which tribal certificates were issued?—That is all.

1124. In what way did it lead to confusion?—Because since the Europeans have come to the colony the Natives of the various tribes have so intermarried that a Native may almost be of what tribe he likes. If it is his mother's tribe that has the land he can be the child of his mother, and if it is the tribe of his father that possesses the land then he is the child of his father; and unless he happens to be present when a transaction takes place with respect to the land he will give trouble in the future by asserting his claim.

1125. Could that have been healed by pursuing the double system of getting the tribal names and fixing the individuals as they do now in the lists, but calling them by a corporate name?—Fixing the owners?

1126. Yes?—It would be absolutely necessary to fix the owners by name in order to give certainty of title, because otherwise there would be no means of determining who were entitled to rank as owners. In cases of fights in the old Maori days any of the relatives were aware that they could be expected to go and assist, and they would naturally claim to be included with the tribe, though living apart from them.

1127. Then, it would be necessary to fix the names of the owners. and stand by them when once fixed?—Yes.

1128. Have you considered the other sort of certificate?—Cases of granting to the ten when there were a greater number of owners?

1129. Yes?—They were meant to be trustees. It was presumed that these Native trustees would deal with the *cestui que trust* fairly and honourably; but they did not.

1130. Can you give any reason why they were not made trustees?—No. I can state one case at Hokianga that I was interested in under the Act of 1867. There were 180 owners, and the land went through in four days, but it took three weeks to decide who should be their trustees.

1131. *Mr. Mackay.*] It was the malfeasance of such trustees that led to the passing of the Native Equitable Owners Act?—Yes.

1132. *Mr. Rees.*] It was owing to the fact that under the Act of 1865 so many tribal lands were disposed of by the ten people in the certificates that it became necessary to fix the names of the other owners on the back of the certificate. That led to the Act of 1867?—Yes.

1133. Then, as these people spent the money arising from the leasing of the lands, just as the ten who had previously been on the face of the certificates had spent the proceeds of their sales of the land, the Act of 1873 was passed in order that the signature of every Native shown on the face of the memorial should be acquired before the dealing was valid. That was practically impossible in the case of large numbers of owners, owing to the number of children who were included?—It was impossible because the Act of 1873 is peremptory in stating that the name of every owner on the face of the memorial shall sign before the transaction is complete. A great many of the owners died and their successors have signed. It is now maintained by the best legal authority that that is invalid, because it is not carrying out the provisions of the statute. It was possible to have got all the owners to sign immediately the land passed the Court, but it was impossible afterwards.

1134. *Mr. Mackay.*] There is a point in the Act of 1873 with reference to the setting-apart and making reserves for the Natives—that every man, woman, and child in a hapu should have 50 acres. Has not that led to the number of names being very much added to, and, in fact, to spurious names being put in?—I have seen children put in before they were born, and given dual names so as to suit either male or female.

1135. *Mr. Rees.*] I would call your attention to the 23rd section of the Native Land Act of 1865: "At such sitting of the Court the Court shall ascertain by such evidence as it shall think fit the right, title, estate, or interest of the applicant and all other claimants to or in the land respecting which notice shall have been given as aforesaid, and the Court shall order a certificate of title to be made and issued, which certificate shall specify the names of the persons or of the tribe who, according to Native custom, own or are interested in the land, describing the nature of such estate or interest, and describing the land comprised in such certificate, or the Court may, in its discretion, refuse to order a certificate to issue to the claimant or any other person. Provided always that no certificate shall be ordered to more than ten persons. Provided further that if the piece of land adjudicated upon shall not exceed 5,000 acres such certificate may not be made in favour of a tribe by name." Now, then, you say that, though the object in limiting the number of persons to be put in the certificate to ten was that these might act as trustees for all the owners, yet it was found to practically mean the taking-away of the land from all the others?—Yes; it was practically giving the ten the freehold.

1136. It gave, then, to ten, or less than ten, an absolute freehold, free of any trust or anything else?—Yes.

1137. Then, under the 17th section of the Act of 1867?—The Judge was empowered to minute on the back of the order the names of the *cestui que trust*, other than the ten, who were found to be interested.

1138. Under this Act, too, the ten could not sell or mortgage; but they could lease for twenty-one years?—Yes.

1139. Then it was found that, just as these ten grantees under the Act of 1865 used to get the purchase-money, so under the Act of 1867 the ten used to get the lease-money?—Yes.

1140. Then we come to the Act of 1873?—The Natives under that Act were allowed, under memorial of ownership, to deal with their lands in the same way as that prescribed in the Act of 1867, the memorial of ownership in the Act of 1873 taking the place of the certificate of title in the former Acts, and that memorial has upon its face the name of every owner—man, woman, and child—found by the Court to be such owner, and with the provision that every individual must assent to any transaction.

1141. That, practically, was an impossibility, was it not?—In the majority of cases it was an impossibility.

1142. Then, since that time there have been continuous alterations in the law?—Yes; and they have placed the legal profession in such a position that very few will attempt to advise with regard to a Native title, or will guarantee anything.

1143. And, beyond that, has not that state of things produced in the Supreme Court and the Court of Appeal such conflicting decisions as to render it actually impossible to say what the law really is?—Yes.

1144. *Mr. Mackay.*] What would you suggest to remove this state of confusion and complication?—I would first of all propose that the present Acts should be swept away, and that a new Act, not cut about or mutilated by members of Parliament, should be prepared by people who know what legislation is required from experience and practice.

1145. *Mr. Rees.*] I think the information Mr. Mackay wishes to elicit from you is what you would suggest to take the place of the present Native laws?

1146. *Mr. Mackay.*] Yes?—I should repeal all the Acts at present in force, and I should give the Judges of the Native Land Court power to decide between the various contesting parties, and to award the land as they considered the lessees or purchasers entitled in equity and fairness. There is a Native Assessor representing the Native part of the Court, and nearly every dispute could be settled before the Native Land Court. If the Judge has the power to decide the ownership of the land between the Maoris, he ought to have the same power in cases between Natives and European purchasers. If so many Natives had signed the deed, the Court should award that the European or the Maori who might be the purchaser should have the land of those Natives who had sold ceded to them.

1147 Supposing, of course, that it was a fair and legal transaction?—Yes. Of course, the Court would have power to make inquiry whether it was a *bonâ fide* transaction or not, without being hampered by rules like those of the Supreme Court.

1148. Things are now in such a state of confusion that the Gordian knot must be cut somehow?—Yes.

1149. Do you think that, as regards future dealings with the land, these, supposing the Natives would consent, should be tribal and public dealings by regulation, and associated with a Government Commissioner?—I think the Natives should have the opportunity of saying whether they were going to deal with their land as a tribe. Some of the Natives would not do so. You would not find Wahanui, for instance, putting his land into a tribal block. The Hettits, the Hugheses, the Ormsbys and the Edwardses, would not either. They will say, "Give us our lands; we will deal with them ourselves."

1150. That is only individuals, and does not affect the bulk of the Natives?—No; but those who have largest interest will claim to manage their own property. It is those Natives who have but little would like to make a general pool, hoping thereby to get a larger share. Of course, in the case of any valuable land near the sites of towns or villages, where the Natives can get the advantage of education for their children, and where they well able to deal individually, as at places like Gisborne and Napier, where the Natives are capable and have arrived at a determination of their interests, they might be allowed to deal individually. These would be exceptional cases. In those instances the Natives would insist upon retaining the control.

1151. *Mr Rees.*] Apart from that, do you think the Natives would reap greater benefits if they were formed into corporate bodies in that way, and had skilled assistance to enable them to deal efficaciously and economically with the land in their own interest?—Of course, you have to decide upon the individual shares, and I think that if the land were subdivided it would lead to the Natives getting much fairer prices. They would not be compelled to sell the greater portion, as in nearly every case that goes through the Court now, merely to pay the incidental expenses. They could conserve their land, and, after the turmoil of the Court was over, they could look over the land and see whether they would lease or sell a portion. They prefer leasing now, and a great many of the evils that are now attendant upon Native-land dealings would thus be swept away. I do not believe altogether in nursing the Natives. I think that if left to themselves they would be more self-reliant. The flour-and-sugar policy of Sir Donald McLean ruined them. Away up North, amongst the Ngapuhi, they are more self-reliant and manly, because you will find there that they have no Government interference or help. They are now breeding sheep and cattle, taking contracts, leasing land here and selling it there, buying farming-implements for themselves, and setting to work and building houses, and that would be the case too in the Waikato under similar conditions; but if once you take the management of a Native's land out his hands he becomes a beggar, and he is continually trying to get an advance of money under some pretext or the other—that his daughter is going to be married or die, or that his grandfather is dead, &c.

1152. You would steer a medium route between the two courses—between anything like treating them as children and the other extreme of cutting out each individual's portion and making him stand by himself?—You could not cut them out. It would be impossible in many cases to fairly individualise the land. I would give them such reserves that even if a Native parted with his own land he could never become a pauper; these reserves to be absolutely inalienable, and, of course, free from all taxes.

1153. Reserves which would be for their own occupation?—Yes. Having in the first place found how many Natives owned a large block of land, let the Commissioner say, "I will cut out so many acres for your occupation," and then afterwards, if they cannot occupy all the reserve, a part of it could be leased also for their benefit, but never parted with as long as a Maori lived.

1154. They could then never become a landless people. Of course you see that there is a certain risk in every sort of reserve for perpetual occupation?—Yes. It could not be encumbered, because eventually the land would come into the hands of the Government, for the Natives are gradually dying out.

1155. *Mr. Mackay.*] The Government would become the owner after the Natives had disappeared?—By escheat it would be; and I would let the Natives deal with their other land as they like. You will never satisfy the Natives unless you do.

1156. *Mr. Rees.*] Is there anything else which you would like to mention to the Commissioners? Is there, in your opinion, anything else in the way of legislation that, in the public interest, or in the interest of either Natives or Europeans, would be beneficial?—In the interest of the Natives I consider this tax of 10 per cent., in the form of stamp duty, is iniquitous. For instance, if you make a lease for twenty-one years you have to pay one-tenth of the twenty-one years' rent right down. If it is not paid in three months the charge is at the rate of 100 per cent.

1157. *Mr. Mackay.*] That is in respect of a transaction between a private Native and a private European?—Yes.

1158. The stamp duty is charged on the capitalised rent?—Yes. If the lease is to run for sixty years, then you have to pay one-tenth of sixty years' rent. It is more than the value of the land in some instances.

1159. That is a *pro formâ* case. There are very few Native leases for sixty years?—I know some of thirty years.

1160. *Mr. Rees:* I know some of forty; I do not know any of sixty.

1161. *Mr. Mackay.*] That must be where they have unconditional Crown grants?—Yes. Of course I do not think you could have the deeds executed in a different way from that in which they are executed; but the Government ought to be very careful in the class of interpreters. You must have a deed signed in the presence of the interpreter and a Justice of the Peace or some Government official—that is to say, a Postmaster, or a Resident Magistrate, or the Clerk of a Resident Magistrate's Court. And I think the Native Frauds Prevention Act is a perfect farce. In very few cases here has the Frauds Commissioner been even asked to hold an inquiry. You have an

A B C form to fill up, and, even although the purchaser may have taken part in some transaction that was not quite correct, the Natives will not have the sense to read over the questions before they sign the declaration. If they had got powder or rum by way of consideration, they would sign all the same. They think it is part of the European work for getting money. This B form is placed before the Trust Commissioner, and he takes it as a matter of course, and passes the deed. That all means money, however. You have to get a special Court, and pay fees for the purpose, and that has to be advertised ; so that it means both money and delay.

1162. *Mr. Rees* : Is there anything else, Mr. Dufaur?—I do not know anything more. I can say for my professional brethren and myself that, if any hints are required from us as to the reform of the Native-land law, when a Bill is being drafted for the purpose, we shall only be too happy to render what assistance we can, because the settlement of a vast territory in our province depends upon it, and is of immense importance to us.

1163. To the whole public of Auckland?—Yes.

1164. *Mr. Mackay.*] Of course that would rest with the Government?—Hitherto the Acts have been prepared beforehand. I do not know whether it will be in this case. I think the system of appeals and rehearings is very faulty. Of course, we have to speak as we think. I have the utmost respect for Mr. Smith, the Chief Judge; yet here is the case of a gentleman sitting on the bench, with no knowledge, or very little knowledge, of the case. The evidence comes before him, and is written down by the Clerk, not read over to the Native, and perhaps poorly interpreted in the particular interpreter's method, and through that medium the Clerk then conveys it to the paper. That is the only evidence on which the Chief Judge decides whether to grant a rehearing or not. If the Court should hold a preliminary inquiry prior to deciding upon a rehearing, it is, as a rule, of a very slight character ; and when you come to think of the vast worth of the properties concerned, in common fairness to the Natives, some other system should be adopted.

1165. *Mr. Rees.*] Do you not think that the present system, giving the absolute power to the Judges appointed at the will of the Government of the day, is rather improper?—I think they ought to be independent. If you consider that the Government is really competing as a land-purchase agent with us Europeans in getting land—for the public good, of course—and that the Judge has to carry out the instructions of his employers, he is not independent. He should have the status of a Supreme Court Judge.

1166. We are very much obliged to you, Mr. Dufaur ; and I may say that by all the profession we are being strongly supported in our investigations?—I am only too glad to be able to assist, because every practising member of the profession knows how difficult it is to work under the present laws. It is not satisfactory to themselves, to their clients, or to any one. I have seen people do things in order to complete titles that in any other case they would be ashamed to do. They were compelled to do them in self-defence.

AUCKLAND, 17TH APRIL, 1891.

THEOPHILUS COOPER, sworn and examined.

1167. *Mr. Rees.*] Your name is Theophilus Cooper, and you are a barrister and solicitor practising in Auckland?—Yes.

1168. How long have you been practising?—Since 1878.

1169. Have you had experience in the operation of the Native-land laws with regard to the titles to land?—I have—considerable experience.

1170. One of the questions that we have to report upon is as to the operation of the existing laws relating to the alienation and disposition of interests in Native lands within the colony. What has been your experience as regards the operation of the existing laws—first of all, in regard to the ease of obtaining transfers of land?—My experience has been that the existing Native-land laws have been pretty nearly unworkable ; that, when you do get a good title, the expense of obtaining that title adds to the cost of the land to a very great extent beyond its actual value.

1171. Besides the expense, is there, so far as you know, any risk attendant on such titles under the existing laws?—Yes. I should be very sorry to advise that any title was absolutely sound, even although it were held under the Land Transfer Act, if its foundation were a Maori title. In fact, we have had experience of that. Titles under the Land Transfer Act, founded on Maori dealings, have been upset by the Supreme Court.

1172. You have had experience of such cases?—Yes : although I have not been directly concerned in them, I have been indirectly.

1173. Can you state under what Native Act that title would have been obtained—under what Act it passed through the Court?—I think, in the case to which I referred it was the Act of 1873.

1174. The Act of 1873 was the first Act, was it not, which made all the individual owners, according to Native custom, participate in the absolute working of the title?—Yes.

1175. Prior to that it was the ten whose names appeared on the face of the certificate?—Yes : all the other owners were simply distinguished by some list being left in the Court.

1176. That principle established in the Act of 1873, of every owner being placed in the title, has been continued in the Acts that have subsequently been passed, has it not?—Yes ; that was the distinguishing feature of the Act of 1873, in contrast with the previous Act of 1867, and that feature has been preserved in successive Acts since then.

1177. Can you speak with any certainty—with any assurance of certainty—upon the feeling of the profession in regard to the uncertainty and contradictory nature of the Native-land laws at present?—I think so. Those who have had any practice in Native-land laws in this city are, however, confined to only a few members of the profession.

1178. What is the opinion of these in relation to what I have mentioned?—That it is almost impossible to advise with any degree of certainty upon the effect of the Native-land

laws. So conflicting are the clauses of various Acts that it is almost impossible to extricate anything like order from this legislation.

1179. You are aware, are you not, of certain judgments which have been given lately in the Supreme Court and in the Court of Appeal. I allude to the cases of Matthews *v.* Brown and Poaka *v.* Ward. Have those judgments tended to make the reading of the law more simple or more complex?—The judgment in Poaka *v.* Ward has certainly tended to render the construction of the Native-land law more uncertain and difficult than ever.

1180. *Mr. Mackay.*] Was that not Mr. Justice Richmond's judgment?—No: I refer rather to the judgment of the Court of Appeal, reversing Mr. Justice Richmond's decision.

1181. Do you consider that it would be wiser to attempt by amendments to remedy the existing law, or to repeal it and start afresh?—In my opinion the whole difficulty has arisen from the repeated amendments to the Native-land laws, and the attempts that have been made by the Legislature to remedy defects in a system which was radically wrong in its foundation.

1182. In what way?—I consider that the principle is radically wrong by which every Native who can show an indirect interest in a block has to be a party to the title. I consider the machinery which has been provided under these Acts for the investigation of titles to be cumbrous and inefficient. The uncertainty and want of finality connected with any proceeding in the Native Land Court, the repeated adjournments and rehearings, are defects in the administration of the system of a very serious nature. All these things lead me to the belief that the best course to adopt is to repeal the present system altogether, and, if possible, start afresh. I may say that you are not limited to the Native-land laws in your inquiries with reference to Native titles. You have, without any assistance from the Native Land Acts to guide you, frequently to search through other statutes for provisions bearing on Native lands.

1183. Outside the professedly Nrtive-land legislation you have to seek through various other Acts in order to understand the state of the law on Native-land matters?—Yes, you have to consult Acts having no apparent connection with the subject for provisions bearing on the Native-land law. I might mention a repealed Act—the Land Transfer Act of 1874—which introduced the principle of changing the title to land into freehold tenure for the first time. Of course that has been repealed, but a number of titles are affected by this profession, and there is not the slightest reference in any Native Land Act to these provisions. Then, there is the Land Transfer Act of 1889, which deals with Maori probates, and Maori wills, and the title to land held by Maoris; and there are other statutes which both directly and indirectly affect the Native-land laws.

1184. So that, in fact, you have to search through Acts which do not appear to deal with Native land at all, in order to find out whether they contain clauses materially affecting Native titles?—Yes. In fact, it is absolutely impossible for any lawyer to advise his client upon any complicated question concerning Native lands without a feeling of uncertainty that he may have overlooked some section or Act which may have a bearing on the case. And it is also almost impossible to reconcile the many inconsistencies in the various Native Land Acts now in force.

1185. If titles to Native lands were dealt with in each district, and titles given to them in each district by Government Commissioners and a Board like the Crown Lands Board, and no dealing allowed with individual Natives, could any such difficulty arise as that which is now experienced?—I do not think so. The difficulties have arisen, in my opinion, from individualising the Native title. So far as I can ascertain, that is a thing quite unknown to Maori custom. They never recognised the individual title to land, unless it was the individual title of the chief.

1186. Now, there are two classes of cases in respect of which disputes or uncertainty exist at the present time: one is where technical omissions or defects have been made or occur in the signature of deeds or in other necessary steps, but without any fault of the parties. The second class is where there are real questions in dispute between the Maoris and the Europeans in regard to the transactions. Can you suggest any difference of dealing between the two classes of cases as to their settlement by any Court to be constituted? Of course a Court would have to be constituted to deal with both classes?—I think, with regard to the first class of cases, that if the Court were satisfied that the transaction was *bonâ fide* it should be validated. In the second class of cases I think, if the grievance was proved—that the Europeans had not acted in a *bonâ fide* manner towards the Maori vendors, then those titles should be upset. I can see no reason why the purchasers of the land should retain any benefit from their purchases if they were obtained in an improper manner; But I see every reason why a man should not lose the benefit of his purchase where he has acted in an open, straightforward, and *bonâ fide* manner, and the title has been attacked simply on account of formal technical defects.

1187. Can you state, from your knowledge and professional experience of both classes of these cases that there are many such transactions?—Yes, there are in both classes of cases.

1188. This must lead, then, to a considerable amount of uncertainty as to title?—It does.

1189. Can you say whether it goes so far as to become a hindrance in the settlement of the country and in the investment of money?—Undoubtedly it does. I should never advise a client to lend money on land the title to which is derived from Natives through the Native Land Court. Nor would I advise intending purchasers to purchase land from the Natives for the purpose of settlement. I know of cases where the title has been attacked after the lapse of many years, and after the land has been improved and dealt with.

1190. Can you state whether it is a fact that the District Land Registrars have caveated after the decisions in the cases of Matthews *v.* Brown and Poaka *v.* Ward—titles under the authority of those judgments?—I have heard so; I do not know so personally. I have heard that the District Land Registrar at Napier has done so. I am not aware that any caveat has been entered in Auckland on the strength of those judgments.

1191. *Mr. Rees.*] Do you think that the difficulties of title would be removed if in every district there was an officer appointed by the Government to act with Maori Committees or boards,

and all titles were given by these bodies, and so as to preclude all individual dealings with the Natives themselves?—I think that would go a long way towards remedying the defects and difficulties, that the land should be really as it now is nominally, vested in the Crown, and that the Crown should deal with it and give indefeasible titles to the European purchasers, so that the purchasers should derive their title from the Crown instead of from the Natives.

1192. Then you say it would be wise, in your opinion, to stop all individual dealings between the Europeans and the Natives themselves, as far as the giving of a title was concerned, and to let all titles be derived from the Crown?—Yes, I think it would be wise for two reasons: First it would prevent fraud, both on the part of intending purchasers and on the part of sellers. I know of cases in which, through one or two persons among a numerous body of owners have been able to commit grave frauds upon the purchasers. Under the present system purchasers, although having obtained the interest of the greater number of the owners of the block, are practically helpless unless they have the consent of all the owners. I know of cases, also, where personation has taken place to a very great extent. I know of cases where dead men have been made to sign deeds in order to get in outstanding interests. All this would be obviated—all chances of fraud and forgery would be obviated, if the title was to be obtained from a person appointed by the Legislature to give it.

1193. *Mr. Mackay.*] In fact, you would prohibit all dealings except through ——?—Except through a recognised official, and I would make these dealings indefeasible when once they were carried through.

1194. *Mr. Rees.*] You think that would be for the interest of the Natives as well as for the interest of the Europeans?—Undoubtedly it would.

1195. Would it be a cheaper method than that at present in operation?—It would be a cheaper method: it would save a very large amount of expense which purchasers will endeavour at present to deduct from the purchase-money, so that it is now a discount on the value of the land. It would also prevent the Natives from selling their individual small interests for comparatively small sums of money, thus losing their interest in the land for a pound or two, which is no sooner received than it is spent.

1196. *Mr. Mackay.*] In some cases, hypothecated to the storekeeper before it is received?—Yes. It would be for the protection of the vendors, and also for the protection of the purchasers.

1197. *Mr. Rees.*] It would be to the interest of the State also, would it not?—Undoubtedly. Anything which will simplify dealing with the land will induce settlement, and therefore be in the interest of the State. A large amount of land that is now tied up would be opened for settlement if a system like this were instituted. I believe, too, from what I know of the Native feeling, it would meet with the approval of the Natives themselves.

1198. A very considerable portion of the time of the Courts has been for some years past taken up with the consideration of these Native-land troubles, has it not?—Yes, very much of the time of the Supreme Court, in the North Island, and also of the Court of Appeal on appeals, and very large sums of money have been spent in litigation by both Europeans and Natives.

1199. And it can hardly be said yet what constitutes a good title?—No. I consider that the decisions in Matthews *v.* Brown and Poaka *v.* Ward have rendered titles derived from this source more uncertain than ever, and that, unless an alteration is made in the law, litigation will be ever increasing in regard to Native titles.

1200. Do you think it would be wise that, instead of including everything in one statute, two Acts should be passed?—Yes; I think that one statute should be passed doing away with the old law, and introducing a fresh system for future dealing with Native lands. I think another statute should be passed for the purpose of constituting a tribunal and a system for dealing with old titles obtained under the old system.

1201. Do you think it would be wise to give to such a tribunal, set up under the second Act of which you speak, power to act as a species of arbitrators between the parties, so as to insure finality for these matters in the best way they can?—I think so. I think this tribunal should consist of men of such reputation and standing as would justify the Legislature in making their decisions absolutely final.

1202. *Mr. Mackay.*] Would you suggest that there should be assessors—one for one side, and one for the other?—I consider this would be unwise, and would only lead to dissatisfaction, because if you give the parties in each particular case the right of nominating assessors, we know from our own experience that the parties so nominated would, in fact, be mere advocates, and not judges, and it would place the President in a very false position if he had to decide between two contending arbitrators.

1203. *Mr. Rees.*] Would you suggest that three Judges should be appointed for such a tribunal?—Yes; I think three Judges should be appointed.

1204. Having complete power to deal with all disputed titles to land derived from the Natives?—Yes.

1205. *Mr. Mackay.*] And to determine absolutely?—Yes, to determine absolutely, without the right of appeal.

1206. *Mr. Rees.*] Then, you would give them also not merely the power to decide, but the power to make titles to carry out their decisions?—Yes. I think that the Act of 1889, under which Judge Edwards was appointed, was a wise step in that direction; and, although, unfortunately, it appears that its provisions are insufficient for the purpose, I would give the Court the power of validating titles, and of issuing certificates which would have the effect of grants for the titles which they validated, and I would also give them the power of declaring that titles which had been adjudicated upon, and which proved to have been defective through any cause other than technical defects, were bad, and to refuse titles to any such persons as they thought should be refused them

1207. Would you give the Judges power in such cases as they determined it right to award a portion of the land which was claimed?—Yes; I would constitute them a Court of Equity, and in every case they should have the right of determining whether the purchasers were entitled to retain the whole or any part of the land.

1208. I suppose you would give them the power to examine into the terms of any arrangement come to between the parties, and, if they considered it fair, to indorse it and carry it into effect?—Yes, certainly. But I would allow no arrangement made to be enforced without their consent and approval.

1209. *Mr. Mackay.*] Any arrangement which they indorsed should be made a rule of Court?—Yes.

1210. *Mr. Rees.*] Looking at the whole history of the matter, and the present position, do you believe that without some such absolute change as you now suggest there ever can be a proper transmission of property or a peaceful settlement of these matters?—No, I do not think there can be. You never can attain that result without some such system as this, nor can you have any feeling of certainty in connection with Native titles.

1211. And you would say that on the foundation forced upon the Natives by the present system of investigation of titles it is impossible to build up, so far as you see, any safe building?—Quite impossible. The principle was wrong in the first instance, and has led to very great abuses. I consider that the present system of investigation of the Native title has been the cause of most extravagant expenses in the Native Land Court, and of very great delay in determining the titles to land, and has operated to the disadvantage of the Maori owners in many respects. I know that the Native Land Court has adjudged persons to be the owners of land when such persons have had no right to it, and that has lead to repeated applications for rehearings. In some cases the original judgment of the Native Land Court in favor of certain Natives has been set aside upon the rehearing, and a fresh lot of Natives inserted as the owners. And I know of cases in which the rehearings have been two or three deep. That has arisen from the practice of allowing individuals to have an interest in land which belonged to the tribe. In fact, I believe that for the last three or four years the Native Land Court has done no substantial beneficial work at all, or very little. The time of the Judges has been occupied, to a very great extent, in rehearing cases.

1212. Practically then, the work of the Native Land Court in the settlement and transmission of the Native title has really come to a standstill, has it not?—It appears to me to be so. The Judges will sit for three or four months on one case and will then adjourn. I am not speaking of any individual case. They may be sitting for twelve months on a particular case, and then, without finishing it, they will adjourn to another district, partially hear a case there, and come back again to the first district. I know of cases, in which I have been either directly or indirectly interested, in which nearly the whole value of the land has been eaten up by the costs of individualising the title. And the Natives have got nothing for it, except a lot of vices which they have obtained through attending the Native Land Courts in these coastal towns. They have lost their land, and they have demoralised themselves.

1213. This sort of thing frightens away capital, I suppose?—Yes. The whole system of Native land dealing, in my opinion, is vicious. And no amendment can cure it; it wants to be destroyed.

1214. Is there anything else, Mr Cooper, you would like to suggest to us?—The Natives should never have been recognised as legal owners of the land.

1215. Only as the beneficial owners?—Only as the beneficial owners. And the Crown should from the very first have dealt with the whole of the lands of the colony upon the same system—by Crown grant issued to Europeans. Then the Crown should have inquired into the beneficial interests which the Natives possessed in the land of the colony, and should have equitably provided for them.

1216. And there never could have been any dispute about titles?—No, there never could have been any such disputes about titles as now render titles to Native land so uncertain; it is too late now to retrace our steps, but, as far as possible, I think some system should be introduced which would have the effect of vesting all Native land the title to which has not yet been determined in the Crown, leaving the Crown to deal with the Natives equitably for their beneficial interest in such lands. This, however, is a large question, and I do not feel qualified to express any certain opinion on it.

AUCKLAND, 18TH APRIL, 1891.

Mr. JOHN LUNDON sworn and examined.

1217. *Mr. Rees.*] Your name is John Lundon?—Yes.

1218. You were formerly a member of the General Assembly for the Bay of Islands District, were you not?—Yes.

1219. Have you had experience and knowledge of the working of the Native Land Court, and of the operation of the Native-land laws?—I have studied the Native-land laws, and I have been repeatedly in the Native Land Court.

1220. Since when have you had this experience?—Since 1870. I have been interested in the Natives, and in Native land, from that time up to the present.

1221. In regard to the Native Land Court, Mr. Lundon, do you know whether the Natives complain of the fees charged in that Court?—They do; and speaking for the northern Natives, who are the only Natives of whom I have had much experience, I can say that they object to the waste of time in the proceedings of the Court before any result is arrived at. There are a great many adjournments, a great many delays of one sort and another, and a great deal of shifting about from one place to another without completing anything.

1222. That seems to be universal in connection with this Court, and not to be merely confined to the North?—I attended a sitting of the Court at Opotiki, and I noticed the same thing there,

and at Whakatane, 20 miles further on. In fact, at the request of the Natives there, I drafted a petition for them to the General Assembly. The Court, without in any way completing its work, had been shifted from Opotiki to Whakatane, and from there to Maketu, further on, and therefore a more inconvenient place for all attending the Court.

1223. You drafted for the Natives a petition in relation to this method of shifting about from place to place, and the delay and annoyance it caused?—I did.

1224. Do the Natives make any other complaints concerning the operation of the Native Land Court?—Yes; they complain of the holding of the Court at stores and public-houses. There is general complaint on that score.

1225. Taking away the people from their homes and cultivations to distant places, I suppose?—The desire of the Natives has been, and is, to hold the Court, in the Native settlements.

1226. Near the lands to be adjudicated upon?—Yes. But they are nearly always opened at stores and public-houses. I have known no sitting in the north that was not held in an hotel or its vicinity. Judge Maning held one in his own house at Onoke, which he adjourned from a public-house at Mongonui—a distance of over 60 miles—where there were not roads. But since his time there has been no such sitting, so far as my recollection serves me just now.

1227. Do you think that the Native Land Court has improved in its operation since you first became cognisant of its operation, or has it not improved?—I do not think I would be justified in giving an opinion upon that, but I know that the position of the Natives has not improved through the operation of the Native Land Court.

1228. The Natives have lost the land, and have lost the proceeds of it?—They lose the land through having to stop near public-houses and stores. The first Court held at Hokianga lasted three months, during which time the Natives were kept hanging about the place, and, although they were paid £13,000 for their land, they went away without the money. That is to say, they lost the money and lost the land, and were worse off therefore than when the Court began. I myself gave them a great deal of credit at the time, and have not been paid yet.

1229. Then, has the present system of dealing with the Natives in regard to their lands generally such a result, as far as you know?—As far as my knowledge goes, certainly.

1230. That they lose both their land and their money?—Yes. Their horses too, are worse, their saddles are gone, and their fences are down when they get home again, and if floods come they are literally ruined.

1231. And I suppose their morals do not improve in consequence of their attendance at these Land Courts?—They could not, sir.

1232. I suppose they contract drinking habits and demoralisation of all sorts?—That is so.

1233. Now, do you consider that the Native Committees, and public meetings and runangas of the Natives, could in many cases settle the tribal and hapu boundaries?—Yes; I know of cases in which they have done it. In 1879 I bought a block of land of 6,000 acres at Otawa, and I paid a good deal of the purchase-money in advance, and got Mr. Percy Smith to appoint a surveyor (Mr. Harding), who went down and commenced the survey. The party began cutting the lines on Monday morning, and at dinner-time, when they went to get their dinner, another party of Natives came, and four men were shot dead and four others wounded. Of course under such circumstances the survey did not go on. I now have a letter in my pocket stating that the trouble has been arranged amongst themselves; that the land has, moreover, been surveyed, and is open for sale now.

1234. When was that?—In 1879. I brought the matter under the notice of the House of Representatives when Mr. Bryce was Native Minister; but as there was a murder in Nelson requiring his attention, he said that as soon as he could get away he would go up North and settle this other matter of which I have been speaking. But he never did, and the Natives settled the whole affair themselves. I have their letter now, and I have communicated on the subject with the Hon. the Native Minister, Mr. Cadman, who is willing to buy the land on behalf of the Government.

1235. From your knowledge of the Natives, do you consider that without this cumbrous and slowly-moving procedure connected with the examination of Natives in the Native Land Court, the Natives themselves, if they met in public meeting, with somebody to direct their deliberations, would settle the tribal and hapu boundaries peaceably amongst themselves?—Yes, they have done it at Whangape, and in that other instance at Otawa, where the four were shot dead and four wounded. Marsh Brown collected the Natives together, and got them to arrange the whole matter satisfactorily.

1236. Is that Marsh Brown Kawiti, of whom you now speak?—Yes; in that instance the Natives elected a Committee of their own, and had the whole matter satisfactorily arranged. It was the same at Whangape in respect of a large block of 22,000 acres.

1237. *Mr. Mackay.*] Is that the block that Mr. Calcutt had to do with?—Yes; he got a lease of the timber rights over it.

1238. *Mr. Rees.*] Then, in relation to dealings with the Native land, do you consider that this system of every man, woman, and child having to sign the deeds in cases where there is a large number of owners is a good system?—It is not, because it leaves the land practically valueless both for the Natives themselves and for the purchasers also. There is a case in point of a block of 2,000 acres of valuable land at Motuwera, in the Hokianga district, which, if subdivided, would give each individual owner about four acres, and bush land especially is not worth the cost of the registration deeds.

1239. Nor the cost of the survey?—It cannot be done. They have not the money wherewith to defray the cost of individualising the boundaries. It involves any amount of trouble; while the expenditure of money that is entailed runs away with the entire value of the land. The Natives themselves know that it is an injudicious proceeding; but the reason why it was done in the case to which I have referred was that the Natives wished to establish their rights to the franchise, and the thing was done solely for that purpose.

1240. Then the moving spring among those Natives was that they might each secure a vote?—Yes. In the time of the Hall-Atkinson Government the Natives were deprived by legislation of their right to vote in elections unless they had individual titles to land, no matter if the tribal lands were worth thousands of pounds.

1241. *Mr. Mackay.*] That is, the right to vote in the election of European members?—Yes.

1242. *Mr. Rees.*] So they desired to obtain individual titles in order to get their names placed on the electoral roll?—That was the motive. But it was found to be expensive, and in fact could not be done. I contested the Bay of Islands seat at the last general election, and there were then no Natives on the roll; and at every place that I addressed a public meeting I made it one of my chief points that the Native lands ought to be dealt with by a Committee or a Commission, and that the Native Land Court ought to be done away with altogether. This idea took well with the Natives and also with the Europeans. I do not think that I gained any votes by it, but I pleased myself, for I felt convinced that it was the right thing. At any rate, it took well with my audiences. I laid down the plan of having an independent Commission to act with the Natives in valuing their properties and then giving them over to the Government, and nationalising the value so as to pay the Natives a fair rate of interest for all time, and when the Native race would be extinct the capitalised value would fall into the hands of the Crown. That plan pleased the Europeans; and the Natives were delighted with it, for they could see that it meant no more shooting, no more publichouse work, and no more litigation over their lands, and they would have little difficulty in allocating their hapu and individual shares of the annual payments. Besides all these evil results of the present system, the younger Natives, I am sorry to say, have become very expert in making up lies, and they go into Court and swear these lies, taking good care to keep away from the Courts their old men, because the old men are truthful. In making up this evidence, they post sentries outside the house or whare where they concoct the evidence, so that the others may not hear what they are saying, and in this way they swear like parrrots in the Court.

1243. They deliberately concoct these lies, then, and keep the other people away from the Court so that their evidence may practically be given in secret?—Yes. I may say that I am very popular with the Natives up North, and I state these things because I wish them well. I have refused £600 a year from syndicates who have wished to take their lands from them. I have never bought land for anybody excepting the business I have done for myself, and even these transactions have never been perfected.

1244. As a matter of fact, is it not extremely difficult and next to impossible under the present law to complete Native titles?—It is. I have advanced a lot of money, and then have failed, and I would not attempt to do it again. I feel that it would not be worth the expense even when I had succeeded in perfecting the title.

1245. And you have already paid money for land that you have never acquired?—Yes; and I have been sued in the Courts for debts that I really could not pay.

1246. You have exhausted yourself of money in trying to complete the title to these Native lands upon which you have made advances?—Yes. That is not the only reason; it is one of them.

1247. Do you think it would be a good thing for the Maoris, while they still possess immense areas of land, to make large reserves for the education of their children—not the mere education they get at present, but a technical education obtained on large farms attached to the schools, where they would receive practical instruction in the management of sheep and cattle, be taught agriculture, carpentering, blacksmithing, and other useful trades?—I would not so tie them down by legislation that they themselves would have nothing to do with it. At all the different places where I addressed meetings during the election contest, I made it a point to suggest the amalgamation of the European and Native schools in the same district. At present an inspector comes down from Wellington to inspect Native schools, and an inspector comes from Auckland to inspect European schools—in many cases where the two sets of schools are not more than a mile apart—and in this way public money is simply wasted. The young Native learns like a parrot the meanings of English words at present; whereas, if the Native and European children attended the same schools, the Native children would be put on their mettle, and would emulate the European children in all their studies and in their games—playing cricket and football with them, and pursuing their studies side by side with them. They learn very quickly while they are young. This amalgamation of the Native and European schools would certainly be a saving of public money.

1248. You think, then, that if large reserves were made for educational purposes, the European children should be educated along with the Native children?—Certainly. Surely, if a team of Natives can go Home and play football with the first men in England, the outlying settlers ought not to object to sending the Native children to the European schools? The present system is wasteful. At Motukaraka, for instance, there are three schools within a few miles of each other. All the children who go to the Native school there are half-castes. What I am saying with respect to the schools is in the interest of the Natives; and I repeat that it is a waste of money to maintain a distinct system of education for Native children. There is an Inspector for Native schools who resides at Wellington, and four Inspectors of European schools have to be paid for in this district; and yet, perhaps the two sets of inspectors may at the same time be inspecting schools which are not a mile apart. At both Motukaraka and Waimamaku the Native and European schools are about a mile apart.

1249. *Mr. Mackay.*] The Inspectors of the European schools in this district, of course, serve under the Auckland Education Board, while the Native School Inspector is under the central department in Wellington?—Yes; separate pay and separate cheque for each. I will say moreover, that, although I am not favourable to the Boards, the system which they carry out has this advantage, that the teachers are classified. They have certificates of competency; while the teachers of Native schools are mostly the friends of people in office in Wellington, and they are appointed irrespective of the consideration whether they are capable or not.

1250. Then it is simply a system of patronage that prevails there?—Yes. The patronage of men in office; not the the patronage of the Government, but the patronage of Civil servants in office.

1251. *Mr. Mackay.*] Do you know if it is a fact that the Natives have a great objection to the mixed schools which you recommend, on account of their children being treated with contempt by the European children?—I have never heard of such a case. My experience, on the contrary, is that the Natives are proud to have their children mix with the European children. They go to the schools and listen to what is going on, and they watch them at their sports. Two of my daughters were teaching in Native schools at Hokianga, when Sir Donald McLean was Native Minister, and my only son attended one of these schools as a pupil, and the Native children excelled him, although he had come from the school at Onehunga, and in spite of the fact that it was the first time that these Natives had had a school. The Native children are very sharp at the beginning, but they go off afterwards. The mixing of Natives and Europeans in the one school stimulates the former to be as good as the latter. With reference ao the main subject of land dealings, I mignt mention that there is a case at Hokianga Heads—it has been in the Court two or three times—where the Natives gave the Bryers family a valuable block of land at Pakia years ago.

1252. *Mr. Rees.*] Why was it given?—It was given to the mother of the Bryers, who is a Native woman of high rank, and now one of the sons claims it. He is on the Crown grant, and the others say it is not fair to them. The case was brought up again by one of the brothers before Judge Puckey lately, and the Natives say that the land was given for the family. I brought up a copy of the evidence to town the other day, and the parties interested are petitioning the House to carry out the intention of the Natives. According to Judge Puckey's ruling, he cannot do away with the Crown grant; but the evidence is that the land was given for the family, and not merely for one member of it. One member of the family—not the one holding the Crown grant—has built a public-house upon the land, and is living upon the ground, although he has no legal title, and has been living there for twenty years or more.

1253. Do you think that in such cases, if the law is against numbers of people getting the land, the law ought to be altered, and they should be permitted to get it?—Most decidedly. There is another case that I think ought to be brought before the Commission, and that is one in which the Government has done the Natives a great wrong.

1254. What case is that?—A case at Motukaraka, where the special settlers are now situated. The late Mr. Preece, who was a Native Land Purchase Commissioner for years, has in my own hearing tried to buy that land from the Natives, and he made reports to the House of Assembly, which will be found in the Journals of the House, that he would be able to get it in the following year, as the Government was very anxious to get it. There are reports to that effect from Mr. Preece, who was a Native land-purchase agent, and a very good, respectable man. The Government failed to buy it, and seized it under an old land-claim, because they alleged it was bought by the late Captain McDonald, previous to the Treaty of Waitangi.

1255. Who alleged, I presume, that he had purchased it from the Natives prior to that time?—Yes; but it was sold by Natives who had never lived on the ground, and the Native owners—not those who sold—came to Governor Fitzroy up here in Auckland about it, in, I believe, 1843, and Governor Fitzroy issued a Commission to Mr. White, the Resident Magistrate at Mangonui, and to Sir F. Dillon Bell, to act in the matter. The Commission came on the ground, Hone Mohi Tawhai's father and other influential chiefs being there. They made holes in the ground and placed little boys in them, so that when these little boys grew up to be men they should not forget the boundaries. The Government took that piece at that time in order to satisfy themselves for their claim in respect of that which Captain McDonald had given them, the Government having bought Captain McDonald's claim. The Natives would not sell the other portion of the land, but the Government since then have taken it and cut it for division among the special settlers. The other piece of land, that the Commissioners took as payment for Captain McDonald's old claim, the Government sold to Christopher Harris for the original owners at £2 per acre. Mr. Peter Dignan acted as their agent at the sale.

1256. You say, then, that the Government commenced to purchase the balance of the land from the Natives, but never completed the transaction?—No, the Government never purchased; they tried to, and failed. Mr. Preece tried for them year after year, and Judge von Stürmer of the Native Land Court is aware of that fact, and that Mr. Preece reported to the House that he had failed. It never went through the Land Court, of course.

1257. Do you remember a case in which Sir George Grey requested me to act, where a Native chief was put in prison for setting fire to fern or timber on land that belonged to himself?—Yes. The chief was Hohaia Patuone. He is the only living descendant of his generation of Tamati Waka Nene; his father, Eruera Patuone, having been Tamati Waka Nene's brother.

1258. What title has the Crown to that land?—The Crown has no title. It never has been, I believe, through the Land Court, nor even been in the Native Land Court. But a timber company has now got a Crown grant for it. The Native was seut to gaol in Auckland for three months because he would not pay the fine imposed on him. He petitioned the Governor; the petition was referred by His Excellency to the Ministers, and, on their recommendation, the Governor said he could not interfere. My daughter, being a licensed interpreter, wrote for Hohaia to Sir George Grey, drawing his attention to the case. She also wrote to the Hon. E. Mitchelson, Native Minister; and I petitioned His Excellency the Governor, who was then in Auckland, in Hohaia's behalf.

1259. Yes, and Sir George Grey handed the letters to me in order to see what could be done, but nothing could be done. The man has no money?—No; he is still living on the land. The fire went through the fern into the timber and he was punished, although he claims both the fern-land and the timber-land.

1260. He does not know how the Government got possession of it?—No; neither he nor any of his people.

1261. And yet the Government have given a Crown grant for it to the timber company?—The timber company have got a Crown grant; I do not know how.

1262. They must have got it from the Government?—The Government must have given one to some one, and it has passed on to the company.

1263. And the land has never been through the Native Land Court?—Never. Hohaia Patuone sent me the plan, and I have had different letters from him on the subject, one letter reaching me on Friday last. I feel as certain as that I am alive that that old man would not lie if he knew it.

1264. This case happened about twelve months ago?—Yes, nearly twelve months ago.

1265. Is there anything else you would like to say, Mr. Lundon?—In my opinion the result of this Commission will be to influence a great change in the Native-land legislation of New Zealand. I would ask the Commission, therefore, to draw attention in their report to this material point: that if the Natives are not to be allowed to individualise their title to the land, they ought, nevertheless, to be allowed some representation for the properties they hold.

1266. You mean that they be allowed to register on the ordinary electoral rolls as freeholders?—Yes; they used to have that right, because when their land had passed through the Court they were registered; but the Hall-Atkinson Government altered that, by restricting the right of registration to land held in severalty. I did not know the meaning of the word at the time, although I did know what the effect would be. The Government laughed, in the House, when I asked them to tell me the meaning of the word "severalty," but I knew the effect of it would be to disfranchise the Natives, and it has done so.

1267. The Commissioners are very much obliged to you, Mr. Lundon. Some of the general wrongs and sufferings of the Natives to which you have referred coincide with the statements of other witnesses. Some of the instances you have given are new, and illustrate important principles.

NEW PLYMOUTH, 18TH APTIL, 1891.

Mr. OLIVER SAMUEL examined.

1268. *Mr. Rees.*] You are a barrister and solicitor, practising in Taranaki?—Yes.

1269. For many years, up to last year, you were a representative of the district in the General Assembly?—Yes. During the time I was a representative for the district I naturally became aware of nearly all the grievances of both Europeans and Maoris in connection with Native lands in this district. As you are aware, this district is peculiarly interested in that question, inasmuch as the Native lands within its bounds are, for the most part, held under the West Coast Settlement Reserves Acts, and a large portion of these lands is administered by the Public Trustee as trustee for the Natives. There are, however, a great many reserves which are not so administered, but which are administered under the old Native Reserves Acts. The difference between these two classes of reserves is, noticeably, that in the former case—as respects those which are held by the Public Trustee under the West Coast Settlement Reserves Act—there exists a power to reduce the rentals, whilst no such power exists in the other class. And there is also power vested in the Public Trustee in respect of the first-mentioned class of reserves to grant renewals of leases to the present tenants, and likewise to give compensation for improvements; whilst there are no such provisions in respect of the other Native reserves.

1270. *Mr. Rees.*] That is to say, there is no power to grant renewals or to give compensation in respect of these old Native reserves?—Yes. For years past it has been promised by successive members that they will use their utmost efforts, and they frequently stated they had no doubt of succeeding, in getting those provisions extended to the tenants of these Native reserves which are enjoyed by the tenants of the West Coast Settlement Reserves in both respects. Indeed, to my knowledge, successive Ministries have expressed hopes that by bringing stronger influences to bear relief would be granted to these tenants. Encouraged by these promises, if not assurances, the tenants have expended a great deal of labour, and, in many cases a large amount of money, in improving these lands, and that not for the last few years only, but in many cases for the last ten or fifteen years.

1271. And they have done this, relying on these promises of an alteration of the law?—Yes; and with the certainty that it would be for the benefit of the Maoris as well as for their own benefit that some encouragement should be thus given them to improve the land. A very notable instance of this is afforded by the case of Mr. Mitchinson, who is certainly the very best nursery gardener in the district, and whose gardens are as good as any in the North Island. You probably know them already; if not, you should certainly visit them. He has spent an almost incalculable amount of time and labour, besides a large sum of money, on his leasehold, and from time to time he has received assurances from those in power—or, if not assurances, at any rate such hopeful statements of opinion as to the justice of so altering the tenures as to enable him to receive some consideration in respect of these improvements as have unquestionably led him to act as he has done. I have also been brought in contact with the Maoris who are interested in these reserves, and in no single case have I found any of them who did not recognise the justice of increasing the tenure of the leases, and of otherwise altering the provisions of the leases so as to make it worth while for the Europeans to expend their time and money upon the lands. In all these cases I have found the greatest good-feeling exhibited by the Maoris, and I have known them to frequently express the opinion that, at the end of the term, some machinery should be found by which to afford such relief and remuneration to the European lessees as would be just. In the case of the Native reserves, I am prepared to give an absolute assurance that both Europeans and Natives are desirous of having some machinery giving security of tenure to these Europeans, and the Natives especially,

most of whom I have seen, have shown the most generous recognition of this. With regard to the West Coast Settlement Reserves, I hold the opinion, which will be found recorded in *Hansard*, for it has many times been expressed by me in the House, that the administration of these lands by the Public Trustee is a great mistake. That office was really formed for certain specific purposes—the administering of certain trusts which were defined by law, and respecting which there was very little scope for discretion, and, when the necessity for such discretion arose, there was always provision for referring to a tribunal, empowered to give advice and to indemnify the Trustee for acting upon it. That seems to be the spirit with which that office was formed. But an office which should have the execution and management of land reserves, such as the West Coast Settlement Reserves, seems to me to require to be formed so as to exercise a large amount of discretion, and a personal supervision not to be expected from, and which cannot be exercised by, the same person who regulates the proceedings of the Public Trust Office. I should like to say that Mr. Rennell, who has been administering the office in this district, appears to me to be a most efficient officer, and, I believe, if it had not been for his knowledge of the Natives, and for their high respect for and trust in him, things would be far worse than they are. He was brought up in a school which, though bad in many respects, still did allow of uncontrolled action within certain wide limits by agents of the Native Office in the past, and therefore he had learnt to use, and was in the habit of using, this discretion in small matters, and he has prevented much friction by not referring everything to the red-tape code which his superior, the Public Trustee, had of necessity to regard as his sole rule of conduct. I know of very many cases in which, by a certain amount of breadth of view which has been displayed by him, and through the very great caution taken by him,—possibly without reference to any one,—he has facilitated the arrangement of transactions, and prevented very great discontent amongst the Maoris. Whenever I have seen him come in contact with the Maoris, I have always seen them place implicit trust in his friendliness and respect his word. With regard to those Native lands which are vested in the Public Trustee at the preseut time, and in respect of which he acts as trustee for the Natives, I still respectfully recommend that they be taken entirely out of his administration. This matter has from time to time been fully debated by the House, and by Committees of the House composed of independent members; and what machinery should be substituted for the Public Trustee has always been the question. The view advanced by some representatives of the southern constituencies has been that the Waste Lands Boards should undertake the duty. But I cannot help thinking that the Natives would not feel that their interests were being properly looked after if they were placed in the hands of the Waste Lands Boards. It seems to me that there must be a certain amount of representation of the Native owners on the Boards which administer these lands, so as to secure the confidence of the Natives. They know nothing of the Waste Lands Board. It was not constituted to represent the interests of the Natives, but those of the European settlers, and I think therefore that such a body as the Waste Lands Board as at present constituted is not fitted for the administration of these lands. I think, on the contrary, it would be necessary to create probably some new Board for the management of the two classes of reserves to which I have referred, and which would have the appointment of its own officer and the direct control of that officer, and would receive from him periodical reports as the Waste Lands Board does from its Crown lands ranger. With one secretary, who might and probably would be a gentleman holding some other Government position as well, and a ranger, who very possibly might also hold another position, the Board would be able directly and without reference to persons outside, who know nothing of the circumstances, to take into consideration the details of each case and deal with it on its merits, and do ample justice to the Natives and at the same time facilitate the settlement and the improvement of these lands. I think, too, that the individualisation of the interests ought to be pushed ahead more than it is at present. There are many areas of land held by the Public Trustee on behalf of dozens of Natives, and none of them know the particular pieces which belong to themselves. Though it may not be necessary for the enjoyment of the lands that these interests should be subdivided, still I think it is very desirable that this should be done, for in many cases a great number of these Natives—probably the majority in value so far as the interests in the land go—do not live near the land, and are therefore deriving no benefit from it. It would consequently be better to ascertain and individualise the interest of each particular Native in each particular block, and to provide machinery also by which these interests may be transferred to other reserves in exchange for the interests of other Natives, and thus to so regulate the interests of all these Natives that they shall be comprised within blocks upon or near to which they respectively reside, instead of being contained in distant blocks. I find a great many Natives who say "Yes, we have land in such and such a block; we have a great deal there, but we do not live there. We live at a certain other place." "And have you got none there?" I have asked; "No, but the people at the place where we live are our friends, and we want nothing but to live there also." "Are the people there in the grants for that land?" "No, only some of them; but they hold grants for other lands elsewhere." It seems better to give them their respective interests in the land and to fix those interests near to their particular places of abode; the machinery provided for the purpose of administering these lands being also capable from time to time of exchanging interests at the request of the Natives themselves. That may be done easily if, in the first place, in each particular block of land the interest of each individual Native were as far as possible ascertained. Another great advantage would accrue in this respect: it would tend to prevent those migrations of Natives from one part of a district to another which are now so frequent. When I have asked Natives what about their wheat-fields, and their tara or kumara plots, they have said, "Oh, it is no use cultivating them. If we do so, it will happen that just when they are quite ripe another lot of Natives will come and visit until our taro or kumaras or other crops are quite done. There is no encouragement for us to grow food. It is better for us to join these migratory parties and eat of other people's crops." A great many

Natives whom I know personally have given that to me as their reason for ceasing to cultivate, and that was more especially the case a few years ago when Te Whiti's followers were still more in the habit of marching about the country eating up the stores and consuming everything that the industrious Natives had collected together. A sweeping out, in the way I suggest, of the absentees from these various blocks, by giving them in lieu thereof an interest in other blocks where they choose to reside, would gradually cause them to be shown the cold shoulder when they made these visits, and a feeling of safety would be produced in the minds of the Natives who wish to cultivate. They would, I think, soon learn that there was a good chance of their being able to reap an advantage from their labour. This would tend to prevent the distress which prevails amongst the Natives from the scarcity of food in winter time. Before I leave this subject—although I have perhaps extended my remarks rather too much already—I would like to call attention to one great fault in the present law with reference to the at present considerable and gradually increasing number of Natives and half-castes who are far better up in all that pertains to the management of their own business than are the average run of Europeans in the same position of life. I know a very great many who, merely because they happen to be Maoris or half-castes, although they thoroughly understand the English language, and are in many cases Native interpreters, are yet subject to all the restrictions upon the power of alienating or dealing with their lands which are applied to the most uneducated Natives who do not understand a word of English. You will probably know, for instance, Mrs. Simeon and Mrs. Jane Brown. I do not think it would be possible to find any European women in this colony who are so thoroughly conversant with business and so well able to manage their own affairs as are these two women; and yet, will it be believed, when either of these two wishes to transfer land or to transfer mortgages or to vary an ordinary investment of her money, it is necessary for her to go before the Trust Commissioner and to be accompanied by all the formalities prescribed by the law for the safeguarding of untutored Natives. The most simple transaction must be accompanied with all the incidental expenses of advertising and so forth, except only the emoloyment of the Native interpreter. Otherwise, in relation to the Native Lands Frauds Prevention Act all the formalities must be complied with, and these costs simply absorb a year's interest on an ordinary transaction. I would suggest that this state of things ought not to be allowed to remain unremedied for another year. Such an injustice to such persons ought to be swept away at once.

1272. *Mr. Carroll.*] Would you go a little further, and say that people in that state should be allowed to have their interests individualised and farmed by themselves?—Unquestionably. What I should say is this: that they ought to be put in the same position as regards their lands, and all dealings with lands, as Europeans are, and that wherever persons of that description exist they ought to be individually free from all the disabilities that now attach to the Natives in general.

1273. *Mr. Rees.*] In relation to his Maori land, Mr. Carroll himself is in the anomalous position to which you have been referring. Is it not a monstrous thing?—It is a monstrous thing. I think there might perhaps be a provision that, from time to time, the Governor in Council may cause a Proclamation to be issued, containing the names of such persons as, from their knowledge of the English language and customs, and of business affairs, are fit to manage their own business as if they were not Maoris, and that, from the date of publication of such Proclamation they should no longer be affected by those disabilities which affect the Maori race. Some simple thing of that kind, it seems to me, would meet the case at present, although, as the number obtaining this immunity increased, very probably some machinery less cumbersome when applied to a large number of persons would have to be devised. When it is remembered that, by somewhat similar means we naturalise foreigners at present, it will be seen that it would answer at any rate for some time to come.

1274. *Mr. Rees.*] Then, in time, the position would be reversed. You would have then to specify only those who were to remain under disability?—As time passed on, that will undoubtedly be the case. It will be sufficient to mention in the muniments of title that, in respect of those particular titles, such and such persons are under disability. For instance, when a succession-order falls in on the death of one of those Natives who are not under disability, there will have to be included in the succession-order the statement that the persons named are under the disability, as is done in the case of infants under our ordinary law. Before I come to the general subject of Native lands, which is, of course, of the greatest importance with regard to the welfare of the entire North Island, as distinguished from the questions which specially affect this particular district, I should like to mention another case where, I think, something ought to be done by the Government without delay. That is, the case of lands to which Natives have in the past become entitled, but which have never been Crown granted. There are many such in this district, and particularly close to New Plymouth. You will notice, as you travel about this district, tracts of land covered with furze. A great many of these are Native reserves such as I have referred to, but many also are lands for which the Natives who were really entitled have never obtained grants, in consequence, I am told, of there being no sufficiently accurate survey to enable them to be granted; and as the Maoris are poor, without much influence, their efforts hitherto have been unavailing to induce the Government to go to the expense of surveying these lands with the view of issuing Crown grants; and the result is that year after year they become more and more covered with furze, and a proportionately greater difficulty is experienced in getting Europeans to take up and clear them under an ordinary lease. In these cases I would urge the Government to survey these lands, whether it would follow that Crown grants should be issued or not, and that steps should be taken no individualise the interests of those Natives who are possessed of sufficient knowledge to lease their lands, or to sell them where they do not require them for their own uses or sustenance, so that where there are any of these patches of unremunerative land they may be turned to account. In this way they may be settled by Europeans and cultivated, if they are not required by the Maoris themselves. They have been allowed to be overrun with furze for from ten to twenty years past, and land of this rich alluvial character when overrun with furze for many years becomes almost worth-

less, it takes then almost as much to clear it, and to keep it clear, as it is worth. Still, that is no excuse for leaving it in its present position; and especially is that the case in districts where small local bodies have been set up. Many of these bodies have borrowed money on the security of their rates for the purpose of opening up roads through these very lands. Frequently, as much as one-third, or even one-half, of the whole extent of a road will lie through this land. The local bodies receive no rates from it—or where they do, the amount is only nominal—and this furze-covered land is a serious hindrance to settlement; whereas, if it was cleared and put under cultivation it would become of more and more assistance, year by year, as it increased in value, in enabling the neighbouring owners to extend their roads, and thus advance the settlement of the country. This drawback is greatly felt in the neighbourhood of Taranaki where the rates of the small Road Boards yield but small sums, where the number of these bodies is many, and where the land is greatly overgrown with furze.

1275. You are now entering upon another defined portion of your remarks. Would you just allow me to break in with one or two things? In relation to this Board of which you speak: Supposing the Legislature should be in favour of appointing a Board which should manage the Maori lands, you think that the Maoris would demand direct representation on this Board?—I think they should have direct representation on it. I think they should have a small representation.

1276. Then, do you think it would suit the Maoris as well as the Europeans if the remaining members of the Board were appointed by the Government?—I think so myself, because from year to year the interests of the European settlers in Native lands as distinguished from those of the Native owners would become less and less, and it must be recognised that the main interest to be considered is the interest of the colony as a whole, and anything which tends to the settlement of these lands is in the interest both of the State and of the individual owners and occupiers.

1277. Then, if you have a small representation of the Maoris on this Board, you consider that the remainder of the Board should be appointed by and be responsible to the Government of the country?—I think so, certainly. It seems to me that a Board of three, one selected by the Maori owners and two appointed by the Government, would be sufficient.

1278. In relation to individualisation, do you mean that every Native's part should be cut off the reserve and a distinct title made out for it, or do you mean that the individual interests should be ascertained and fixed?—I think all that is necessary is that the individual interests should be ascertained.

1279. Not surveyed?—No.

1280. But a list should be prepared—of course I am only suggesting this to you—just the same, in fact, as you would have of the shareholders of a joint stock company, showing the amount of shares, the total aggregate value, and the number of shares belonging to or held by the individuals?—That is the sense in which I recommend that individualisation should be carried out in the case of the West Coast Settlement Reserves; but I should wish individualisation in a more extended sense when we talk of these other Native lands. I do not recommend it for these West Coast reserves, because the holdings are not sufficiently large to make the individual share in each particular block at all worth while to cut out.

1281. Then, you mean that you would have for each Native his proportion fixed in relation to the whole?—Yes.

1282. Then, if when this Board or any Commissioner were appointed, and an absolute method of transfer of title between them—of exchange, in fact, from one district to another—were provided, it would tend to localise and settle the different hapus possessing these lands in their own places of abode. It would prevent them from sharing the titles to other blocks, and would compel them peacefully and quietly to settle in their own particular places?—Yes, and thus encourage thrift and industry.

1283. Because every man would know the persons with whom he was joined in the ownership of the land, and would be one with them in interest?—Yes.

1284. I do not think I need ask any questions with regard to other transactions; whilst in regard to the case of Natives who are capable of managing their own affairs we all thoroughly understand what you mean by that. What you suggest, except the method of making up these lists of owners and their proportionate interests, and having the thing put in that way, has also been suggested to us by other witnesses. That is the only new thing. The present state of things has been a perpetual sore both among half-castes and among the capable full-blooded Maoris themselves. It has been a perpetual reproach that they should be ranked with men and women who are old and incapable of looking after themselves—that they should be dealt with and managed like children in a nursery. In fact, the Legislature has gone still further recently and made even a bill of sale or anything of that sort subject to the same formalities, which seems to me incomprehensible. Then, you, as one having experience in these matters, seriously and absolutely urge the Commissioners to report in this fashion with the view of securing amended legislation?—Unquestionably; no tinkering, in my opinion, will be of any use. Year after year we have been trying to amend these laws, with the view of removing injustice and encouraging settlement, and I have no hesitation in saying that all such amending legislation has been a complete failure. Nothing will give adequate relief to the European settlers or to the Maoris except the sweeping away of the legislation of the past and starting afresh. With regard to that last statement as to the necessity for a radical change with regard to the Native-land laws generally, I repeat that most emphatically. I am sure that in speaking before the Commissioners I see here you will all agree with me. In the House of Representatives, the session before last, when the late Government promised to appoint a Royal Commisson for the purpose of considering the particular questions that are now being considered, I took the opportunity of repeating what I had frequently previously said, that I felt certain nothing would succeed except the sweeping away of the whole of the present law with regard to Native lands, and the devising of something worthy of a civilised

community. If we contrast for a moment the Native Land Court and the Native-land laws with our own Courts, and our laws with respect to difficulties arising between Europeans, and the dealings with our own titles, we shall see at once that, as regards the former, all the experience of past years, and all the experience which we can gain from the working of English tribunals, is completely put on one side and lost, and that, instead, we have a tribunal set up and regulations made by a sort of rule-of-thumb, and in the manner in which the investigations are carried on, all accepted rules for managing judicial investigations are completely disregarded. I feel strongly that these continual amendments of the Native-land laws, instead of removing the evils that those laws have produced, really create more evils than they remove. I say this with the full consciousness of the fact that as a member of the House of Representatives I have been connected with such legislation; and I repeat that although these Amendment Acts were passed for the avowed purpose and with the intention of doing good to the Maoris and Europeans, yet each successive Act, instead of doing good, has only created greater confusion, and probably produced greater evils than existed before. Although of course this is a question of policy, I hope it will not be deemed impertinent in me to say that it does seem to me that the Native lands ought to be, as quickly as the financial part of the question will permit, acquired by the Crown, with the exception only of such reserves as the Natives are already settled on, or are suited to be settled on, by the Natives for the purposes of residence and cultivation. I do not think that, taking as an example the West Coast Settlement Reserves, and then estimating that under new management they may be managed so as to give much greater satisfaction to the Natives and Europeans than at present, it can ever be satisfactory to the Natives or the European settlers to have land-owners of a particular race who will for all time be landlords, and that must be the case if these lands are to be held for years in trust for the Natives, and if the Natives are not to be allowed to sell under proper supervision. On the other hand, it cannot at the same time be satisfactory from a colonial point of view that private individuals should be enabled to step in and obtain large tracts of land at what, after all, must be frequently only a nominal value. It seems to me therefore, in the interest of the State and in the interest of the Maoris, that these lands should be acquired by the Crown by some means, and dealt with by the Crown as a part of the landed estate of the colony for the good of all, and not merely for the advantage of the few. There is another argument which seems to me also to apply to the necessity of doing this, and that is, if it is not done, there will always be the distinct interest of the tenant of Native land as against that of the owner of Native land. You have found, or will find in the course of your investigations in this district, and some of you already know—and this is a cause of great irritation between the Maoris and the tenants of West Coast Settlement Reserves—how of late years political pressure of the strongest description has been going on, and notably during the progress of a general election, to prevail upon the representatives who rule this colony and make its laws to from time to time change the terms of the leases, to the detriment of the Maori owners. Whilst not wishing to express any opinion as to whether these changes are fair or otherwise, I must say that it cannot serve the ends of justice that the question of changing the terms of any arrangement that may from time to time be entered into between landlord and tenant should be made the subject of political influences, especially at election times. I think, also, that it would be very desirable indeed that these lands should not be left permanently as special lands held by Native owners and occupied by European tenants. I do not think it would be in place for me to suggest means by which possible funds might be obtained on the security of the lands themselves for acquiring these lands, and by which the payment of some annual sum of money should be made until they could be disposed of, and the proceeds either paid to the Natives, or to those of them who were able to manage their own affairs and who were not likely to dissipate these funds, or invested for others in other settlements especially suited to them, where they could cultivate the land and settle with their families. It will doubtless have suggested itself to yourselves, and to those who have to do with these matters, that some sort of arrangement like that would be possible. I should like to add, that wherever the interest of the individual to whom the Courts find from time to time there belongs Native land of any considerable extent—we will say 100 acres and upwards—I do think that full individualisation should take place as quickly as possible,—individualisation in the fullest sense, and not merely in the restricted sense in which I have previously used the word. There are large blocks of Native land in respect to which I am satisfied that through the interests of the Natives not being individualised they sell to anybody, because they are left without any idea of what they are selling, or what their interest in the land is worth. A man wishing to obtain land—I speak from recent experience in acting for the Natives—goes and finds a certain number of Natives—we will say from thirty to forty—who have been found to be the true owners of that land, and then he goes to the man who is the highest in the hapu, or who has the most influence, and makes a bargain for the purchase of that land for a certain sum, and that man frequently agrees to get the other owners to sign the necessary agreement to sell. The others are scattered throughout the district, or even in other parts of the colony, and are communicated with one by one, and are bargained with in an off-hand and jocular manner. Each man signs his name as he is got hold of, and very frequently he does not know at all what his interest is: whether he has got a couple of acres in the block or a couple of hundred; and when the matter comes before the Court to inquire into the transaction, the Maoris are not present, and the representations are not such as represent fairly the negotiations that have taken place. I do not think that any dealings between Europeans and Maoris for the sale of lands belonging to the latter should be recognised unless the Maoris thoroughly understand what are the interests that they have individually got, and what it is they are selling. They should clearly know that they are parting with so many acres of land, and that they are to receive for them so much money. Subject to this, I would submit with respect to land vested in the Natives and which is not required for their support freedom of contract should be secured as far as possible. Subject, of course, to every

transaction being completed before some proper person, so as to thoroughly insure that the Natives know what they are parting with, and that they are being paid in cash, there ought not to be any restriction on the sale of land over and above what is required for the support of the seller and his family. For instance, instead of any Justice of the Peace being sufficient for witnessing the transaction, it should be provided that a Resident Magistrate should do so, and that he should satisfy himself in the first place that it was a *bonâ fide* transaction; secondly, that the cash to be paid was not grossly disproportionate to the value of the land under sale; and, thirdly, that the price was actually paid in hard cash. Then, subject to the deed being properly explained and interpreted, I think these precautions should be sufficient, and that the mere certificate of the Resident Magistrate should be sufficient to validate the transaction. It might seem, perhaps, somewhat contradictory that I should be in favour of such an easy mode of transfer of land, but my experience has taught me that the heaping up of obstacles in the way of the transfer of land does not prevent it from being transferred. It only serves to lessen, very often to an enormous extent, the money paid to the Native for his land. It merely reduces the price to be paid—in fact, it lessens the price offered by the European; so that, instead of being a protection to the Native it lessens the value of his land, because he receives so much less than it is worth. I shall be happy to answer any questions that may be put to me, and I must apologise for going into these matters at such length.

1284A. *Mr. Carroll.*] In such cases as the Native owner had had his interest in the land individualised you would allow him to deal with it, but you would not allow him to sell his interest where he held in common with others?—Certainly not; in no case. That would have the effect of introducing a foreign element into the holding of the land, and would certainly produce evil results.

1285. The first step would be the definition of interests; you only recommend that?—Yes.

1285A. But where the quality and size and general circumstances of the land would permit of it you would allow the Natives to deal?—I should like to see that, too, because otherwise without individualisation it would be really impossible to encourage, as we must encourage, the selling by a Native of his surplus land which he cannot himself cultivate.

1286. *Mr. Rees.*] In respect of other cases, as in Hawke's Bay, where the Natives have large blocks of rough country, far away from the towns, supposing that a Committee or a Board were appointed by the Natives to act in conjunction with a Commissioner of the Government, who would tell them how to deal with their lands usefully, the Commissioner to give titles and the Committee being appointed by the Natives, do you think that such a plan would work well?—I think that such a plan would be very desirable; but after hearing the arguments of those for and against this course, when "The Native Land Administration Act, 1886," was under discussion in Parliament, and also after witnessing the known results of that Act, I do not feel very sanguine of its success.

1287. That Act was weak in two things: First of all, it took all the control in Native land and vested everything in special Boards in which the Natives had no representation at all; secondly, it was merely optional with the Natives, and it was not likely to bring their lands optionally under the administration of a Board to which they did not send a representative. But supposing the law were made paramount and imperative that either the principal Natives, or else a special and co-operative dealing by the proprietors of the land, when it was found possible, should work along with the Government Commissioner, he being responsible for the due distribution of the moneys?—If possible, in each such case the owners should be consulted as to who should represent them. If they cordially co-operated I think it would be very successful.

1288. And in other cases individualisation should take place?—Yes.

1289. And in the former case there should be power to appoint a special Committee for each block?—Yes; because in order that such a method should be successful the Native owners must be thoroughly well satisfied with the Committee appointed.

1290. Then you would restrict individual dealings to land that was individualised. Then, as to lands that are not capable of being individualised you would say there must be corporate dealings, with a Committee of the people and an officer of the Government? Do you think that that would be a fair mode of dealing, that it would lead to fair prices and to a good title being obtained at moderate expense?—I do. I think it would tend to prevent land being bought by private persons in large blocks; but I consider that the ordinary small holdings are more desirable in the interests of the settler and buyer, as well as in the interest of the colony at large.

1291. *Mr. Mackay.*] You would prevent all dealings between individuals except where the interests were individualised, or where they were sanctioned by this tribunal?—Yes.

1292. *Mr. Carroll.*] There are blocks of Native land of considerable area in which there are vast numbers of owners, as for instance, two hundred and three hundred, and some with as many as nine hundred, in respect of which it would be practically impossible for any lease of that land to be accomplished under the present system, which requires you to get the signature of every person in the block—men, women, and children—and you are aware of the disabilities in the way? In a case of that kind, it is your opinion that if they can reduce the executive power of making leases of the lands to a few appointed by themselves from those owners, it would serve their own interests and the interests of the people whe dealt with them?—Yes; but there must be some machinery to protect the body of the Natives, too, and to insure that those few who are selected to conduct transactions shall perform their trusts properly. There must be some Government machinery, so that those who receive the money will be obliged to faithfully distribute it. We know that, as a rule, the leading Natives will not do justice to the unimportant members of the tribe.

1293. It would be unwise to give the Committee the power of receiving money; but a State guarantee should be provided, by a person being appointed by the Government to see that each owner got his share of the proceeds?—Exactly. I think that should be the course adopted.

1294. Of course, the sort of land to which this would apply is different from those lands which are near, adjacent to European centres, where 100 acres would be as valuable as 10,000 acres far back?—That is so. I have spoken more particularly of Taranaki.

1295. You could not apply one hard-and-fast system, which would apply to a small block adjacent to New Plymouth and at the same time apply also to the whole of the Native lands in the North Island?—Certainly not.

1296. *Mr. Rees.*] We have taken a good deal of evidence this morning from Mr. Rennall and Mr. Smith, and one or two gentlemen, in relation to the particular wants of New Plymouth under these Reserve Acts, and the two classes of leases which you have mentioned. It has been suggested by my co-Commissioner (Mr. Carroll) that a law might be made for those cases in which at the present time fencing, road-making, leasing, and taxing are all uncertain—a law as mild as possible, yet just to the Natives, and giving the trustees absolute power to do these things?—That must be accompanied by what I urged should be done—defining clearly the title to these lands, and giving the power to somebody to let leases on such terms as would enable them to be taken up, and the land fenced, and rates paid for out of the proceeds.

1297. Supposing the Natives will not act, but are passive; then, in default of their action, do you think it proper that the land should be vested in a Board or a trustee?—I think that fairness to the European settler requires it.

1298. And to the Maoris also, because their children suffer?—Yes. With regard to these cases, I hope there will be no confusion, and that the Maori owners will not be blamed for not paying rates and fencing, when this was really the fault of the Government in not giving them a title, and power to sell or lease.

1299. That is the cause of their failing to act—that they have not a title?—Yes; no title, and no right of sale or letting.

1300. Are there many such cases?—Yes, a good many.

Mr. Rennell (Native Reserves Trustee): I think they have now been surveyed, and the Native Land Court has given them a title, which will be perfectly good as soon as the Crown grants are issued.

Mr. Samuel: If so, it must have been within a very short time, because I have been hammering at it for years past.

Mr. Rennell: Within the last six or eight months. I can assure you it is being done at last.

1301. *Mr. E. M. Smith, M.H.R.:* I have listened with very great pleasure to what Mr. Samuel has said, and I would myself like to make a few remarks upon some of the points he touched upon. Very likely some of the proposals that have been made will come before the House, and I shall then be called upon to support or assist in rejecting them. I quite agree with Mr. Samuel that it is advisable some Board should be appointed the same as he suggests, so far as Taranaki is concerned—that is, taking in the whole district from the Mokau to the Awakino. I think, myself, if the Commissioners were to recommend or would get a clause inserted in their bill on the lines proposed by Mr. Samuel, they would be doing what the country is not wanting—that is, crowding in another department into the Civil Service. I believe there are now some thirty-two or thirty-three different departments, and, as the colony is crying out for a reduction, the creation of this Native Land Board would be a step in the wrong direction. I have suggested to the Government, with the view of getting the law altered, that the Crown Lands Board of districts situated like Taranaki should be extended and remodelled. At present the members of that Board are all nominated. Now, I proposed to the Government that they should be partly nominated and partly elected; and if elected, and there was a fair representation on the Board of the councillors of the various counties and of prominent Road Boards, that the owners of the land in that district, no matter whether they were European or Maori, should be entitled to vote for the election of members to serve on that Board. We might even go further, and give the Maoris a member of their own on that Board. I think myself if that plan were adopted it would meet the case, so far as concerns the lands in this district. That seems to me preferable to having one Board composed of Europeans for dealing with European land and one Board for dealing with Native land. The plan I suggest is less complicated, less expensive, and, if carried out, would be in the direction of that which is so largely demanded by the people—of having one law and one way of dealing with both Maoris and Europeans. Of course, I am not speaking with reference to the King-country, where those very large blocks of unsettled land are to be found. So far as New Plymouth is concerned, what I have communicated would meet the views of the people in this district, and cash sellers would be suited.

1302. *Mr. Carroll.*] Would you be in favour of the Board having control of all private land?—No. When once the land becomes private property, they should have nothing further to do with it. They would only have to do with land that may be let on perpetual lease or sold on deferred payment, or with land that is acquired by the Crown.

Mr. Samuel: My suggestion as to the Board has reference and is limited to administering Native land that is at present administered by the Public Trustee. I think a Land Board such as that mentioned by Mr. Smith would be quite unsuitable to the requirements of the case. What you have to provide for is a body to look after the interests of the Maori owners of land, subject only to this: that their interests have to be secured consistently with the progress of settlement and the welfare of the Europeans. The first object is the interests of the owners. This duty is not met by the Waste Lands Board, which looks to the settlement of the lands of the colony and nothing else. The first interest of the Board, I suggest, should be the true interest of the owners of this land, of course subject to such interest not being secured by the sacrifice of the welfare of the European settlers. Therefore, I do not think that a Board of the description suggested by Mr. Smith would be suitable. Such a Board as I spoke of would not involve the creation of a new department, as Mr. Smith fears. It would really consist of some of the same persons who are now managing our Crown lands, with the addition of one or two (or

if deemed better, three or four) persons specially appointed by or for the Maori owners of the lands, to protect the interests of these Maori owners consistently with the progress of settlement generally. Perhaps these persons need not be paid at all, or at any rate they would require to be paid very little. They would meet only when it was found necessary, and certainly in this way there need not be any fear of their constituting a new department. It would be a very small affair indeed, and would, I believe, entail little if any additional expense.

NEW PLYMOUTH, TUESDAY, 21ST APRIL.

MR. WILFRED RENNELL examined.

1303. *Mr. Rees.*] Now, Mr. Rennell, you were good enough to say that you had one or two matters to bring under our notice?—Yes; one of them is that succession duties are charged the Natives and no rebate is allowed them, as would be the case with Europeans, the reason being that no proper accounts are filed. There are a great many small estates of the Natives in this district where the value of the whole estate does not come to £100, and duty has to be paid. There is a way, of course, of avoiding this, and that is by filing proper accounts, when a solicitor would appear and be paid a guinea. An interpreter would have to be employed also, so that it would be far easier and cheaper after all to pay the succession duties.

1304. Then they have to pay the charges necessary for making up proper accounts?—Yes. It has led to a lot of correspondence on my part with the Public Trustee. One case may be taken as a sample of the whole. This is a letter that I wrote to the Public Trustee, Wellington: "Replying to your memorandum (250, of 3rd instant) *re* succession duties on orders of Native Land Court, I have to state that I am not aware that Apikaera died before the Court order was granted, nor is that alleged by the Natives. The sore point is that the property is worth only £36, being the only property Pahata, the grantee, died possessed of; and that being worth less than £100, no succession duty would be chargeable if proper accounts had been filed with the Stamp Department. Now, to file accounts would mean employing a solicitor at, say £1 1s., *i.e.*, more than the succession duty. This is not the only case. The Hon. the Premier is aware that there is a number of small interests of this class, and Native mortality being heavy, these small interests often change hands, and either succession duty or a solicitor's fee has to be paid every time a new order is granted. When succession duty is assessed on these small interests (and on the Native holdings in my district), the Stamp Office accepts my valuation of the property; and I do not think it will lose anything it is entitled to if it were to extend the concession and accept my statement as to total value of property any Native may die possessed of, and dispense with filing of accounts or payment of duty where the estate is under £100. The only legislation I would venture to suggest is that the Stamp Department be authorised to accept such evidence as it may consider sufficient in lieu of filing accounts, where the estate is under £100. I am unable to say, however, whether this will require legislation." The last sentence of the letter was in answer to my being asked to suggest legislation, but I hesitated to do so.

1305. In relation to succession orders passing for the amendment of the succession deeds, do you think it would be at all difficult, without going to the Native Land Court at all, for a Committee of Maori owners who know the friends and relatives of the deceased owner, and the claims they have to succeed, to determine who the successor is?—I think it would very much simplify the matter both in time and cost.

1306. Under the present state of things attendance at the Native Land Court is requisite; there is a *Gazette* notice to be paid for, and all sorts of things besides?—It might be done by the Native Commissioner in his round.

1307. With the aid of the Native Committee?—Yes.

1308. Now, in relation to fixing the proportionate interests in a block of land among the owners, do you think the Maori Committee, acting in concert with the Commissioner, could do that?—I can only say that I have defined interests in nearly every case on this coast. I have done so with the assistance of the Assessor. Wherever the Natives assisted there was no trouble whatever; in fact, they fixed it among themselves, and we confirmed the arrangement they arrived at. I gave them notice that I would attend along with the Assessor, and I never interfered unless in case of dispute. Then I always found that they accepted my decision.

1309. Can you state the number of cases in which that has happened?—I may state that only ten days ago Te Kahui, the Native Assessor—who is now present—and I defined the interests in a block of two thousand and odd acres among twenty-one people.

1310. Did they agree?—Yes. It was a very good representative meeting. We had the opinion of the Natives; and those of them who were away at Parihaka neither disputed nor assented to the arrangement. They were passive. Of course, each one of the latter had notice in writing, in Maori, of the intention, and date, and so forth, but they did not trouble about the matter. I propose to do the same thing in respect of another block about a fornight hence, at Waitotara, if the Native owners agree, but with a different Assessor. My reason for taking a different Assessor is that I can get one from Wanganui much more cheaply for this particular spot.

1311. Can you say how many cases, comprising how many Natives, you have partitioned during the last four or five years? Or can you give us an approximate idea of the number of blocks of land you have partitioned, and how many owners in each block?—Thirty blocks of land, ranging in area from 300 to about 15,000 acres.

1312. And including how many Natives, on an average, for each block?—It would be difficult to get the exact number of Natives.

1313. An approximate idea of the number will suffice?—I see on further reference to the data before me that the number I have given you (thirty) does not represent half of the blocks. This return only comprises cases as far as Hawera, whilst I went down as far as Waitotara. Out of these thirty blocks the Native owners in each ranged from twenty to one hundred and forty-seven in number.

1314. Then seventy-five owners to a block would be a fair average?—I dare say it would. This, of course, is only approximate.

1315. Just so; we are merely getting an idea as to the number. It is not a return of figures that we want, but a return of the extent to which this thing has been done. You would say that you think that many more than the number shown on the list you have before you has been accomplished?—Yes; but the reserves got smaller towards Waitotara.

1316. Do you think that these would amount to about half as much more as those you have given us?—I cannot say.

1317. As far as your knowledge goes that represents the average for the whole lot?—As far as Hawera only.

1318. That list, then, represents thirty blocks of land, with an aggregate number of over two thousand owners?—Yes. I may say that there is no difficulty in arranging the matter where the Natives will assist, but it is extremely difficult where they will not assist.

1319. There is difficulty where the Natives do not accede?—Decidedly.

1320. In what number of these did you fail in making an arrangement?—I did not fail in any. The Native Land Court has allocated a good many of the interests since, and I do not think that, out of the whole of the interests which I dealt with in these blocks, twelve have been altered by the Court. But a good many have never been touched by the Court, and may be altered yet. So far there are comparatively no alterations.

1321. Do you think that, supposing the onus were cast upon the Committee, or upon the Native owners and the Commissioner, there would be much serious difficulty in getting the matter arranged?—If the Natives were willing there could be no difficulty that I can see.

1322. It would depend to some extent on their willingness to assist?—Yes; if they are unwilling it is very difficult to do. You are compelled, then, to do it with a minority of the Natives, and you are consequently never sure of what may follow.

1323. If the minority, however, assist, you can do something approximate that may go before the Court?—Yes.

1324. And thus materially assist the Court in arriving at a decision?—No doubt.

1325. At what comparative cost to the owners did you make these arrangements?—In the case of the one that I did about a fortnight ago—the day before Good Friday—the cost was about £5 2s. 6d.

1326. How many owners were there?—Twenty-one, and 2,000 acres of land. Of course the sum I have mentioned does not include proportion of my salary, and general cost in Public Trustee's Office.

1327. But it includes all the fees that were paid?—I will tell you exactly what it included: Trap hire, one day, £1, with a few shillings additional for the driver's dinner, horse-feed, and so forth. My own expenses came to 10s.; I paid a man 2s. 6d. for the use of a room to conduct the business in; and the Assessor, who took three days to come from and go back to his own place, was paid at the rate of 22s. 6d. a day, with 5s. a day extra for his horse.

1328. You did not want the Natives to go to a distant Court?—No; I and the Assessor went to them, at their own place.

1329. And they were not disturbed from their ordinary labours?—No; they merely lost a day over the matter.

1330. What I mean is that they were not dragged about to distant places, as is the case when they have to attend the Native Land Court?—No.

1331. Is that a fair sample of the way in which you have managed those things that you have spoken of?—Yes, wherever the Natives were willing to assist.

1332. What did you do when the Natives were not willing to assist?—In that case I got the information from those Natives who were before me, and then, with the aid of the Assessor and a few of the Natives, I compiled the list.

1333. And published the list?—I sent one or more copies of my definition to the head Natives.

1334. Can you form any idea of what the cost would be in that case. Take the cost of the case in which there were twenty-one owners by way of comparison?—The expenditure in this case is more likely to have increased than decreased. I forget the amount, but it will appear in the return.

1335. What would be the cost after partition, if the case necessitated a sitting of the Native Land Court, and the Natives went to the Native Land Court?—It is not yet partitioned.

1336. What would be the cost of ascertaining what you have done if it had to be taken before the Court?—I am not in a position to say. I have heard through the Judge that it costs £5 a day, every day a Court sits.

1337. How many days would it take?—That depends entirely upon the Judge.

1338. Have you ever known a case settled in the Court in a day?—I have never known a case similar to the one now quoted. The Court would partition on the map. I can hardly give you a comparative idea.

1339. What is the shortest time you have known a case to be settled in the Court with this partitioning on the map?—I can hardly answer that question.

1340. You do not think that, with the Natives assisting and assenting, there would be any difficulty in arranging things without any serious cost or trouble?—No. Of course where there were a number of cases, as in the commencement, the cost was much less per grant, because I followed the work on day after day. This case was one by itself, and it would cost more on that account.

1341. You had to make a journey specially for it, and this, together with the time and expense involved would combine to enhance the cost?—Yes.

1342. Is there anything else you would like to mention, Mr. Rennell?—One thing that I should like to mention, is with what Te Kahui will tell you presently. There is a kind of deadlock at present. The Public Trustee, for the last few years, owing to the uncertainty of the law, has been constantly expecting that the management of these Native lands would be taken out of his hands. He says, "As I expect a change in the mode of dealing with these lands to take place shortly (or next session) which may possibly take them out of my hands, I would rather not let any more lands." That has been the case for the last two years. The Public Trustee does not feel inclined to let, and the Natives cannot. Te Kahui has come to tell you of an instance where he was willing himself to let some land, or to allow the Public Trustee to let it; but the Trustee says, "I feel convinced that there will be a change in the law next session, and I should not feel justified therefore in letting any more land." So that there is really a deadlock in the matter of dealing with these lands. I know from my communications with the Public Trustee that he is anxious to get rid of the whole thing as soon as he can.

1343. *Mr. Carroll.*] Taipua has said that the Public Trustee should not be allowed to grant any more renewals of leases, and the Government consented to that; that may have been construed as affecting the whole question of leases?—The Suspension Act actually prevented the Public Trustee giving any more leases for fifteen months from the date named in the Act.

1344. Then it may be worded that way. That application had special reference to the granting of renewals, because the renewal of those leases which were falling in were the subject of dispute?—I have a report with reference to this matter which I sent to the Public Trustee.

1345. *Mr. Rees.*] What was the nature of it?—That in future tenants should be allowed to buy out on terms, which I thought would suit both Native owners and lessees. I do not know whether it is of any interest, but I will read it if you like.

1346. If you state the main provisions of it it will be enough?—My idea would be an arrangement something like that which you shadowed, of the Commissioner advised by a Committee, defining interests on leased lands on a plan, without survey, and locating them as simply as possible, and give certificate to that effect. Then a tenant could buy out his landlord's located interests one by one, or as it suited both parties. Of course the purchasing would not be compulsory; the scheme is fully set out in my suggestions to the Public Trustee.

1347. That would be a scheme for individualising the Native owner's interest; and after that it would be for the European to consider whether he should buy?—Yes.

1348. Of course your idea was to facilitate the permanent occupation of the land, which would be for the benefit of the whole community as well as for the benefit of the individual, and it would fix the tenure of the land?—Yes, it was to assist the tenants to get a freehold if they wished, and with the consent of the landlord, who is the Public Trustee.

1349. Then, at the present time, no matter what leases fall in or are applied for, the Public Trustee is not inclined to act?—None of the leases have fallen in; but he is not inclined to lease more land at present.

1350. Then, he does not see his way to grant any new leases?—No.

1351. Is there anything else you would like to say?—Nothing else.

1352. *Mr. Carroll.*] There are no facilities afforded the Natives to buy into any of these leaseholds. Can a Native buy into any of these leaseholds as the leases run out?—It is a question that has not arisen yet, because none of the leases have expired—none of the Public Trustee's leases. Some of the confirmed leases, I believe, have fallen in, but I would hardly like to give any opinion on the confirmed leases.

1353. Under the confirmed leases, if I understand it aright, the tenants get a renewal of the lease for an extended term of years at a reduced or raised rental?—Yes, practically they have got them, subject, of course, to the decision of the cases now before the Supreme Court.

1354. *Mr. Rees.*] There is a case pending now?—I think there are several. I know of one.

1355. *Mr. Carroll.*] Are there any of these confirmed leases which have fallen in that have not been renewed?—Yes; but only one. The tenant allowed his lease to fall in before he applied to surrender, and, of course, it was too late.

1356. He must surrender before the expiry of the lease; and he allowed the lease to expire without doing so?—Yes.

1357. *Mr. Carroll.*] In that instance he would not be entitled to a renewal?—The Public Trustee held that he was not.

1358. You say, with regard to those leases which were granted by the Public Trustee other than the confirmed leases, there is no likelihood of there being in for some time?—Yes; they were granted for thirty years, and, I think, the earliest was made about 1883.

1359. *Mr. Rees.*] How is it, then, that Mr. Mitchinson and these other people are afraid that they will not get renewals of their leases?—Because there are two different Acts. Mr Mitchinson is under the Native Reserves Act of 1882. It was improved land, but not, of course, to the extent that it is improved now.

1360. *Mr. Carroll.*] What rental is he paying?—Thirty pounds a year.

1361. Do you know if the owners of that piece of land which Mr. Mitchinson holds are willing to grant a new lease or to make allowance for the improvements?—Of course the tenant would like them to do so. I think, however, they would prefer to sell, seeing that the rent is so small. I recommended to the Government that, in this case, a Crown grant should be issued without restrictions. I think that would suit the Natives better, this being town land. The Natives will never use it again themselves. It would only be about an acre or two acres placed in the midst of European settlement.

1362. They do not desire to take possession?—I do not think so. From what I know of them I would say that most of them would be willing to sell if the land were Crown-granted free of restrictions. Of course I am not prepared to say whether that would suit the tenant. Perhaps it

might not. The question would arise with the tenant whether somebody might not outbid him for the sake of the improvements.

1363. What amount of rent falls due every year to the Natives?—That is a question which I can only answer by making a very rough guess. I should say from £10,000 to £12,000.

1364. That is distributed amongst how many?—That is a question I can hardly answer. But, approximately, I might say between three and four thousand. Of course I may be out considerably. Owing to the uncertainty of the confirmed leases at present, the tenants pay no rent for some half years, and then, again, pay up a full year's rent; hence, so far as these particular leases are concerned, the income is not regular. With regard to the Public Trustee's leases, however, the payment of rent is regular, and we know the amount.

1365. We will take, then, the Public Trustee's leases as an example. The rent from them would amount to how much?—I could not say positively.

1366. Just roughly, then?—I can ascertain pretty accurately by examining my books.

1367. That is, the amount paid to the Public Trustee?—Yes. I can give it you to-morrow by asking how much has been paid on an average to the Public Trustee during the last three years, or by going through my books.

1368. What is the procedure? The rent is paid to the Public Trustee, and he pays it to you for distribution?—I collect all the rents, and pay the money in to the Public Trustee's Account. If there be only one or two Natives to share in it at the end of the month, I generally get the money for them; but if there are a good number of Natives, and several leases over one block, the money is left for six months, and is then divided. The Public Trustee prepares pay-lists and sends them to me, and I pay to the Native owners their shares.

1369. What are the deductions?—At present 7½ per cent. I can give you an idea of how the thing works by taking the case of one list lately sent me, containing the names of 200 Natives. They have £500 coming to them. It has been withheld for some three months, owing to the land being partitioned, and we did not know where the allocation lay until the land had been properly surveyed. That is now complete, and we have £484 to divide among 200 people. That is especially good land. It is the Hapotiki Block, near Hawera.

1370. What would be the average—£2 odd an owner?—Somewhere about that in this instance.

1371. I suppose some of the Natives receiving that are also entitled to lands in other blocks?—Yes. The highest share in this particular division-list would be £11 19s. 4d., and the lowest about 16s. 3d.

1372. I suppose this is one cause of the objections on the part of the Natives—delay in paying the rent after it has become due?—They imagine there is delay, but there is practically none. Of course it is not the same as if the European tenant came and said, "Here is your money." In the old days it had only to be paid to one man, but now it has to be spread over so many. One man pays as rent £2 12s. 6d., and to divide this small sum among 200 people would cost far more than the rent itself, so that where exactly the same Natives are interested in more than one lease, such as, say, twelve leases on a tribal grant, the division of rent takes place half-yearly, instead of as each small sum is paid in. It costs just as much to divide a small sum as a large one in these cases.

Major CHARLES BROWN, examined.

1373. *Mr. Rees.*] I will just read over, Major Brown, for the information of Mr. Carroll, the letter which you handed to me:—"New Plymouth, 13th April, 1891. SIR,—I have the honour, at the request of Te Waero, Tairoroma, and other Natives interested, to bring under the notice of the Hon. the Native Minister the unsatisfactory state of the Te Ngaere Block. I may explain that the Natives have looked to me in this matter through my having been the Civil Commissioner and present at the time that the block passed the Native Land Court. His Honour Judge Heaphy presided, and strongly urged the owners not to add any other names to those of Hone Pihama and Tukarangatai in the memorial of ownership, as this would greatly simplify all dealings with the block by lease or otherwise, and they would have to rely on the honour of Hone Pihama and Tukarangatai to act as trustees for them; and his wishes were acceded to. For years Hone Pihama and Tukarangatai have drawn the rent and handed it to Te Whiti, against the wishes of the greater portion of the owners. Hone Pihama having died, the owners attempted to get their names in as successors to Hone Pihama; Judge Puckey refused to deal with it unless they came to some arrangement, which Hone Pihama's brother, Patohe, refused to do. Lately the question came before their Honours Judges Trimble and Clendon, when Mr. Sinclair, solicitor, stated that an arrangement had been agreed to that would satisfy all parties, but that it had not yet been signed. The Judges having nothing before them but the fact that Hone Pihama left three daughters, made an order in their favour. When Hone Pihama was alive he had one leg (as Assessor) in the Government boot, and the other leg in Te Whiti's canoe. As things now stand, the three daughters are wholly in Te Whiti's canoe, and will not therefore appear in a Native Land Court or sign anything relating to land, for the rent or anything else; they are supposed to do justice to the other members of the tribe, but not by signing any paper. Under these circumstances the Natives interested pray that the Government may take such steps as will enable the block to be reheard *ab initio*, and such order be made as the Native Land Court may deem just on the evidence. I have the honour to remain, your obedient servant, CHAS. BROWN.—The Under-Secretary, Native Office, Wellington." Have you any reply to this letter?—No, not yet. I thought it might be handed to the Commission. The Natives petitioned the House of Representatives, but, as they had not the means to attend themselves, the petition does not appear to have been dealt with. At any rate they heard nothing more about it. I have written on two or three occasions; and the Natives brought the matter before the Native Land Court, to be dealt with under the Equitable Owners Act; but Judge Wilson said it did not apply. It only applied to certain memorials issued under the Act of 1865.

1374. Crown grants?—Yes; it only applies to lands Crown-granted, which is different, of course, from the case of a certificate of title or memorial of ownership not under the Act of 1865.

1375. Would you mind just saying what number of owners, or could you give us an approximate idea of what number of owners, there is in the Te Ngaere Block?—Over a hundred, but I do not think it would be material to put more than fifty or sixty in the order. They wish to sell because it has been such a source of trouble.

1376. *Mr. Rees:* What is the area?

Mr. Rennell: About 6,000 or 7,000 acres.

Mr. Rees: What do the Government pay?

Mr. Rennell: About £200 a year.

Major Brown: It is of no use to the Government because it is swamp land. It is not worth the lease the Government have over it, to expend the money necessary to reclaim it.

1377. *Mr. Rees:* Do you know of any other blocks that have been in the same position besides Te Ngaere?

1378. *Major Brown:* No. There is another; but I was not present at the hearing, therefore I cannot say whether the Natives were persuaded to do the same thing. That was the Pukengau Block. It was passed in the name of Te Rahui, and afterwards, on a rehearing, the boundaries and names were altered, and passed through the Court. I know nothing of that case, however, as the Natives did not complain.

1379. Were the names of the Natives in this Te Ngaere Block ascertained and entered in the books?—No.

1380. They simply ascertained Hone Pihama and put in his name for the whole of the owners?—Hone Pihama and Tukarangatai. Tukarangatai is willing to do justice in the matter.

1381. There is no dispute as to the facts?—No.

1382. Do you think that in all such cases provision should be made by legislation to enable the whole of the beneficiary owners to come in and have a portion of the legal estate, and participate in the benefits arising therefrom?—Yes. At the time that this block passed the Court—it only passed in 1878—trustees could not be appointed, and Judge Heaphy therefore suggested this course; and he pointed out to them that where there was a conveyance of a block in which there were twenty owners, it might happen that owing to the death of one of the owners a succession order had to be applied for, and the whole thing to be completed over again, and that all this would be avoided by taking the course he suggested. Mr. Gage was the Assessor of the Court, and Mr. Dalton was the interpreter. The Judge said to Mr. Dalton, "You must interpret this to the owners." Mr. Dalton said, "I cannot do that, your Honour." Judge Heaphy then rejoined, "Well, then, you must just do the best you can;" in reference to the owners trusting to the honour of the trustees.

1383. *Mr. Carroll.*] But the Judge, being aware there were more owners than the two, advised them to put in only the two so as to facilitate any intentions they had with regard to the block? I think that is their particular hardship in this case: that they acted on his advice, and now find themselves in a difficulty?—Yes, and acted in accordance with his wish.

1384. *Mr. Rees.*] Supposing they could have been made trustees on the face of the document, and the Judge, or some other persons, were able to see to the disposal of the money, then it would have been simple enough?—Yes.

1385. That would be better, too, and far easier than for eighty or ninety persons to sign the deed?—Yes.

1386. But in all such cases such precautions are not taken?—No; and they could not be.

1387. In the Poverty Bay district, trust deeds were signed by many of the Natives in that way, and there the Natives have immense areas of land. In these cases the Native Land Court doubted—Mr. O'Brien and Major Heaphy being, I think, the Judges—whether the Natives could assign any land by the way of trust under the Act of 1873. I therefore went down to Wellington and argued the case before the Chief Justice, and he decided that they could not, because their only power under the Act was to assign in the way and under the restrictions mentioned in the Native Land Act of 1873, and trust deeds did not come under that Act. It must be a sale or lease only, and, therefore, in this particular case the trust deed was held to be absolutely inoperative in respect of land held under memorial of ownership or certificate of title under the Act of 1867. In the case of lands held under Crown grant it would apply, for then they are held according to European custom. But where the holdings are according to Native custom, this custom does not authorise them to assign in trust. You would say this, Major Brown: that in such cases as this, if there be others, these Natives should be permitted to enrol their names as owners, and to have a voice in determining the destination of the land, and to share in the enjoyment of the proceeds of the land according to the rights of ownership?—Yes.

1388. *Mr. Rennell:* The Government at one time authorised me to endeavour to purchase this land from Hone Pihama. Hone Pihama said that one of his reasons why he would not sell was because it was not his to sell. It was tribal land. He gave other reasons, but that was one reason. He is now dead.

[At this stage Mr. Thomas Mackay entered, and took his seat beside the other Commissioners.]

1389. *Mr. Rees:* And this letter of Major Brown's states that Hone Pihama's daughters are now altogether with Te Whiti?

1390. *Major Brown:* They will not take the rent, nor will they sign for it.

1391. *Mr. Rennell:* They are very pronounced Te Whiti-ites.

1392. *Major Brown:* Mr. Sinclair appeared for them in Court; but I have heard them state that Mr. Sinclair has no authority from them. At the same time, I believe he has a tacit authority; but the real point is that, as followers of Te Whiti, they deny his right to appear for them in the Native Land Court, or to do anything for them.

1393. *Mr. Mackay:* Has Hone Pihama's will ever been found?

1394. *Mr. Rennell:* No. It disappeared after his death, and has not been found. It looks as if they had destroyed it.

1395. *Mr. Rees.*] You have had considerable experience, Major Brown, among the Maoris?—Yes.

1396. Do you think that in cases where there are large numbers of owners, and large blocks of Native land, it would be a wise thing—when the owners are ascertained and their names entered—that they should appoint their chiefs, or a Committee, or a Board to act with a Government Commissioner, for the purposes of dealing with their lands, cutting out proper reserves, and cutting up the surplus land in order to be leased for the benefit of the owners, the chiefs or the Committee being professedly agents for the real owners, and the Government officer being appointed to see that there is a due distribution of the proceeds?—That would bring about much the same state of things, I fancy, as we had before the Native Land Court came into existence.

1397. In what way?—Mr. Parris was the Government Commissioner here, and he used to deal with the Native lands and purchase them—dealing only with the chiefs and leading men—and he never had any difficulty with a block over which he extinguished the title.

1398. Was there any dispute about the title afterwards?—I never heard of any.

1399. Was there any dispute among the Natives themselves as to the distribution of the money, or did they take the distribution as made by themselves?—There are always little difficulties, but nothing worth notice.

1400. In the main, the thing was successfully done?—Yes.

1401. Now, if we can reduce it to a scientific matter of business—that is to say, ascertain the whole of the owners first, and then let the owners choose those of their number who shall act with a Government Commissioner, and see that the moneys are properly distributed, do you think that this would be a safe and proper plan?—I think so.

1402. Would this plan of working with the whole of the Natives through their chosen Committee and a Government Commissioner, and getting the deeds signed by a few Natives on behalf of all who are interested, be economical?—Yes; and I presume that it would do away with the Native Land Court.

1403. No doubt, to a certain extent.

1404. *Mr. Mackay:* It would lessen the labour of the Native Land Court. With regard to determining the arrangement of titles to lands, they would have to be confirmed by the Native Land Court, or by some Court. All the preliminary work of clearing up the title—first, having the boundaries fixed, and then determining who were the beneficiaries entitled to the land, would be accomplished outside by the Committee and Commissioner, leaving to the Court the duty of confirming the title, and thus lessening the incidental expense to those concerned.

1405. *Mr. Rees.*] Perhaps this would be another aspect of it: the Natives themselves should be asked in their runangas to define their tribal boundaries; and then, when this had been done, asked also to define the hapu boundaries, as between different hapus of the same tribe, all this to be done at their public meetings. If they succeeded in doing that without dispute—that is to say, the owners themselves, aided by a Government Commissioner or a Board—it would do away with the necessity for prolonged fighting in the Court about these same things. All this being done, they could then take the matter into the Court as ascertained, and register it in the Court that a certain tribe, comprising certain Natives, were the owners of a certain block. Would not that suit the purpose?—Yes. I think so. I proceeded much upon that plan myself when I was Civil Commissioner, and distributed compensation. I used to say, "I will give you compensation in such-and-such a block." At first they jibbed, and said they would not take this, or the other. I replied then, "The Government give it merely as an act of grace. Those who are willing to accept it will get it. Those who will not take it must just go without." It is not, perhaps, an exactly parallel case. The money was then divided, and there was no heartburning or trouble over it.

1406. Did you find any serious difficulty in ascertaining those who were entitled?—No.

1407. Do you think there would be much difficulty in ascertaining by the method I have suggested?—No. I might mention a case that occurred once at Hawera. Mr. William Bayly was negotiating for some land there. I said to him, "The Natives, including some who have no right there, have given a lease of that reserve, and I advise you not to have anything to do with it." However, he bought the lease, and, having got into trouble over it, he came to me to get him out of it. Some of them had not signed the lease, whose signatures were necessary. I offered a solution of it, and talked it over with Hone Pihama, my suggestion being that those who had signed the lease who ought not should give corresponding land to those interested who had not signed. They accepted and acted upon it. I always found them to be reasonable.

1408. I take it, from what you have now said, your opinion is that where the Natives were approached in their own interest, with the view of reasonable dealing with their land, by leasing especially, over and above that which they require for their own sustenance, there would not be much practical difficulty?—I do not think there would. But at the same time my opinion is not worth much, because my knowledge is limited to the land situated in this province.

1409. That does not matter. I am relying on your knowledge of the Native character.

1410. I suppose, with regard to other Natives, just as with those settled in this province, you are of opinion that there would not be much difficulty?—Yes; and I base my opinion upon my long experience of the Natives, extending since 1844.

1411. You have said that before the Native Land Acts were passed, all the dealings with Native land were dealings with the chiefs on behalf of their people, and that those Acts brought in all these individual dealings as against the former collective dealings?—I think so. I remember thinking at the time it was part of a system to lower the position of the chiefs.

1412. That is to say, when the Native Acts were brought into operation?—Yes. It seemed to me that their operation tended to diminish the dignity and power of the chiefs; and I thought

it was a matter of policy. As to what Mr. Rennell said about Hone Pihama, and the land referred to in my letter, I may mention that Hone Pihama admitted to me that the Te Ngaere land was not his to sell, and that was one of the reasons why he declined to sell when he was asked.

TE KAHUI examined.

1413. *Mr. Rees.*] You are an Assessor, are you not?—Yes.

1414. Have you for any length of time been engaged in connection with the Native Land Court and in the administration of land in this Court?—Yes.

1415. For how long?—Since 1881.

1415A. Have you had any experience of the Native Land Court outside this district?—My district extends from Waitotara to Mokau, and on two occasions I have been outside those limits. That was when I went to Wanganui and Palmerston.

1416. Then within this district are you fully aware of the wishes and feelings of the Maori people in regard to the management of their lands? Can you speak confidently as to their feelings and wishes in that respect?—Yes.

1417. Now, in regard to those lands which are administered by the Public Trustee and the Reserves Trustee—that is to say, by Mr. Rennell and Mr. Mackay—are the Natives satisfied with the present method of administration?—Mr. Mackay was the first Commissioner. No, the Natives are not satisfied.

1418. Why are they not satisfied?—Owing to the doubt in the law. The dissatisfaction arises from the fact that the Public Trustee leases the land and obtains the money, and the Natives do not know upon what terms the leases are made. There is constant dissatisfaction from this cause, and the Natives express it to Mr. Rennell continuously, whenever he is going round with the rents to them. The reason of their dissatisfaction is that they do not know what rent is being paid for the land. But in the case of leases between Natives and Europeans directly there is no dissatisfaction, because it is clearly known what is being done. That is all I have to say about that. The Commissioners engaged in this inquiry, however, understand the matter themselves. What I have to say with regard to those lands that are leased by the Public Trustee will not take very long. I wish to explain to the Commissioners that we are not satisfied with the Public Trustee having the controlling power in regard to the leasing of our lands. Nor would the Natives, including myself, be in favour of the Land Board, nor in favour of the Land Court. The Land Court has oppressed us very much. What my desire is, is that a new law should be made for this district by the Parliament that will shortly assemble. That is what I wish to say to the Commissioners. The Europeans of this district have a great deal indeed to say to the Commissioners, but I do not know what they may have said. Mr. Rennall has appeared before you, but he appears under orders. All the restrictions on the lands in this district should be removed. The Natives should have the control of their own lands, and if one individual desired to lease he should be allowed to do so; or if he desired to sell, he should be permitted to do that also, if he requires money, so that each person could clearly deal with his own particular portion. If a Native wishes to lease a portion of his land let him do so, or if he wishes to sell a portion and retain a portion for himself, give him freedom to do so. That is the plan that we on this Coast desire. There has been a great deal said to the Commissioners to-day by those persons who have been before them, but that is all I have to say.

1419. *Mr. Carroll.*] The purport, then, of your remarks is that you do not desire the Public Trustee to have the control of your lands?—Yes, that is it.

1420. Secondly, that you are not in favour of the Land Board?—Yes.

1421. Thirdly, that you should have the control and management of your own lands?—Yes.

1422. Now, supposing that in the case of a block of land, where there were a hundred owners, and they wished to lease that land, what procedure would you suggest for the purpose of leasing?—If the hundred owners—supposing that were the number—wished to lease the land and they agreed to it, well and good; let them lease it. If they wished to divide the land into convenient portions and lease them, or if they wished to retain possession of the land, let all that rest with themselves to determine.

1423. If the hundred owners wished to lease the land, and they select from among themselves some of their number to give effect to the lease, would not that do?—Yes.

1424. That would be preferable to the laborious method of getting each owner to sign his name to the lease?—That is very clear.

1425. Then, when the lease would be decided upon, how about paying the rent?—The lessee would pay the rent to each individual owner; so that whatever befel, right or wrong, the lessee would be responsible. It would not do for me to take the rent of another person.

1426. Would it not be well for a Committee chosen by the hundred owners to go along with the Government officer to receive the rent and distribute it to the owners? Would such a system as that be acceptable to you?—Do you mean a Native Committee, formed of those owning the land?

1427. Yes?—And that there would be an officer of the Government to act in concert with the Committee?

1428. Yes, and to be responsible for the proper distribution of the money?—Would such an officer be in the same position as Mr. Rennell?

1429. At the present time Mr. Rennell is acting under the Public Trustee. It is not as if he were working with the Natives who are the owners of the land?—Yes; that is so.

1430. The position, therefore, of the Government officer appointed to act in conjunction with the Native Committee would be different from that of Mr. Rennell, because he would have to attend to the distribution of the money belonging to the people who owned the land?—That would be at the time the rent was paid?

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

exactly the same process again before the Chief Judge in open Court before the deed was forwarded on to the Governor for his warrant. It seems to be an excessive caution, and is also an expensive proceeding. Really no fresh inquiry is made, but simply the same inquiry made twice over. I may also point out that it would appear that this extra precaution is taken when the whole of the land is dealt with; while in cases where a person obtains a share in the land, and then gets a partition order, the certificate of title seems to issue to him without this superfluous inquiry which is provided for by section 4. As a matter of practice, I might suggest that where leases and transfers are dealt with in respect of land in the transition stage, it would be convenient to have a provision made that such leases and transfers should be done on the forms accepted under the Land Transfer Act. My reason for suggesting that is, that it sometimes happens, after the lease or transfer is signed, altogether or partially, that the land is brought under the provisions of the Land Transfer Act, and then, if the deed is not on the proper form, there is some trouble to get the transaction registered. If, however, the recognised land-transfer forms were accepted from the start, that would get over the difficulty. I presume this first question is intended to refer to the alienation of lands by deed of lease, as well as transfer. I do not know that there is anything else in that respect to which I need call the attention of the Commissioners.

1438. Have you formed any opinion with regard to the question of a more prompt method of granting succession orders than that which now exists?—No, I do not know that on a question of detail like that I have formed any opinion. The whole question of succession orders is, to my mind, a great deal confused with regard to testamentary provisions. The powers of the Court in connection with wills seem to lead to a certain amount of confusion. I do not know that I can suggest any way by which succession orders could be expedited. The old practice was to get probate, and then on probate being granted to apply for the succession order. Otherwise there might have been a conflict of decisions, so to speak, between succession orders and wills. I have something to say with reference to the powers of the Native Land Court in regard to wills, but I thought my remarks on that head might more fitly apply to the second subject of reference.

1439. Then, will you kindly give us any information that you think to be material with regard to the second point of reference?—With respect to the general constitution, practice, and procedure of the Native Land Court, and in what respects they could be simplified or amended, I think it is obvious to any person who has much to do with the matter that there has been a multiplicity of conflicting legislative enactments, which has rendered the whole subject exceedingly cumbersome and beset with difficulty. A consolidation of these conflicting laws should be made, or, if possible, a simplification of them, and a reconstitution of the Court. There have been so many Acts brought into operation to give additional powers, or to remedy apparent inconveniences or abuses, that now we have a most complicated piece of machinery, the working of which is very troublesome indeed, and which leaves one in very great uncertainty as to its results. I mean, that there are so many points left dubious, both as to practice and construction. Of course, I have not come prepared with a scheme to take the place of the present system. That is a very large question—that is to say, on what lines the thing should be done. But I think, at any rate, that simpification is required, or, if not, a codification of the laws. There are some points in the practice of the Court to which I would like to call attention. The whole position, for instance, of trustees in Native matters is one I think that requires some consideration. Of course, there is the Maori Real Estate Management Act of 1888, which defines the duties and powers of trustees; but I cannot help thinking, as indeed one finds in actual practice, that it is absolutely impossible to expect that Native trustees will carry out, or at any rate do carry out, their trusts in the way which is contemplated according to English law. It is a thing totally unknown to them. In fact, the burden of trusts upon Europeans is almost every year becoming more and more intolerable through the decisions of the Courts, and a somewhat similar burden seems to me intended to be placed on Natives who act as trustees; and the consequence, as I say, is that it is almost impossible to expect that they can carry out their trusts, and in almost every case there is no *mala fides* whatever, but simply a want of knowledge of the actual position of affairs and of their duty in respect of their *cestui que trust*. If Maoris are for the future to continue to act as trustees, I think their position should be simplified very much, so that they may intelligently apprehend what is required of them and be able to do it, and that they should not, as at present, be expected to act in the same way as an English trustee has to act, working as he does with all our complicated machinery. There is another point in connection with which there seems to be some little confusion. The Maori Real Estate Management Act provides for the appointment of trustees by the Native Land Court; and the Supreme Court also claims the power of appointment and removal of trustees, as exemplified by the case of Toko Reihana *versus* Moore (New Zealand Law Reports, Vol. viii., page 323). Then, too, in cases where the trustees are appointed by will, there seems to be some question whether they have not also to come before the Native Land Court for appointment. At present, I do not think that anything has been done in regard to their appointment to negative the provisions of the Maori Real Estate Management Act that conflict with special instructions given under the will. With regard to the question of wills generally, I may point out that "The Native Land-laws Act Amendment Act, 1890," gives the Native Land Court concurrent jurisdiction with the Supreme Court as to probate of wills. I am not aware of any cases where there has been a collision in respect of that, but there might be inconvenience, and particularly of this kind: Under sections 44 and 49 of the Native Land Court Act of 1886 there is power given the Native Land Court to recognise an instrument which, though not a formal will, is considered by the Court as intended for such, and this peculiarity might arise: application might be made to the Supreme Court for probate of the will, and probate might be refused, on the ground that it was not an instrument on which probate could be given by the Court; and yet the same instrument might be afterwards taken to the Native Land Court and be given effect to, under sections 44 and 49 of the Native Land Court Act of 1886. I cannot help thinking that the whole question of testamentary disposi-

tions with regard to Native matters deserves more attention than it has received from the Legislature. At the present time, with any ordinary dispositions, or instruments of transfer, or of lease, every precaution is taken that the Maori executing the instrument should understand what he really is executing, and that all necessary formalities are complied with. That is the case where the instrument is executed by a person in full intellectual and bodily vigour. It seems to me to be a point certainly worth consideration, whether, when we compare the vague way in which testamentary provisions may be given effect to with the care which is exhibited by the person who makes a disposition *inter vivas*, the whole question does not require far more consideration than evidently was given to it when the Legislature passed sections 44 and 49 of the Act of 1886, which undoubtedly tend to make things much looser than they were before. Of course the intention is to adhere to Maori custom; but it is a matter for consideration whether such informal documents should have the effect which it was apparently intended to give them. There is also a question which was raised not very long ago in this town with regard to the position of Maori marriages. It arose in the case of Rira Peti *v.* Ngaraihi te Paku, which is reported in the "New Zealand Law Reports," vol. vii, page 235, and it opens up a very wide question as to Maori marriages and Maori descendants. I mention this matter more particularly because it seems to me that we are gradually getting into a state of hopeless confusion by associating English ideas with matters of this kind. At present a Native is subject to the same succession duties as are imposed in respect of European property. But there are certain exemptions made in favour of children, as interpreted by European law; but if the decision in the case of Ngaraihi te Paku is good law—and I have no reason to doubt it—then the result will be that in all these cases succession duty would have to be paid by Maoris as strangers in blood. I am not aware that the question has ever been raised; but I am pointing out that these are all questions that crop up in connection with matters of this kind, because the succession duties are not paid at the time, but when they are registered, which may be years afterwards. The persons who are supposed to pay the duty are called upon to file stamped returns and pay the duty. Then comes the question, what duties are these persons to pay, and, strictly speaking, the question may arise whether families according to Native custom are not strangers in blood under the European laws of marriage, and liable to duty as such strangers. I dare say the attention of the Commissioners has been called to a matter somewhat cognate to this—that is to say, to a recent decision of Mr. Justice Conolly, in the case of Driver *v.* Poaka, where he held that the successor was not the heir, and, therefore, was not responsible for the debts of his ancestor, which, consequently, need not be payable by him. I am speaking of cases in which there was no marriage according to English law. Then there are some minor matters of detail that I might also call attention to. There is, for instance, the question of the expenses of survey for the purposes of partition. There is no provision made to meet the case of one of a number of Native owners who claims to have partition and applies for a survey which defines his own land, and therefore is for the benefit of the others as well, by giving the boundary of their lands. He is not able to recover a part of the survey expenses from the rest. I think he should be put in the same position as a claimant under the Act of 1886, whereby he can get an order charging the costs of survey on the land. It is only a small point, but it seems to work rather unfairly at the present time. Then there is another matter: that of applications for rehearings, which, at the present time, have to be made before the Chief Judge in open Court. The effect of this is that it very often causes a tremendous amount of delay. The Chief Judge cannot be ubiquitous, and, therefore, any person who is interested and who wishes to hang up proceedings in respect of any particular block has only to give notice of his application for a rehearing, which can be done any time within three months, and then the matter has to stand over until the Chief Judge comes to the district, which may not be for eighteen months afterwards. This does not seem to be at all right, for it opens the door for any person who may be so disposed to hang up proceedings indefinitely by merely making application for a rehearing. I think that some more expeditious method of bringing matters to a head might be found. Another question that seems to be anomalous—although it is not, strictly speaking, connected with the practice and procedure of the Native Land Court—arises under the Bills of Exchange Act of 1883, section 96, where special provision is made that no Native may give a bill of exchange or a promissory note unless certain formalities are gone through, and that applies even although the person may be a half-caste who is able to speak English very well. Provision is made under "The Native Lands Frauds Prevention Act Amendment Act, 1888," section 3, that in the case of a half-caste who is able to speak English only a certificate is required, and no translation. It seems therefore to me to be only rational that, in matters of business, such as the giving of a bill of exchange, a similar certificate should be allowed to be made use of. With regard to the question of keeping back all orders other than those for partition or original investigation for three months before issue in the Native Land Court, in order to allow of applications for rehearing, there is no doubt that it may be quite right in the case of infants, but it seems rather ambiguous whether it should apply also to trustees. I am not suggesting that it may not be a very good provision for the purposes for which it was evidently intended, but it should be more definitely laid down. I think that these are all the particular points with respect to matters of detail that I had noted down with respect to reference No. 2. With regard to No. 3—the defects in the present system of alienating or disposing of interests in Native land, and the remedy which should be adopted—I do not myself quite know whether you intend to travel over the same lines as the Native Lands Frauds Prevention Act of 1889, or whether the Commission has power to deal with cases of defective titles.

1440. It has?—Then, I think the principle of such an Act as that is equitable in the highest degree. There is no doubt that it frequently happens in many classes of cases, both leases and sales, where there is a large number of owners, or even where there is a comparatively small number of owners, that at no one time can you get all the signatures. There are always some minors, or there are trustees to be appointed for them; and you constantly hear of properties where all the performances are *bonâ fide*, whether for lease or sale, and yet, by reason of these difficulties,

the completion of the transaction is delayed indefinitely. I think that where these informalities exist every facility should be given to complete the transaction if it is otherwise *bonâ fide*. There is another class of cases, of which I consider notice should be taken, because they are becoming rather frequent in this district—that is to say, cases in which Europeans have entered into agreements more or less formal, mostly for the purchase, but sometimes for the leasing, of land from Natives, where deposits have been paid, and after that the matter has been hung up. These often form great difficulties in locking up the land from dealing, as, in addition to other difficulties, no purchaser cares to face the prospect of possible litigation with another European. This sort of dealing, therefore, should be rendered either absolutely invalid, or some definite provision should be made for its certified recognition by way of provisional registration, with such limitation as may be necessary. Some cognisance, at any rate, should be taken of this habit, which is springing up, and which is hurtful to both Natives and Europeans in dealing with the land. With regard to reference No. 4—viz., the principles on which interests in Native lands should in future be alienated or disposed of by or on behalf of the Native owners, and the manner, terms, and conditions in which the same can be carried into effect—of course it is a question which to a certain extent involves what might be called a system of political economy or Maori policy. I do not know that I need go into that. As time passes on the view will be recognised that Maori land should all be held under a similar tenure to that under which European land is held; and I think, myself, that every encouragement should be given for the individualisation of the Native title, and for having the land brought under the provisions of the Land Transfer Act. There must be a transition period, and during that period every reasonable facility should be offered for dealing with the land, having in view the idea that it will eventually become individualised and become capable of being dealt with as ordinary land under the Land Transfer Act. With regard to restrictions on alienation, I should be disposed to think that restrictions in the way in which they have been previously imposed might be dispensed with, and that the protection of the Native owners would be sufficiently assured if the Trust Commissioner, or whatever officer represented him in the future, were to be instructed to ascertain very carefully that there was no fraud in connection with the transaction, and that the Native who was dealing did not pauperise himself by leaving himself without land or adequate means of support. That, I believe, would be sufficient protection. Practically speaking, the restrictions against alienation which are inserted in grants from time to time are constantly dispensed with after going through the recognised process required by the Act.

1441. *Mr. Mackay.*] You are in favour, then, of a removal of the restrictions?—Exactly; and my own idea is that it is daily becoming less important that these restrictions should be put in the title. To guard against the Native vendors becoming pauperised, there should be a strict examination to make it absolutely certain that they had sufficient land or means of support elsewhere. I do not myself at all believe in too much interference between the Native and the European in these matters, and I believe that it would be better that the Native should be allowed to make his own terms with the European. I do not believe in the interposition of departmental officers, who would sell or lease the land for the Native. I think that there are serious objections to that class of treatment. As far as I can see, the Native has a far stronger personal attachment to his land than has the European, and that is especially shown in the case of leases. The individuality and character of the person to whom the Maori gives up the temporary occupation of his land is a matter of as much consideration to him as is the price which he is to get; and where he reserves to himself sufficient land for his own occupation, his chief desire is to make sure that the neighbour, so to speak, to whom he is intrusting his land is one whom he approves of. I mention that because there is a certain amount of Native land up the Coast under lease from the Public Trustee in different ways; but as far as my own experience goes I should not be inclined to extend this provision in a general way, and thus take away the personal active interest of the Native owner in his land. I think that to do so on a large scale would practically lead to a surrender by the Native owner of his land, and would be giving him merely a lien charged on the lands of the colony. Of course, that is a matter of opinion, but it is my idea.

1442. If the Natives owning a large block of land—comprising, say, 20,000 or 30,000 acres—wish to dispose of it by lease, and if they appoint a person from each hapu of the tribe that is interested to deal in respect of it along with a Government officer, who would see that the whole transaction was carried out in a businesslike manner, do you not think that that would be a peaceful and satisfactory way of arranging these matters?—I think, myself, it would be much better not to lease a block of 20,000 acres.

1443. I mean that the block would be cut up into sections, and then leased?—I think it would be better to individualise the title.

1444. The Native owners would have their shares individualised, but no actual piece of land cut out for each individual?—You mean, to individualise the value of their shares?

1445. I would ascertain and fix the number of shares each should have. That would form the basis of the amount each beneficiary would receive?—I see no objection to enabling powers of that kind, leaving it optional with the Natives to take advantage of them if they chose to do so; but I think it should be left to their option to avail themselves or not of such machinery.

1446. There is another question agitating the minds of Europeans just now with respect to Native land, and that is the question of making it amenable to taxation. If the Natives do not lease or sell their lands there is no way at present of levying rates or taxes on them?—No doubt. Of course I am aware that hitherto this has been done, but only by making a charge against the land which should remain in abeyance until the land was sold. That course would probably have the effect of bringing such land more rapidly into the market for sale or lease.

1447. One thing would have to be safeguarded in these transactions, and that is the distribution of the proceeds of the land according to the shares each Native has in his tribal land; and

that would have to be seen to by the Government officer. Of course, this officer would work in conjunction with the Native Committee in attending to this matter?—You would have the rent paid not to the Committee, but to the Government officer?

1448. Yes, and he would distribute it among the beneficiaries?—I think that would be of very great benefit. I can quite see that in some cases it might be beneficial to do that, and where the Natives especially personally wished it to be done, and I can see no objection to it under such circumstances; but I am against any compulsion in such a system. If such machinery as you have described were provided, and if the Natives chose voluntarily to make use of it, well and good; but I should not like to see it in any way forced upon them. I do not know that there is anything else that I have noted down.

1449. *Mr. Carroll.*] One of the chief difficulties in relation to the passage of Native land from the Native to the European lessee or purchaser is the fact that there are so many owners in a block of land. Is not that so?—No doubt.

1450. It means the expenditure of considerable time and money before the European purchaser or lessee can obtain the signatures of all the owners of such a block?—That is so, no doubt; especially when, as frequently happens, some of them are minors, and therefore incapacitated.

1451. If some system were adopted whereby the carrying-out of transactions in relation to these blocks was limited to a few of the owners, acting as a committee in the general interest, would it not facilitate such dealings?—It would certainly facilitate them, but as to how far it would give satisfaction in its working I do not know.

1452. It would do away with a lot of expense?—Yes. The only risk, to my mind, is as to how far the general body would be satisfied with it.

1453. Of course the general body would have to select a Committee from among themselves as an acting power?—I suppose they would have some mode of selection. I have seen a good many cases where there has been a good deal of dissatisfaction afterwards. I presume, however, from what Mr. Mackay has said, that some provision would be made for seeing that the rents came into the individual owners' hands afterwards?

1454. I would not make the Committee the receivers of the rent?—Very often that is the trouble.

1455. After all the conditions had been settled, and the terms were arranged, and the Natives were quite satisfied with them, it would then remain for them to select a Committee to act with the Government officer in completing the transaction?—It would practically mean that the Committee would have power of attorney. No doubt it would facilitate matters if an arrangement of that sort could be made.

1456. At present the European, in negotiating for a block of land, considers all these difficulties, and takes them also into consideration in determining the price he is prepared to give?—No doubt the difficulties which the European has to face and overcome in obtaining a good title to the land have the effect of lessening the value of the land to the Native owner; and, although the price paid to the Native is, in consequence, much less than he otherwise would get, I do not believe that the European obtains it at all more cheaply on that account. I am quite sure that Europeans would give and Natives would receive for land a considerably higher price if there were less trouble and less risk in securing a good title.

1457. I suppose you are aware that many transactions in respect to land in this place have extended over quite a number of years, and that some of them are in suspension still?—I believe that some of them which are in suspension have been going on for a considerable time.

1458. On account of the signatures of all the owners not being obtainable?—Yes. A great many transactions were abandoned after a time because those who were negotiating were not able to complete them. I do not know that there have been very many in active negotiation for many years past, because people generally have given them up, rather preferring to let them fall through than take any further trouble.

1459. *Mr. Mackay.*] Have you had any experience in taking cases to the Native Land Court, where the titles have been settled?—We have done a good deal in our office in that way, but that branch of the business is now conducted by my partner, Mr. Marshall. He is present, and would be able to give you more information on that head than I could furnish.

Mr. Gifford Marshall examined.

1460. *Mr. Mackay.*] We should be glad to have any information that Mr. Marshall is prepared to give.

1461. *Mr. Marshall.*] Do you mean with respect to the original investigation of the title to Native land?

1462. *Mr. Mackay.*] Yes?—I have had a fair amount of experience, but I do not know that I can suggest much in the way of amendment. You wish to ascertain, I presume, what amendments of the procedure of the Court would be desirable?

1463. Yes. Now, if the Native owners of a large tribal block elected a Committee—one man, say, being chosen by each hapu—and this Committee were assigned the duty of settling the tribal boundaries as well as the subdivisional boundaries for the various hapus of the tribe, all this being done with the assistance of a Government officer, would it not facilitate the proceedings in the Native Land Court in the way of determining the titles?—Yes; I think it would very materially assist—for this reason: When the matter is left to the Natives as a body they frequently fail to have proper plans prepared, and the boundaries are always in dispute between them. These disputes occur not merely among the various hapus which are interested in the one block, but also among the several members of particular hapus. They are not satisfied with having a manager for each side, but each hapu appoints its own manager or managers, and thus the proceedings take up a vast amount of the time of the Court, besides leading to very considerable trouble. In fact, it

indefinitely delays the proceedings. Very frequently, indeed, do you see the Natives of the one hapu unable to agree amongst themselves. If, however, they would only consent to one manager acting for each side all this trouble would be avoided. I find in the course of investigating Native titles in the Native Land Court endless confusion, and this is accounted for by the simple reason that the matter is left to the whole body of them, instead of being confined to one representative for each party.

1464. It would save the time of the Court, then, and save the time of every one concerned, besides avoiding immense expense, if the plan I have outlined could be adopted?—No doubt. At present, when the matter comes into Court each individual desires to put forward his own claims, and eventually these are bound to clash one with another, and a great deal of time is wasted in consequence. If they would only select one man for each side, and would depend upon him, there would be no necessity for such prolonged sittings of the Court as is the case at present. This plan would greatly facilitate matters. There must be some arrangement made by which the Natives would definitely appoint somebody to act on their behalf, and abide by the result.

1465. It would have to be a compulsory arrangement as to that?—Yes. There would be great difficulty if any man should get up and say, notwithstanding, "I have not consented to this man acting on my behalf."

1466. If they settled the boundaries among themselves, they would simply go to the Court to get an investigation of the title. They would have to go there in any case. Nevertheless, the difficulties would be very much reduced that they otherwise would have to talk out in Court, and which might be the subject of prolonged investigation, as is now the case at Marton. In fact, these difficulties would be reduced to a minimum?—Certainly.

1467. It would also lead to a greater number of cases being got through than is the case now?—Of course it would lead to the constituting of a Native Court among themselves, and it would enable one man to represent to the Native Land Court the wishes of that party which he represents. At present you will see over and over again a number of Natives come to the Court here without having consented to any leader or manager acting for them, and each man putting forward a claim to the same land, even when these people belong to the same hapu. Your plan would be of very great advantage supposing it could be done by all who were concerned consenting to it.

1468. *Mr. Carroll.*] During your experience in the Native Land Court have you ever noticed that the Land Court has drifted into a new system of listening to and taking down extraneous evidence?—Yes.

1469. And that a great deal of delay is occasioned by the Court listening to evidence that does not seem to bear at all on the point at issue?—Yes; I quite agree with you. The regulations that were issued some time ago provided the Court with power for excluding extraneous evidence. I thought at that time the Judges would, at the outset of a case, have addressed the Natives, and said, "You must confine yourselves to the point at issue;" but I found some of the Judges leaving them to take their own course as before. Other Judges are very curt with the Natives; and no doubt the latter course has manifest advantages. There is no doubt of it, there is a tendency in the Native Land Court to allow a man too much latitude altogether. The Native witnesses go on day after day with endless repetitions of the same matter; or, even when one Native varies his statement from that made by another, the point it relates to has no reference whatever to the case. Ordinarily the Judges give the witnesses far too much latitude, and these regulations were passed with the view of affording them additional powers. I think the Natives should be made clearly to understand that they must restrict their evidence to what is material.

1470. You have known of cases being drawn out to a very unnecessary length?—Undoubtedly.

1471. Now, as to the question of rehearing. A Native, if he feels dissatisfied with the judgment of the Native Land Court, applies to the Chief Judge for a rehearing?—Yes.

1472. Under the existing law the Chief Judge is bound to hear in open Court argument for and against the application?—That has its disadvantages, and certainly its peculiarities. As far as the Acts are concerned, you are not even bound to state your reasons.

1473. That is the point I was coming to?—I remember on one occasion stating my intention on behalf of my Native clients to apply for rehearing in respect of a certain block of land.

1474. And you did not give your reasons?—I said that "the Acts do not demand them, but if I am asked I will give them." I mentioned the particular reasons I thought of at the time; but when I came to make the application I either dropped or did not take any notice of those grounds which would not assist my case. I included in the notice of intended application many things on which I did not rely at all.

1475. It has become apparent that the Native Department under the present system is inundated with all sorts of frivolous applications, and that the time of the Chief Judge is taken up with them in all parts of the Island; so it is found to be necessary to place a check on these applications; and the point is, what restrictions could be devised for the purpose of bringing them into a reasonable groove. It has been suggested that the system which prevails in European Courts should be followed in the Native Land Court—that is to say, upon any one applying for leave to appeal he should set forth the grounds on which he bases his application for appeal or rehearing. If the application is allowed, then the case is submitted to the Appeal Court and argued out there. That is one course that has been suggested to us?—Have you considered the question of security, for instance?

1476. At present, of course, every application has to be accompanied by a deposit of £5; but it is considered advisable to make that deposit a little higher in amount?—The ordinary form of application, as it stands at present, states that the applicant objects to the judgment; and any ground may be alleged, such as its being against the weight of evidence. But the Chief Judge has nothing to go upon in dealing with the application until the parties appear before him. I would suggest

that a day should be fixed by the lower Court for hearing the application, and for pointing out discrepancies in evidence, or other points upon which the application is based.

1477. Do you think that when a judgment is given, and when those who are dissatisfied wish to appeal against it, they should be called upon to state their grounds at the time that they make the application?—The only objection to that is that some of the parties might be unavoidably absent at the time. That might be a very good reason for allowing some little time. As a rule they have fair notice, and, in case of illnesss or unavoidable absence, they might be granted some little grace. I am not sure, also, that they ought not to have time in any case to consult among themselves. There are many points in the evidence that would have to be considered first of all. There should be nothing like a hard and fast rule; and that is the objection to bringing them completely in accordance with the European system relating to motions for a new trial.

1478. Do you think that three months' notice would be too long?—Yes, it would be; particularly where the judgment is by consent, or where the order is for simple matters such as the appointment of trustees. I have had such cases in point where there was no opposition whatever, and yet I had to wait three months before the order was sealed.

SAMUEL THOMAS FITZHERBERT further examined.

1479. *Mr. Carroll:* I wish to refer to one point which was mentioned by Mr. Fitzherbert in connection with reference No. 1: it was with regard to half-castes and Natives who are quite as competent as Europeans to act for themselves having to go through the same formalities which are prescribed by the law for the ordinary Native. It was suggested at New Plymouth by Mr. Samuel that there should be issued in the *Gazette* from time to time a list of such persons as were entitled to be exempted from this disability; and that once this Proclamation issued there should be no necessity afterwards for such persons going before a Justice of the Peace or a Resident Magistrate, or the Trust Commissioner, for the execution of these special formalities, as is the case now. Either that should be done, or there should be a certificate from the Judge of the Native Land Court entitling the holder to the same privilege.

1480. *Mr. Marshall:* It is a very good idea. These people would like to manage for themselves, and they should have the rights of pakehas.

1481. *Mr. Fitzherbert:* It seems absurd to go through all these formalities when the person for whose benefit they are provided understands, himself, every word that you say.

1482. *Mr. Carroll:* I have had, myself, to go before the Trust Commissioner. Going back to the question of the alienation of land, you would be in favour of individualising the Native interests as far as possible?—Yes.

1483. You would not force the Natives to individualise where the quality of the land, and its physical features, would not permit of its being individualised to their own benefit?—Certainly not. I would give facilities for individualising rather than compel it to be done. It is better let, if it is held more or less in common; but I was meaning the giving of facilities in a general way. Of course the individualisation of the title would be a very good thing both to the Natives and to the country at large.

1484. But not in the case of some of their waste lands which are lying in their natural or original state, more especially when they consist of rough country, and when there are, as is the rule, many owners—sometimes as many as three or four hundred in one block. In such cases the value of the land would be eaten up in surveys?—I recognise that such land can only be profitably occupied by taking it as one large block. I was speaking more particularly with reference to land situated near European settlements, where Europeans are generally anxious to purchase.

1485. In all such cases, of course, you would allow every individual Native, when his interest was individualised, to deal with it as he likes, subject, of course, to the necessary safeguards that he did not thoroughly denude himself?—Yes. I might call the attention of the Commissioners to the decision of the Supreme Court in respect of the Oamarunui Block, whereby a new construction is given to section 5 of the Native Lands Frauds Prevention Acts Amendment Act of 1889. Section 5 of that Act provides: "The Trust Commissioner shall, as far as possible, inquire into the circumstances attending every alienation. He shall also inquire as to the amount of the consideration paid, and shall satisfy himself that the consideration purporting to be paid or given has been paid or given." It has been, I think, very often thought that that inquiry as to the amount of consideration paid must be for the purpose of the Judge satisfying himself that the consideration was more or less adequate.

1486. No doubt that was the spirit of it?—With reference to the case of the Oamarunui Block, we made objection to the Trust Commissioner's certificate being given, on the ground of inadequate consideration. The matter was referred to the Chief Justice, and his ruling was that the Trust Commissioner must inquire into the consideration, and, if he finds that it is very inadequate consideration, he may take it as an element of fraud in connection with other matters, but he has not to satisfy himself as to adequacy of consideration, as inadequacy of consideration is not sufficient ground of itself for refusing his certificate, and in doing so he would be putting a restriction upon the land—that is to say, if a Native chooses to sell land worth £100 for £10, he may do so.

1487. That provision was put in in consequence of the case at Oamarunui?—No. This provision was made before that case, and this construction was placed upon it in that case. I do not know whether it is very widely known. It was a case as to whether or not adequacy of consideration should be made a necessity of the bargain. I am merely calling attention to what is apparently the present position of the law, or, at least, to the construction put on this particular section of the Native Lands Frauds Prevention Act of 1889.

1488. Of course it is hard to make the Trust Commissioner the person to decide what the value of the land is. It would become impracticable, but no doubt this is done, more with the intention of getting the Commissioner to see that everything is aboveboard.

1489. *Mr. Marshall:* In that particular case he found eventually that the price was inadequate, but he said it was *bonâ fide* so far as the purchaser was concerned. It might have been an element of fraud, but there was nothing brought forward against the transaction being *bonâ fide* on the part of the purchaser, and so the certificate was granted.

1490. *Mr. Carroll:* Now, in respect of the general dealing with waste lands lying in large areas and owned by large numbers of Natives, the tendency of feeling amongst the Natives is in the direction of appointing a Committee among themselves to deal with the land by way of lease or sale. That seems to be the opinion of the Natives wherever we have gone. They recognise that to lease their land through the present system, under which it is necessary to have every one of three or four hundred owners attach his or her signature to the deed, besides conforming to all the other requirements of the law, would mean the eating-up of the proceeds in costs, and that the owners would get very little for themselves. They feel that by having a Committee to settle all the preliminary questions and to act for the whole body they would be able to avoid that expense, and upon the tribe and the European agreeing as to terms they could the very next day give effect to that agreement by means of this committee system. The question is, if such a system were adopted would it be better to associate with the Committee a Government officer, or would you let them work by themselves?

1491. *Mr. Fitzherbert:* It is a question I have never given any consideration to before. It has never been suggested. I am really not prepared to give an opinion offhand. Without thinking it over further, I could not express an opinion one way or the other. There is a great deal to be said on each side.

1492. *Mr. Carroll:* A great deal of the difficulty would be removed if you could depend on the Natives acting in each case?

1493. *Mr. Marshall:* And unless they were unanimous as to the Committee elected, it could not be worked very satisfactorily.

1494. *Mr. Fitzherbert:* I rather gather, from what you have said, that they are to decide the terms of the lease by general discussion, and the Committee are to be the hands, as it were, to carry it out.

1495. *Mr. Carroll.*] Yes; they are to be the executive?—If they are merely to be the signatories to the lease there would not be much question about it, because some tribunal would have to be satisfied that the Natives for whom the Committee was acting were assenting parties to the transaction. I thought Mr. Carroll meant that some half-dozen men should sign in place of three hundred—that is to say, for all the owners—and in that case there would not be much benefit in having a Government official for merely manual execution.

1496. But the assistance of this official would afford some guarantee that each individual among the owners would receive his fair proportion of the proceeds of the transaction?—That is a subsequent thing. That, of course, is the difficulty.

1497. But the performing hand shall be the Committee?—Yes. I presume the Committee would consist of a comparatively small number, not exceeding a dozen. The whole object would be to keep the number reasonably small.

1498. *Mr. Mackay.*] They would give effect to the wishes of the body of owners as regards the quantity of land to be dealt with on lease, and perhaps the proportions of rent that each one on the list should receive. If there is any change in the law after our report goes in in reference to the alienation of land, they would have to be provided with special forms of leases and special forms of conveyances. You see, the point that has evidently been aimed at by all parties is that finality should be arrived at with regard to these transactions, and that there should be no subsequent question as to their validity?—The effect would be very much as if you took twelve persons and put them on the roll, and recognised them as the persons clothed with all necessary authority for executing the deed. It would not do to go behind these people to see what authority they had. It would be fatal to have any question arise as to their authority to execute.

1499. The great thing is to provide a safe and prompt method of dealing with their land, either by sale or lease, and to assure finality for it?—No doubt.

1500. That the title, whether it is to lands which are conveyed from one Native owner to another, or from a Native owner to a European, shall be as good a title as a Crown grant?—Yes; I quite see that the difficulty to be overcome is as to the carrying that into effect, supposing that in case of a lease the tenant has the disadvantage of paying his rent to the ten or twelve persons who have executed the deed.

1501. The tenant would pay to the Government officer, who would see to the due distribution of the money among all the beneficiaries.

1502. *Mr. Carroll.*] Of course that comes afterwards. Still, it is a point that requires a lot of consideration. You have on one side the fact that every owner is entitled to his share. You have to see that they get their money. On the other hand it would be loading the European with a lot of unnecessary trouble and inconvenience if he had to pay to each and every one. If you place the money in the hands of the Committee some of it would not reach its proper destination. Then, if you issued power to the Government officer to receive and distribute the money the Committee would think that in a partial sense some of their independence was gone?—As I say, it opens up a question that calls for careful consideration. From what I have seen I think the Natives individually are averse to having their rents collected for them and handed over. I am speaking for those who have been landlords up the Coast. They resent rather the appearance of a Government officer in the affair.

1503. *Mr. Mackay.*] They are in a different position from that which is suggested for the Natives generally?—Certainly; I am only speaking from the sentimental point of view, and not from the legal point of view.

1504. I know that that is only the objection of certain persons in that body, but the general body do not object?—I was only stating the view of those I have spoken to.

1505. *Mr. Carroll.*] With regard to reference No. 3, respecting defective titles, do you think that some tribunal appointed on the same lines as those on which Commissioner Edwards was appointed under the Act of 1889, to inquire into the *bona fides* of each transaction, and not to report at all, but to decide finally right off, would be a necessary thing? In the case of Commissioner Edwards he had, of course, to report to Parliament, and had no power to decide?—I should much prefer to see the power of decision given to such a tribunal, for two reasons: Such a tribunal must necessarily be invested with a great deal of confidence, for it would be absurd to appoint it otherwise. Then, if you give it that you might just as well trust it also with the power of decision. You have its report, and you might just as well follow it.

1506. *Mr. Mackay.*] And its decision should be absolutely final?—Yes, I think that is the idea in anything of that kind. It should be an impartial tribunal.

1507. *Mr. Carroll.*] And the decisions of the tribunal hitherto have not been final?—I should be in favour of giving practically absolute power in reason.

1508. In cases in dispute between Natives and Europeans you would let the Commissioners, whoever they may be, hear them, and if they think the Natives are right let them decide in their favour, and if they think the Europeans are right let them give those Europeans good titles?—Yes. You must have some finality. If you have a satisfactory tribunal you could take your chance with it and leave the matter to its decision. It would be very much better than the present state of things.

1509. *Mr. Mackay.*] It should decide on grounds of equity and good conscience?—That is a phrase that is rather objectionable to us, because it is so much abused in the Resident Magistrate's Court. I know exactly, however, what you mean, and in that sense I should say Yes. But in the sense in which it is translated by Justices of the Peace I should not.

PALMERSTON NORTH, 29TH APRIL, 1891.

Mr. EDWARD NOLLOTH LIFFITON examined.

1510. *Mr. Rees.*] What is your occupation, Mr. Liffiton?—I am an auctioneer, and land and estate agent.

1511. Have you lived in this part of the North Island for any length of time?—For over thirty years.

1512. Have you become generally acquainted, during that time, with the methods of holding land by the Natives, and the methods of dealing in land with the Natives?—I have had some experience of the difficulties connected with land-dealings.

1513. In what way did these difficulties present themselves, and from what did they arise?—From the number of names in the various grants and certificates, and through reserves being made at hazard, apparently.

1514. Also containing many names?—Yes.

1515. Can you give us an idea of the numbers of names there would be in these certificates—that is, of course, generally speaking?—I have been informed that in the case of a reserve of 100 acres, and in another case of 300 acres on the Waitotara River, there were nearly four hundred names put in as owners. The effect of that is to make the land practically useless. This applies more particularly to Native reserves. Those cases I have just mentioned are cases of reserves that I know myself, and I should say they were of little value to the Natives. It is rough bush-land, situated over forty miles from the sea, and there is no Native settlement within a dozen miles or so. In fact, these reserves really appear to have been made at haphazard, just as if the Native said as a sort of afterthought, "I will sell you my block of land for so much, but I am going to cut 300 acres out of it"—as something he could make out of his bargain.

1516. In any other case, besides the reserves, do you know of instances in which large numbers of Natives have been put in the certificates by the Court?—I have frequently heard of such cases.

1517. Speaking from your experience as a land agent and auctioneer, would you say that it is a matter of difficulty and an expensive proceeding to get numbers of Natives to sign the different deeds that are required in land-dealings?—Yes. I have had some experience, too, as a Justice of the Peace in connection with friends and acquaintances who happened to buy Native lands, and who have asked me to go out with them in my official capacity to witness the signatures of Natives to these instruments.

1518. What has been your experience in respect to these as regards trouble and expense?—My experience has been that the trouble and expense incidental to these transactions are enormous—so much so, indeed, that I have often wondered that people can be found to take the trouble and go to the expense necessitated by having anything to do with Native land. I myself never would do so; and I have had, I think, exceptional opportunities.

1519. You consider, then, that, both as regards Natives and Europeans, the present system of dealing is bad: you see no redeeming feature in it at all?—No; and I can only account for its continuance on the supposition that the object of the present system is to prevent the transfer of land from the Natives, and to prevent the settlement of the country. If that is the object I should say it is a very good system for achieving those ends; but if it is intended by the system at present in vogue to aid in the settlement of the country and to bring about the transfer of land from the hands of the Natives I should certainly say it is as bad a system as it well could be.

1520. In respect of those reserves you have mentioned and known, covered by much the same circumstances, would not the expense of getting the deeds signed swallow up the whole value of the proceeds?—It is a very serious element indeed in the purchasing of Native property. I think the Natives have to pay a good deal of this expense themselves; that is to say—the land passes from them at a trifling price.

1521. Because of these expenses that they have to pay?—Yes. But, even then, I think that many Europeans who dabble in these transactions get dragged reluctantly on and on until they find it cheaper to finish the affair than lose altogether what they have already spent. I think that many of them go in for Native-land purchases with no conception when they begin their negotiations of the cost and trouble that will assuredly be entailed upon them. I had a remarkable instance of this under my notice a very little while ago. I should scarcely care to mention names, however.

1522. You need not mention names if you can vouch for the facts?—It was simply this: A certain person was negotiating for the lease of a considerable block of land from the Natives, and the rental he agreed to give amounted to a considerable sum. As a Justice of the Peace, witnessing the signatures of the Natives, I said to the man, "You will have a pretty figure to pay as duty to the Government for this." "What for?" he said. I told him that he would have to pay 10 per cent. duty for the full term of the lease in one payment. He was very irate at the idea, and could not see it at all; but this certainly was an element of the affair that he evidently had not calculated upon.

1523. Now, do you think that a system by which the Natives should be enabled to deal as a whole through some appointed body, like the burgesses of a borough or the shareholders of a joint-stock company, would be practicable?—I think that any system whereby the Natives might deal through a Board, or through the chairman of the Board—like the burgesses of a borough deal through their Council or Mayor—would at once simplify proceedings materially.

1524. Do you know whether there is much land in this district held by the Natives?—I do not know about this district—speaking of Palmerston—for my head-quarters are at Wanganui; but there must of necessity be a large amount of Native land still in Native hands throughout the northern part of the district.

1525. *Mr. Mackay.*] That is, the Wanganui district?—Yes, and up the coast as well.

1526. That is, behind the confiscated territory?—Yes; there is a very large area of land there.

1527. Do you think that the settlement of this part of the Island is being retarded through the Native lands not being opened up?—Enormously so. The Government have land in the same locality, purchased by them and Crown-granted, which they themselves do not throw open.

1528. Purchased from the Natives, you mean?—I presume so. It is Crown land, at any rate.

1529. Can you say whether there would be any demand for land if available land were thrown open?—I think there would be a practically unlimited demand. I may say that, as a land agent, I have very numerous inquiries made to me for land. Scarcely a day passes but two or three inquiries are made; and I have made it my business to endeavour to push on the settlement of the Crown lands not for any emolument that is likely to accrue to me thereby, but simply because I know that it would be productive of great good to the district in which I live, and, as a consequence, to the colony at large. Every tract of virgin land that is taken up for *bonâ fide* settlement of necessity adds to the wealth of the district. I have been the means of inducing settlers to take up some thousand acres of Crown lands which were lying waste and unproductive, and which are now being cleared and considerably improved.

1530. *Mr. Rees.*] And you think that, if a simple method of dealing in Native land were substituted for the present system, the settlement of the country would be advanced at a much more rapid rate?—Undoubtedly. At present the young men living about and around the various settlements cannot take up land for themselves; for, in order to settle upon it, they must have capital with which to clear the land of the bush. The greater bulk of the land in the district of which Wanganui is the centre is good land, and there never was a time when there was so much money in the district as there is now. But there is no outlet for it, and it cannot therefore be invested. I am agent for a good many people possessed of money with which they do not know what to do. In fact, there is a constant cry of the lack of a field for the investment of this accumulated capital. The impetus given to the advancement of the country, if we had a ready method of acquiring Native land, would be enormous.

1531. Would you like to suggest anything more, Mr. Liffiton?—No; except that I may express my opinion that the principle at which you seem to be aiming is really capital. I think, however, that you are likely to have some trouble with the details.

1532. In working with the Natives alone in respect of these land-dealings—is that what you mean?—Yes.

1533. We are very much obliged to you, Mr. Liffiton, for your evidence. Every fresh idea or statement that we get is something material in arriving at definite conclusions. There is a little difference between the various opinions that we elicit, as of course must be expected, but it all tends in the same direction.

NAPIER, 1ST MAY, 1891.

Captain GEORGE AUGUSTUS PREECE examined.

1534. *Mr. Rees.*] You are the Resident Magistrate of this district, are you not?—Yes, and also Native Agent for the Government, as well as Trust Commissioner.

1535. How long have you had any experience of the working of the Native Land Court, and of dealings in respect of Native lands?—Since 1875 continuously.

1536. In what districts?—In the Opotiki and Tauranga districts and in the Poverty Bay and Napier districts.

1537. Have you been conversant at all during that time with the method of dealing for the alienation of Native lands?—Yes.

1538. That is to say, leasing, selling, and mortgaging?—Yes.

1539. And you have also been conversant with the actual interior working of the Native Land Court?—I have seen a great deal of it.

1540. Do you consider the system at present in vogue of holding Courts in distant places from the land that is being adjudicated upon, and where the people dwell, is advantageous to the Natives?—I think it is very disadvantageous to them.

1541. In what way?—I should hold the Courts as near as possible to the localities in which are situated the lands that are passing through the Court, and I should have well-defined districts for the various Courts. Let each Court travel regularly right through its particular district, and let the presiding Judge in each instance be confined to his district, for by changing him you lose the benefit of the local knowledge he has gained in previous cases. I would add that the Natives are very often placed at a great disadvantage through the Courts being held at distant places, as their old men, who have the Native-land custom at their fingers' ends, cannot travel to these places, whereas the younger men can travel, and very often get an advantage over the old men in this way.

1542. Are you aware at all that a system has grown up among the Natives of taking into Court regularly-concocted stories alleging titles to lands that really do not belong to them?—I have heard of it from the Natives.

1543. Do you consider that the present system of exacting large fees from the different parties in the Court is fair or advisable?—I think the costs should be made as light as possible to the Natives, and that they should be encouraged in every possible way to put their lands through the Court, and that the system of administration pursued by the Court should be altered to a certain extent.

1544. In what direction?—I should make the Natives conduct their own cases, and not allow Native-land agents to appear at all, giving the Judge discretionary power to do away with them, excepting in cases of sickness and so on—that is to say, in cases where it is impossible the individual claimant can conduct his own case, either through sickness or through inability. I think the proceedings of the Court would be considerably shortened if this plan were adopted.

1545. Has not a new profession—that of Native-land agents—sprung up of late years?—Yes, and they have practically taken the position of solicitors in the Court.

1546. Is any training exacted from them?—None that I am aware of.

1547. Or any examination?—No. They pay a license-fee to the Chief Judge.

1548. *Mr. Mackay.*] Five pounds, is it not?—Yes.

1549. *Mr. Rees.*] Do you think that the system of employing Native-land agents is advantageous to the Maoris?—I do not. I think, however, that the system is largely on the increase, and that the cost of putting the Native land through the Court has considerably increased in consequence.

1550. Is it part of your experience that applications for rehearings, and rehearings, have been on the increase for the last ten years?—Yes, very largely on the increase. I may say that such a number of rehearings is granted now that scarcely a case comes before the Court in which there are not several applications for rehearings—not merely one application.

1551. In your experience, Captain Preece, is the system which has been in operation since 1873 of making every individual owner appear on the title to a block and sign every lease or conveyance—men, women, and children alike—in the interest of the Maori race?—I think it would be very difficult to alter that now.

1552. That is no answer. I will put the case of a block for which there are 150 owners, and I ask you is it possible to get a lease if all these 150 signatures are to be obtained to it?—It is almost impossible to get such a lease, or, if you do succeed in getting it, the cost of the operation amounts almost to the value of the land.

1553. *Mr. Mackay.*] And that also applies to the case of a purchase of Native land?—Yes. The cost of either of these transactions is far in excess of what it should be. The Natives suffer in consequence of this excessive cost, as they get a smaller price, or a smaller amount of rent, as the case may be, owing to this expense of obtaining a title.

1554. In your experience, is not the title, even when so obtained, very liable to be attacked?—Very liable indeed.

1555. *Mr. Rees.*] Is the system pursued by the Native Land Court of granting adjournments and postponements advantageous to the Natives?—I think not, excepting where the adjournments take place when the cases are first called upon, for the purpose of affording opportunity for some settlement between the parties concerned.

1556. It is only, then, when they are made with a view to amicable settlements, that you consider they are advantageous?—Yes.

1557. Can you state, as a matter of fact coming within your own knowledge, that very often in these cases the Natives settle their tribal and hapu boundaries by agreement among themselves? In former years they used to do so, but latterly they have not done so.

1558. In former years, then, this sort of settlement prevailed more than it does now?—Yes.

1559. Then, can you state from memory, and by a comparison of present times with the past, whether the procedure of the Native Land Court has improved in efficiency or deteriorated?—I think it has deteriorated considerably within the past twelve or fourteen years. Formerly the Natives conducted their own cases, and there was no question of law for the Judges to consider. They had simply to consider questions of Native custom, and decide accordingly. Now a system has grown up of employing Native agents, who act and practise as advocates for the Natives. They go in for long cross-examinations, which was never the custom formerly.

1560. Under the modern system, and running contemporaneously with this deterioration of the Native Land Court, can you say whether the character of the Natives themselves, as they appear in the Court, has improved or deteriorated?—It has deteriorated very much, as some of them show a great disregard now for the truth. All their aim seems to be to try and make up a case that will beat the other side, and attain whatever ends they may have proposed to themselves.

1561. Are you aware of the existence of any cases of dispute as to titles between Natives and Europeans? Are you aware that there are such cases?—Not in this district. I know of disputes as to titles, and incomplete titles, but not in this district.

1562. Do you think it would be wise to establish a Commission or Court which should have full power to finally decide all such cases?—I think it would be very advisable. I think that the Court should have power to inquire into all such disputes, and to finally decide them on equitable grounds, giving then an absolute title.

1563. That would be for the public interest?—I think it would be for the public interest.

1564. Now, from what you know of the Natives in this district and in Opotiki, do you think that a person like yourself, knowing their habits and customs, would find much difficulty in meeting with the Natives in public, and getting them to talk among themselves, with the view of fixing their tribal and hapu boundaries?—I think that there would be difficulty in that way; but I think that the Court should encourage the Natives in settling the preliminaries of their cases before bringing them into Court. I think that would help the Court very much, and that they might take into Court a report of the points they had agreed upon. They should proceed with the settlement as far as they could, and then, if any disputed points remained, they could be brought into Court for settlement.

1565. Do you know of any cases, whether of original investigation or of subdivision, in respect of which the Natives have been put to great expense for maintenance and payment of fees?—Yes; very great expense is entailed upon Natives who are brought from long distances—as, for instance, Wairoa or Nuhaka—in connection with cases which are advertised to be heard before the Court sitting at Waipawa or Hastings, without any idea in their minds as to when these cases will be called on, or as to what cases would be taken first; and perhaps when they appear at the Court they learn for the first time that their particular cases will not be called on for two or three months, and perhaps will not be taken by that Court at all.

1566. And thus their time and outlay of money go for nothing?—Yes.

1567. You have known of such cases?—Yes.

1568. They are not uncommon?—No. A long list of cases is published—sufficient, perhaps, to keep the Court engaged for months—and perhaps a lengthy case of original investigation will be commenced while several other cases have to wait their turn, the Natives interested in which are all in attendance; and all the time, trouble, and expenditure of money which this involves are wasted. That would not take place if well-defined districts were formed, and that the Judge of each district should simply gazette what he would be able to get through within a specified time.

1569. Especially if he could go as near as possible to the land to be adjudicated upon?—Yes.

1570. Do you think it would facilitate a settlement of the tribal and hapu boundaries if the Judge could go upon the land, see the old people upon the land, and settle the boundaries in that way?—Very largely, and it would prevent the Maoris from making false statements—swearing to things which do not exist. In fact, it would stop false swearing to a great extent.

1571. Do you think it would be an advisable thing for the Natives to set aside substantial reserves of land for the education of their children?—I think it would be a good thing if they would do it. But I may say that there is rather a feeling against setting apart land for the education of the children amongst the Natives.

1572. You think it would be advisable if they could be brought to do it?—I think it would.

1573. In relation to the case of large blocks, especially when situated amid rough country—not rich land like that immediately around Napier—and when such blocks are held by large numbers of Native owners, do you think it would be a good thing for the owners to choose Committees from amongst themselves to take out their reserves, letting the balance of the land be cut up for settlement, titles to be given on their behalf by some one appointed by the Government?—I think they would be too suspicious.

1574. I do not mean that. Do you think it would be advisable if it could be done?—Yes, it would be advisable if it could be done; for there is no doubt it would facilitate the acquisition of the land.

1575. It would give good titles?—Yes.

1576. And at much less cost?—Yes, much less.

1577. It would cost much less, and the European who wished to take up land would not be harassed by litigation?—Just so. At the same time I think the Natives would be opposed to that, because they cannot trust themselves.

1578. That is not our own experience. The Natives would want a Government officer appointed to assist them in the conduct of these land-transactions. You are the Government official here. Now, supposing there was a large block of Native land to be dealt with, and you were chairman of the Committee, and that the Government would be responsible for your due distribution of the proceeds, do you not think that it would be of advantage?—Oh! I think if it were carried out it would be very much to the advantage of the Natives, the Europeans, and the public generally.

1579. So far as you can speak from the knowledge derived from acting as Trust Commissioner in this district, would you say there is any considerable amount of land being alienated for the purposes of settlement at the present time?—There is a fair amount—that is to say, in large blocks, but practically nothing in small blocks.

1580. Then, in respect of large blocks individual interests are being obtained, but no complete titles?—That is so.

1581. During the last eight or ten years in the District of Hawke's Bay has the Native Land Court been successful in completing the titles to land to any considerable extent?—There has been a great number of rehearings, but the cost of putting the land through the Court has in many cases almost swallowed up the whole of the proceeds.

1582. I am very sorry to say that we are hearing the same thing everywhere. It is something shocking. There is no finality in the proceedings of the Native Land Court?—There seems to be none. Applications for rehearing seem to be made in almost every case, and that, of course, increases largely the amount of work to be done by the Court. It takes a great deal of time to even reach the application for rehearing, and then the Court is gazetted to take on other cases.

1583. Is this the procedure: The case is heard, then the application for rehearing is made by the dissatisfied parties, then that has to be heard as a substantive case, and then after that the rehearing has to come on if the application be granted?—Yes, it is gazetted again, and reheard before two Judges.

1584. Is it possible to have a further rehearing after that?—No; it goes to Parliament then if the parties are still dissatisfied, and there may be another rehearing on the subdivision.

1585. So that the proceedings are practically interminable?—Yes. Take, for instance, the case of the Waipiro Block, on the East Coast, in which a rehearing was granted. After that rehearing the case went before Parliament, and the parties got a second or Parliamentary rehearing, and I do not know whether the title is complete yet.

1586. Then, there is a dispute between the Judges, and the whole thing has to be taken before a new Judge?—And a new Assessor.

1587. Should you be inclined to say that the working of the Native Land Court and of the Native-land laws, as administered at the present time, is unsatisfactory?—I think so from this fact: that the time occupied in investigating a title extends to such an inordinate length that the value of the land is almost exhausted before a title is obtained.

1588. Are the Natives themselves satisfied, so far as you know?—They complain of the great cost, and also of the delay in bringing cases before the Court. In every Court there is a very large number of applications for succession orders, and these are frequently held in abeyance a very long time before they can be heard. Meanwhile the Natives interested, or who may be presumed to be entitled to them, cannot get their rents.

1589. Is there anything more you would like to suggest, or in respect to which you think reform should be made?—I think that would be the only reform I can suggest. I consider that the status of the Native Land Court should be maintained as much as possible. I do not think it should be reduced in any way, but the Judges should have absolute power to prohibit the appearance of either solicitors or agents, and that the Natives concerned should conduct their cases before the Judges.

1590. As they did in the olden times?—Yes; and the Judges should be appointed to particular districts, holding their Courts as near as possible to the situation of the lands under adjudication, and that wherever there is any question of landmarks the Judges should go on the land themselves, and there satisfy themselves on such points.

Mr. Edward Heathcote Williams examined.

1591. *Mr. Rees.*] You are a barrister and solicitor practising in Napier?—Yes.

1592. How long have you been practising here?—A little over seven years in Hawke's Bay.

1593. Have you had any experience in dealing in Native land?—Yes; I have had a good deal of experience. I have had experience both of the working of the Native Land Court and in connection with obtaining titles to Native land.

1594. In respect of the alienation of Native lands?—Yes.

1595. Now, in regard to proceedings in the Native Land Court, would you like to make any suggestions to the Commission?—To my mind the great fault in connection with the Native Land Court procedure is that it is far too lengthy, and, in fact, dilatory. I have appeared as counsel in several cases, and it has struck me very forcibly that the Judges are too apt to listen to any story the Natives may bring forward, without a proper regard to its relevancy or otherwise to the points at issue. And, if the Natives are allowed, they will go back sixteen generations, thus spinning out the cases to a very unnecessary length. I am sorry to say that from all appearances some conductors seem to consider that it is quite proper to spin out the proceedings to a length which seems to me to be quite unnecessary.

1596. What do you mean by "conductors"? Do they constitute this new class of Native agents?—Yes. There are conductors, however, who show a desire to shorten proceedings. Thus: I know of a case that was before the Court the other day on rehearing. It was suggested to the Judges that, instead of again examining the witnesses in chief, they should accept the evidence in chief previously given, subject to any alterations the witness might desire to make, and allow cross-examination on that evidence, and by that means the case would have been so expedited that it would only have occupied as many weeks as it would otherwise have taken months to complete the proceedings. The Judges thought it a good plan, and allowed it to be started. The next day the Judges said they could not follow the evidence themselves, so they directed the Natives to give their evidence as in the original case. The result was, that the Natives went back to a remote period, and the usual waste of time was the result.

1597. You say that this dilatoriness of the proceedings is one of the great faults in connection with the Native Land Court?—I think it is. To my mind the Judges are not quick enough in stopping evidence when it has nothing to do with the point at issue, fearing, I suppose, that if any

evidence is rejected a rehearing will be applied for. My object, when I have appeared as counsel in the Native Land Court, has always been to state the case with brevity, to cut out that part of the case that does not seem to be salient, and confine my examination to the points which to me appear really material.

1598. As you would in an ordinary Court of law?—Yes, and this mode of procedure enables me to complete in an hour an examination which would occupy me days if I conducted it according to the usual Native method.

1599. Do you think that these lengthy proceedings, in the way they are conducted now, would be allowed in any ordinary English Court?—I am certain they would be stopped at once; but the example is hardly parallel.

1600. Have you had brought under your notice at all anything which would show that a practice has grown up of late years of Natives making up stories for the purpose of getting a title?—I have frequently come across that tendency on the part of Natives, and in some of these instances I have fortunately been able to spoil their story by quoting evidence which they had given in other cases that showed they were completely at fault. There is also a very grave fault in connection with subdivision cases that ought to be mentioned. For instance, if the title is alienable a solicitor in acting for a client often conducts the purchase of undivided shares. It becomes necessary afterwards to go to the Court and ask for a subdivision of these shares. The tendency of the Natives then is to prove that the vendors' interest is small, and therefore very great care should be taken to ascertain the true position of matters.

1601. Before purchasing?—Not so much that, but that the Judges should be fully alive to the fact that these Natives are bolstering up a story for a particular purpose.

1602. In relation to rehearings, do you consider that these rehearings take place more frequently than ought to be the case?—I consider that that is one of the great blots in the present system—that rehearings are granted without sufficient reason; and no one can ever feel safe in the issue of a title. To my mind, it really means that the Natives waste their substance in litigation, and that, as a consequence, the settlement of the country is absolutely retarded. It very often happens that the decision on the rehearings is only just varied enough from the original finding to make it appear worth while to have a rehearing, and in most cases there is no real ground for saying that the second decision is one whit more righteous than the first one was.

1603. Has it come within your experience that the Natives are uselessly detained at the Court, and that they are put to great inconvenience by reason of the sittings being held at long distances from their homes?—No; I cannot say that it has. My experience has chiefly been in connection with sittings at Hastings, where there are a great many kaingas, and they are quite comfortable.

1604. In regard to the subdivision of Native lands, can you give us any idea of the cost of subdividing rough land which is not of great value in itself, and when there are many owners? Of course surveys would be necessary. Can you give us an idea of the relative proportions of the cost and the value of the individual interest? Do you think there would be much left for the Maoris?—No, I do not. I think that any purchaser who gives a fair price for Native land ultimately has to give a most prohibitive price.

1605. That is owing to the expenses being so great?—Oh! they are enormous. To begin with, we will say that the Native Land Court, after all hearings and rehearings have been disposed of, issues an order for a certificate of title under the Land Transfer Act: there is even then too much delay before that is sent to the District Land Registrar to issue the title. It has taken, to my knowledge, over twelve months to do it in cases where I could not see any reason why it should not be done within a few weeks. It seems to me that all that is required to be done is to have a proper survey, approved by the Crown officers, and the orders made out and completed by the Judge.

1606. Then the surveyor has to be paid his fees, besides the fees of the Court?—Fees have to be paid in respect of the survey. The purchaser has to pay such price for the land as the Trust Commissioner may see to be fair. There is every precaution and safeguard given to the Natives in their dealings, and then the purchaser has to pay his solicitor, who really cannot charge his client what he would be entitled to charge him, because it would amount to too much. I mean to say that the attendances are so frequent, and the work to be done is so enormous, and the other fees are so large, that, if the client had to pay his solicitor the ordinary charges, I do not think that as a business transaction the thing could possibly stand it. Interpreters also have to be employed, because every deed has to be interpreted and properly understood by the Natives; a very large stamp duty has to be paid; and then, when we get as far as having the orders before the District Land Registrar, it becomes necessary for the purchaser or for the lessee, whoever he may be, to go back to the original title and against every man who was in the title and had died since; he has to secure transmission of the succession, pay all the fees, and register the trustee orders. In stating all this, I am simply putting cases that I have had experience of. This all shows that the machinery for acquiring land in small blocks—I am not speaking of very large blocks—is altogether too expensive and too cumbrous.

1607. And, even then, is it not the case that the title is liable to be attacked?—Yes; that is shown by the decisions given in cases in the Supreme Court and the Court of Appeal—as, for instance, the case of Paraone *v.* Matthews——

1608. And Poaka *v.* Ward?—Yes. In these cases the title is liable to be attacked where there is really no fault to be attributed to the purchaser. It seems to me that where a certificate of title is issued under the Land Transfer Act, if the transaction on its merits is a fair one, the lessee or purchaser should be protected.

1609. Do you think it would be to the advantage of the public that all individual dealings in Native land should be stopped except where the land is held in severalty, and that titles should be given by some central Board, the Maoris first of all having their reserves taken out?—I rather doubt if it would be an advantage.

1610. Why?—I should say that, provided the machinery were made more simple, the settlement of the country would progress better if people were allowed to deal as they are now.

1611. With the individual Maoris?—Do you refer, Mr. Rees, to giving a Crown title straight out?

1612. Yes?—I should be in favour of that, I think.

1613. A statutory title would be given at once, not going to the individual Maoris at all. Supposing we had to deal with a block of 150,000 acres, and that there were two hundred and fifty owners in it, these Natives should appoint their own Committee, who would cut out any reserves the owners required, leaving the balance of the land to be thrown open, titles being given by the State on terms being arranged?—How do you propose to inquire as to the owers?

1614. The purchaser or lessee would have nothing to do with that, and the title would be indefeasible?—Anything that would make the titles indefeasible would have my support.

1615. Then, as regards the Native Land Court and its present working, would you say it is unsatisfactory?—Yes, decidedly.

1616. And as regards the alienation of land under the circumstances you have been describing, you say that is unsatisfactory?—Yes: it is unsatisfactory for further reasons too, I think.

1617. You can mention anything you like, because it all goes into the evidence, and we want the opinions of practical men?—Well, blocks have come under my notice in respect of which I have received instructions to deal where there has been a huge survey lien unregistered, and if that survey lien had been made by order of the Court it would be possible for us to pay it off and get an assignment, which is equivalent to a mortgage; but in the particular case I have in view the lien is not created by order of the Court at all, and there does not seem to be provision in any of the Acts for dealing with it except by payment. This would be a dead loss to the party dealing.

1618. Then, it seems that at every point you turn to in the system it is unsatisfactory?—Yes. Then, again, there are a great many blocks, especially under the old titles, which are restricted.

1619. Under the Act of 1865?—I suppose so. The machinery for getting the restrictions removed is, I think, too cumbrous. You have to get a majority of the Native owners, you have to apply to the Native Land Court, and you have to supply the Government with a copy of the succession order for every deceased Native. These regulations are all laid down in the *New Zealand Gazette*, but I am putting it simply on the ground that the expense is too much.

1620. The expense, and trouble, and delay?—Yes.

1621. Is there anything else that strikes you at all as being worthy of remark?—Yes. I think I should mention that, with regard to the debts owing by Natives who die, if there is no will the Native Land Court issues a succession order, whether letters of administration have issued or not, and the Act of 1886 seems to say that that shall vest the estate in the successor. There has been a decision of the Court on the point, but we ought not to have to go to the Court in respect of these questions at all.

1622. Did you get a favourable decision because the Supreme Court at Auckland has decided unfavourably in similar circumstances? The decision there was that the estate is not liable?—The Supreme Court in Wellington has decided that the estate is liable. I think, too, it is a proper decision.

1623. It is an equitable decision?—What I wish to point out is, that where a succession order is applied for in the Native Land Court the Court never troubles to inquire whether debts are owing by the deceased. It will issue succession orders to Natives and appoint trustees, but there is nothing to make them liable or the land liable. Fortunately, it has been held in this particular case that the administrator has power to sell the land for the debts first of all. That ought to be clear, so that creditors should be protected.

1624. Is there anything else that you care to suggest to us?—I think that with regard to the Native Lands Frauds Prevention Acts of 1888 and 1889 it would be wise to abolish restriction in all cases except only as to acreage. There does not seem to me to be any charm in saying that a block must not be dealt with if owned by more than twenty owners; because that restricts settlement all over the country. There are few blocks that are not owned by more than twenty owners.

1625. Is there any other difficulty that you can indicate to us, or any point in respect of which there is need for amendment?—Of course, speaking generally, I think that, where transactions have taken place under Acts, and the intention of the Legislature has been followed, though technical defects may be apparent, the transactions ought to be validated.

1626. You think, from your experience of the law, that it would be just and fair, in cases where matters are only technically wrong, and where no fraud is alleged, that they should be validated?—Quite so. I think that in cases of fraud they ought to be thoroughly inquired into, but where the dealings are fair and just on the merits a title ought to be issued. There may be some technical flaw, but that is not the purchaser's fault, or anybody's fault, perhaps, because it may be caused through the complicated state of the law. The Natives are thoroughly protected: the Trust Commissioners satisfy themselves that a fair price is given, and that the transaction is a proper one. In fact, the protection afforded Natives now is greater than it was under the Act of 1881. The Trust Commissioner holds a Court to examine the parties, and there is another open Court to hear objections.

1627. Because you say it is the fault of the Legislature if such transactions are found to be technically wrong?—Yes; more especially as these titles are not negotiable securities, and the settlement of the country is thereby retarded.

1628. As regards real matters of dispute between Natives and Europeans, what do you say—that is to say, in respect of all cases where material dispute has arisen between Natives and Europeans, or in respect of cases of similar dispute that may hereafter arise?—I do not suppose my opinion as to that is worth anything, because I have had no experience, but I should have thought that probably it would be better to have some investigation of these cases that would avoid the necessity of going to law.

1629. You think a special Court should be erected for dealing with such cases?—Yes.

1630. Do you think that the decision of such a tribunal should be final?—If a Court is set up for the purpose of investigating such disputes between Europeans and Maoris, I should say Let its decision be final, because it would have to deal with questions of fact. Of course, this would depend on the Court or Commission itself. If such a Commission is composed of men who are thoroughly acquainted with these matters, and who are able to bring to the investigation the necessary skill for arriving at the facts, it will be a good thing indeed.

1631. Do you think that it would satisfy the Europeans who have titles which are liable to be attacked, that the Court of first instance should be the Court of final determination?—It is very difficult for me to say, because I have not had experience at all of that class of case.

1632. We do not wish to press you. We are glad to get opinions as to anything upon which you can speak with confidence?—I have spoken of these other cases because they have come directly within my knowledge.

NAPIER, 2ND MAY, 1891.

PAORA KAIWHATA examined.

1633. *Mr. Rees.*] What is your name and place of residence?—Paora Kaiwhata is my name, and I am a chief of the Ngatikahungunu.

1634. You are one of the old race of chiefs, are you not?—Yes. Of the old chiefs, I only am left. Tareha Moananui is gone; Hapuku is gone; Waka Kawatini is gone; Karaitiana is gone; and Renata Kawopo and Kararuria are gone. I only am left of the old chiefs of Heretaunga.

1635. Do you remember the commencement of the Native Land Court?—I do. It was after Hapuku had sold the lands to Governor Grey, and we had driven him off the Heretaunga Plains to Te Hauke. Donald McLean was here then. He was Government Commissioner and Native Minister. Fenton was the Chief Judge under the law which was made for the Native Land Court. We did not understand that law. We brought our lands into the Court—all the lands of Heretaunga. The Judges told us to go outside and choose ten men for each block of land, and that the ten would act for the people. We chose the names to be placed in the Crown grants for all the lands upon the Plains. I was in some of the grants, Karaitiana and Tareha in others. Europeans bought the lands from the ten. Since that time the Native Land Court has always sought little by little to lead the people astray. The laws were always being changed by the Parliament. We never could understand them. Of late years they have led the people into many strange ways. They have done much harm to the Maori people. The chiefs under those laws no longer ruled the tribes. The laws made us all equal—children and slaves stood in the same rank with the chiefs. The influence of that Court has been nothing but evil. The Maoris are no longer a people, by reason of the Native Land Court. A new law should be made. The people should again be allowed to act as they used to act before there was any law or any Court. The chiefs should do with the lands what the people desired them to do, and they alone should have the management. In the old days, when the land was leased and sold in the presence of the tribe, there was no disputing and no deceit such as there have been since the Court came to Heretaunga. If the Commission will get Parliament to make a new law, let it be according to the old custom of the Maoris.

1636. Can you attend at the meeting to be held at Waipawa, where the chiefs and people are to meet the Commissioners?—I cannot go to Waipawa. I am too old and feeble. Many chiefs are going there, but I shall not be there. I am old, and have not long to live; but before I join the other chiefs out of this world I should like to see a law passed which will bring back the old customs and save what remains of the people and the lands. I have heard that the Commissioners have met the tribes of Ngatiporou, Ngapuhi, Ngatimaniapoto, Ngatituwharetoa, Ngatiraukawa. I have heard that the Arawa also have sent to the Commissioners. Let their hands be strong, and their words also, to persuade the Parliament to make a good law. Destroy the Native Land Court as it now is, for its work is bad. I have come to see the Commissioners here, because I shall have no other opportunity of seeing them. My wish is that the old customs may be revived, and that the new order of things which has grown up shall be done away with. Do something also for the children of the tribes: let them be cared for. There is now no war between the Maori and the European. It is a good thing in thus sending Commissioners to the Maori people, and it is good that one of the Commissioners should be a Maori. My word to you and to the Parliament is, Be strong to make good laws for the Maori people and their lands.

NAPIER, 4TH MAY, 1891.

Mr. FRANCIS LOGAN examined.

1637. *Mr. Rees.*] You are a barrister and solicitor practising in Napier?—Yes.

1638. How long have you been practising here?—I have been practising here for nine years now.

1639. Have you had, as a professional man, any experience in the conduct of sales of Native lands, and the completion of titles to land which has been derived under the Native Land Acts?—Yes, I have.

1640. Can you state generally whether the titles, where derived through the Native Land Acts at present existing, are satisfactory?—They are by no means satisfactory.

1641. Is it the case that there is great difficulty in completing titles under these Acts?—Very great difficulty indeed. The delay in the issue of titles under the Native Land Acts is very great indeed.

1642. And the cost?—The cost is very much more than that entailed upon one in negotiating sales and leases of property held by Europeans under Crown grant.

1643. When the titles are completed, or are supposed to be completed, do you find that even then they are absolutely safe, or that, in some cases, they are still open to attack?—More often than not they are open to attack—in fact, so much so that I make a point of never advising a client to lend money on the security of land held under title from the Natives, the title to which has been acquired by Europeans.

1644. Can you state from your own knowledge of the profession generally in this district whether this is their common feeling with respect to that?—I know it is in most cases. Most of the practitioners here who have any reputation at all will not give any guarantee of safety to their clients in dealing with Native matters, by reason of the absolute uncertainty existing with regard to titles to Native land, even when they are supposed to be completed, and when all the formalities of the law have been practically complied with.

1645. Do you know anything of the working of the Native Land Court through attending its sittings?—No; I have practically no experience in that respect. I have attended the Court on a few occasions, but I cannot say anything that would be of any use to the Commissioners with regard to that branch of your investigations.

1646. Do you think it would be wise in the public interest that a Court should be appointed to settle definitely all questions of title that are now outstanding?—I should say it would be a very great boon to the colony.

1647. Are you aware of cases in respect of which there are technical matters—matters of omission and so forth—which might be used to invalidate titles to land?—Yes, I think there are.

1648. Are you aware of the existence of another class of cases in which it is alleged by Natives and Europeans that there are serious causes of complaint, not merely technical matters, but cases in which there are allegations of wrong-dealing and illegality?—Well, in a general way I have heard of such cases, and I believe that such cases do exist.

1649. You are aware that there are two classes of cases—one class in which there are mere technical informalities, and in respect of which there is no allegation of wrong-dealing, and another class in which there are serious matters of contention between the parties?—Yes.

1650. Now, in relation to those two classes of cases, what would you suggest to the Commission for dealing with such cases? First of all, in cases where there are merely technical omissions or non-feasance as to minor details, would you consider it fair and just to put them on a sound and satisfactory footing?—I should think it would be very desirable that a Court of some sort or another should be established for the purpose of validating all these simple technicalities, where there is nothing else requiring to be put right between the parties who have been dealing. In such cases it would only be an act of bare justice to do so.

1651. In regard to cases involving contentious matter, do you think that to have some tribunal to settle these on their merits would be advantageous, such a tribunal to give final decisions?—Yes; and such a tribunal should certainly give final decisions.

1652. Do you think that the Europeans whose titles are so situated would sooner have them finally settled than allow them to remain in their present position?—I think they would sooner have them finally determined—in fact, I am sure of it so far as my knowledge of these cases goes.

1653. Do you think it advisable, in regard to future dealings with Native lands, that a simpler method than that now in vogue for the alienation of Native titles to Europeans should be adopted?—Yes, distinctly so.

1654. Is there any other point beyond these to which your attention has been directed at all?—No, I cannot pretend to suggest anything to the Commissioners, for the simple reason that I have never considered in what way these things should be done; but that there would be a great advantage resulting from the reforms you indicate I think there can be no doubt.

1655. You are perfectly clear as regards the former questions you answered—that is, as to the deplorable state of operations in respect of Native land at present, and their probable results. You are quite clear as to that?—Yes.

1656. As regards all past transactions, you think that a strong tribunal should be erected to settle whatever is at present in suspense?—Yes.

1657. And as regards future transactions you consider that a simpler and more certain method of dealing with Native lands should be adopted?—Yes, I do.

1658. Is there anything further you would like to suggest?—No.

Mr. Josiah Pratt Hamlin examined.

1659. *Mr. Rees.*] You are a licensed interpreter?—I am.

1660. How long have you been resident in Hawke's Bay?—Since 1871.

1661. And have you been a licensed interpreter all that time?—Yes.

1662. For how long a period have you had any means of obtaining any knowledge concerning the working of the Native Lands Acts and the means of dealing with Native lands?—Ever since 1869, before the memorial-of-ownership system came into force.

1663. Prior to 1873 the Acts in force were the Acts of 1865 and 1867?—Yes.

1664. Can you state that you know anything at all as to how the Native Land Court commenced the system of giving tribal lands to ten people, under the Act of 1865? Did you ever hear, or do you know, how that came about; because we find very great difficulty in accounting for it?—Do you mean that you wish to know how the Court managed in those times?

1665. No. Do you know on what ground the Native Land Court, instead of giving the land to the tribe by name, which was one of the provisions in the Act of 1865, gave the tribal lands belonging to large numbers of people to only ten of the owners, or less? Did you ever hear the reason stated for the Court doing this?—I cannot say that I have heard the reason for that. Of course I have been present in Courts when a hapu or a tribe have proved their claims to certain lands, and they have then been told to settle amongst themselves outside the Court who were to be the ten whose names should appear in the certificate.

1666. By whom were they told to do so?—By the Judges. I have been present when this has been done.

1667. Then, when the ten were so elected they proceeded to deal with the land, did they not?—They proceeded to deal with it both by lease and also by sale.

1668. Did the Judges, when speaking about people being chosen from the hapus for these purposes, say anything which would lead the people to suppose that the ten were to hold in trust for the others?—They certainly did. That was the idea, no doubt.

1669. But there was no word of trust put in the certificate?—I do not think there was, either in the certificate or in the Crown grants, but that certainly was the idea—that in conveying to the ten these were to represent the twenty, thirty, or forty others who had proved their title to the land, and these had to decide who the ten were to be.

1670. Then, the Act of 1867, of course, provided against sales, and put the names of all the owners of the land on the back of the instrument, the names of the ten appearing on the face of it as before?—I think that subsequent to the passing of the Act of 1867 there has been land passed through the Native Land Court in respect of which only ten names were put in the Crown grant. I think it was clause 17 of the Act of 1867 that specified that the ten should be put in the grant, and all the remaining owners on the back of the certificate.

1671. *Mr. Carroll.*] There were blocks investigated under the Act of 1867 in respect of which clause 17 was not acted upon?—Yes; that is what I wish to convey.

1672. *Mr. Rees.*] I did not know that. Then, this provision of the Act of 1865 was continued under the Act of 1867?—Yes.

1673. Under the Act of 1873 a memorial of ownership came to be issued instead of a certificate of title, and then all the owners' names had to come in—men, women, and children. We have heard of instances in which names have been assigned to children yet unborn, and put in as owners, and cases where men and women have been put in to meet contingencies. Do you know of such cases?—Yes. It was done in the Porangahau case (land situated between here and Wellington), and in the case of the Whakapunake Block, in the Wairoa district.

1674. In relation to the Act of 1873, is the individualisation of titles—that is, putting in every man, woman, and child as having different interests in a block—according to Native custom, or is it according to Native custom that the land is owned by the tribe or the hapu?—I think the Maori rights of ownership are merely by ancestry, conquest, or occupation.

1675. And under those rights the tribe or hapu owns the land?—Yes.

1676. Now, under the Act of 1873, and in the case of a large block of land for which there are many owners, comprising men, women, and children, is it practically possible to complete the title?—It is almost an impossibility where there is a large number of owners like that.

1677. Is it a very expensive undertaking to obtain the signatures of a large number of Natives when they are scattered over the country?—It is very expensive indeed, and it is very difficult to get the Natives. In such cases, before you can complete the title several of the Native owners die, and then there is the trouble in connection with the successors, who may be living all over the district. All this makes it very difficult indeed to complete anything.

1678. *Mr. Carroll.*] Last, but not least, there is the chance of not getting the remaining signatures?—Just so. Two or three of the Natives may object to sell or lease, and according to the present Act the transaction cannot be completed unless you get the signatures of every one who is interested.

1679. *Mr. Rees.*] Can you speak as to the old method of dealing among the Maoris—that is, the method pursued in the olden times?—Before the Native Land Court was established?

1680. Yes?—They were very simple transactions in those days. You had to deal with the chief. That has been my experience in the Wairoa, when, as a lad, I accompanied my father. In two or three instances the chief gave my father a piece of land, and it was never disputed afterwards. In fact, just the other day a piece given to him as a school reserve was taken into the Native Land Court, and the Natives were perfectly willing to give so much in support of the school when the arrangement was entered into many years ago with my father. Yet no one else but the chief was spoken to about it in the first instance. In fact, no one else dare attempt to interfere in those days.

1681. *Mr. Carroll.*] But I suppose the chief invariably submitted the proposal of the pakeha to his people or council?—No doubt it would be talked over by the hapu.

1682. *Mr. Rees.*] Do you not think it would be wise to return to the principle of the ancient mode of dealing, if it could be regulated by law—the trustees to divide the money fairly among the people?—I am afraid the day has gone by for that. You would never get the Natives to agree to that. I am not speaking merely because I am doing business among the Natives.

1683. Supposing it could be done, and that the Natives saw it was advisable on the score of economy to so deal with their waste lands, do you not think it would be advisable also in the public interest to return to a simpler method of dealing than that which is now practised?—Of course, if it can be done, and the Natives are agreeable; but I think it would be difficult to get them to agree. You would find a great number of them dissenting from it.

1684. Because they have been so long accustomed to the individual right under the Act of 1873?—Yes, and other Acts.

1685. *Mr. Mackay.*] But if they were notified that, after a certain time allowed them to consider their position, there would be compulsory power for that purpose?—Oh! of course; but I hardly think that is the right way to treat the Natives. I think a great many of us found by our experience of Mr. Ballance's Act of 1886 that the Natives objected to it very strongly indeed. In fact, I know that several petitions against it were sent to various members.

1686. I was coming to that point. Can you state from memory what were the grounds on which they objected to that Act?—They objected to it because they were not allowed to lease or sell land as they thought proper.

1687. I suppose that was because the total control was taken out of their own hands?—Yes. They wished to have the management of their own lands themselves. They did not want the Government to interfere.

1688. *Mr. Carroll.*] In respect of every block of land that passes through the Native Land Court now, are you not aware that, as a rule, a considerable number of Natives are put in as owners?—Yes, I am well aware of it. A very considerable number in some cases.

1689. Would you say, more than there used to be?—A great deal more.

1690. And that fact operates so as to practically prohibit land-dealings with the Natives?—Yes.

1691. Do you think, if the whole of the owners in a block of land were to select a number of themselves to act as a Committee to carry out their wishes in regard to leasing or selling, that that would do away with a lot of expense, and facilitate all such transactions?—No doubt it would if you could get the Natives to have confidence in that Committee or selected body. If it can be done, there should be something attempted in this way: have the land passed through the Native Land Court, and the owners ascertained by the Court, and then make the Committee of which you speak responsible to the others for their shares of the purchase-money or the rent, as the case may be. It might be worked that way.

1692. Could it not be worked in this way: that the Committee to be selected by the owners should be only the performing hand—that is to say, the body to carry out the deed which it was the wish of the people should be entered into, but that they should have nothing whatever to do with the proceeds of the land?—Then, would you divide the proceeds of the land amongst all?

1693. Yes?—I believe that could be done, and a very good idea it would be.

1694. It would work satisfactorily?—I think it would.

1695. But the Court, or some tribunal appointed for the purpose, should be allowed to ascertain the respective interests of the owners without actually individualising them, and the owners to select a number of themselves to act as a Committee?—Out of the owners of each block, like?

1696. Out of the owners of the whole block?—Just so; but you would not select for the Committee people whose interests lay in other blocks?

1697. No.

1698. *Mr. Mackay.*] One member of the Committee could be chosen from each hapu of the tribe?—Yes, or one from each family.

1699. *Mr. Carroll.*] Then, the duty of that Committee should be limited to the actual carrying-out of the wishes of the people? In the case of a lease, the terms and conditions would be settled by the people themselves in runanga, and it would then remain for the Committee to transact business with the European, and give effect to any document that might be drawn up in accordance with the wishes of the people?—In fact, the Committee would just act as agents for the other people?

1700. Yes; but, as I said before, the Committee must not interfere with the proceeds beyond receiving their individual shares?—If the thing were worked in that way it would be of great assistance, no doubt, and I think it would act very well indeed for the Natives.

1701. Would you associate with any such Committee a district Government officer, to be a sort of public guarantee that the money would find its way ultimately into the hands of the owners?—Yes.

1702. *Mr. Mackay.*] According to their shares?—Just so. Yes, I think it would be a good plan. There should be some responsible person to act in this way.

1703. *Mr. Carroll.*] Some paying hand. The Committee could not be constituted that paying hand, because the other Natives would be jealous?—It would require some responsible person to act between them and the other owners.

1704. *Mr. Rees.*] What is your opinion as regards the history and proceedings of the Native Land Court? Do you think that during the last ten or fifteen years the law has improved in efficiency or not?—I can find nothing that will compare with the perfect mystery it is in. It is a perfect cobweb, and I will go as far as to say that the legal gentlemen themselves cannot see their way through it, or recommend to their clients what should be done under it. It is the most disgraceful condition into which Acts of Parliament could bring the law. Every fresh Act has made a worse mess of it than it was before, and has plunged everything connected with Native-land dealing into greater confusion than before. I think, while speaking about that, the best way to ameliorate matters, if it can be done, would be for Parliament to pass a short Act to validate everything that has been done honestly and straightforwardly, and then that Parliament should pass a short Act providing that thenceforth Native-land dealings should be according to Maori custom. According to Maori custom there are only three *takes* or rights to land, and these are ancestral, conquestral, and occupational. The ancestral rights should be supported by occupation, and conquestral rights should also be supported by occupation. My experience has been—and, of course, one of the Commissioners is well aware of this fact—that there is only one ancestry for all the Native people from Gisborne to the Wairarapa. It comes very hard on Natives who have occupied certain land for a long time to have to share it with others merely because these belong to the same ancestry. I have in mind a case of that sort in respect of a block of land at Hastings, in the Te Aute district, where people from Wairarapa and Wanganui were put into the block although they had never seen the land.

1705. *Mr. Carroll.*] You mean to say that there are three recognised kinds of Native-land tenure—conquest, occupation, and ancestral—but in every case occupation should govern the others?—Just so.

1706. That conquestral rights should not be allowed without occupation?—Yes; and the same with regard to ancestral rights.

1707. That would clear away a lot of these difficulties. It would simplify the work of the Native Land Court in the ascertainment of the title, do away with a lot of extraneous evidence

which is being taken every day at present, and narrow down these claims to the proper owners?—Yes. There is also a good deal of argument about this word "mana." Now, no chief would attempt to assert his right to land merely on the strength of his mana. It may come in with respect to the subdivision of the land. That is where I would recognise it. It is merely a species of ancestral, occupational, or conquestral right.

1708. Mana, in your opinion, is really a personal attachment?—Quite personal, over the person's tribe, and particularly over the lands belonging to the tribe.

1709. *Mr. Rees.*] It is a species of authority, not title?—It is not title; it is a species of influence which has descended to the man from his ancestors.

1710. As regards the working of the Native Land Court, do you think it has increased in efficiency or decreased in efficiency during the last ten or fifteen years?—I think it has decreased in efficiency on account of the operation of the existing Acts.

1711. That is, in consequence of the state of the law?—Yes. If a short Act could be passed on the basis of those rights which I have spoken of, there is no necessity for a list of the owners' names being inserted in the case of a block of land. The Act of 1865 distinctly states what rules are to be adopted for the guidance of the Judges, and provides that they are to decide all these claims according to Native custom. I say, therefore, there are only three rights to Maori land—conquest, occupation, and ancestral.

1712. In relation to that, is the Commission to understand that, in your opinion, the Native Land Court, through the operation of these recent laws, has departed from that old custom of deciding these matters in that way?—Of course, in many cases the Act has prevented them from following it out, and the present Acts are certainly calculated to prolong the proceedings and cause the Natives to be a great deal longer in having their lands passed through the Court. We will take the case of the original investigation of a block of land: it costs the Natives a great deal of money to have it passed through the Court. If it can be done, I think that, when the original investigation has taken place, the Judge should there and then subdivide the land, at any rate, into hapu blocks. Under the present system the Judge comes down here and investigates the title to a block, and perhaps five or six years after another Judge comes down and goes over the whole thing. If it can be so managed that the Judge at the time of the investigation should make the hapu subdivisions, it would greatly facilitate matters. I recognise the chiefs as having a larger right than the other people of the tribe.

1713. Do you think, from your knowledge of the Natives, that the Natives themselves, in their runangas and large committee meetings, could do any of the work—as, for instance, defining tribal and hapu boundaries by the natural features of the land?—Do you mean a committeeof the same people?

1714. If the lands of the tribe, or the tribal boundaries, were in question, a runanga of the whole people could talk it over with the adjoining owners, and come to some satisfactory arrangement before they went into Court?—That, no doubt, is a good principle. It may save the Court a good deal of time and trouble, and save the Natives much expense.

1715. Mr. Justice Richmond, in his report on the Hawke's Bay alienations, makes the following statement of opinion: "The Court needs *tentacula* wherewith to seek out and grasp for itself all the facts of the case. It would not be well to throw upon the Judges of the Court the duty of investigations which, to be effective, should be made on the spot. This is rather an administrative than a judicial function, and might be committed to some officer of the Native Department in each district, appointed for this duty by the Governor's warrant. A report of this officer on every application for a certificate of Native ownership or of cession should be presented to the Court. This report should be open to exception by the parties interested, and should be confirmed, overruled, or remitted for amendment to the reporting officer, as the Court might think fit. But there should be no jurisdiction to proceed without such a report. There is another reason for connecting an administrative department with the Court. The work of individualising Native title, or, in other words, of partitioning the estates of the Native tribes, cannot be properly performed by a Court which initiates nothing, but proceeds, as the Native Land Court has hitherto done in most cases, only on the application of some particular claimant." Do you think that the working of the Court could be simplified in that way, by preliminary work being done outside?—Would you propose that such an officer should act with the ten before the sitting of the Court, or otherwise?

1716. Prior to the sitting of the Court?—Yes. I would say that it might succeed. But to get the Natives to agree to these things is the most difficult part of it. They are so jealous of each other.

1717. If they could put in their grounds of agreement there need be no room for jealousy or distrust?—I think it would simplify matters very much.

1718. Can you speak as to the existence of disputes in local cases between Natives and Europeans?—Yes; there have been a good many in Hawke's Bay.

1719. And some of them are well-founded?—Some of the original ones are very well-founded indeed. Some of the former transactions that took place here were not done as they ought to have been done; but latterly you very seldom find the Natives disputing anything they have done.

1720. Are you aware of another class of cases, in which there is no question at all as to the merits, but in which the peculiar technicalities of the law have been held to invalidate the titles?—There are such cases.

1721. And they are productive of great hardships to Europeans who deal honestly and fairly with the Natives?—There is no doubt about it; and they cannot be set right unless an Act is passed for the purpose.

1722. As a matter of fact, has the operation of the Native-land law in recent years led to an increase of dealings or to a decrease in the number of dealings between Natives and Europeans in respect of Native land?—I think I can safely say there has been a decrease in dealings for land; but no doubt far more Native land was leased and sold formerly, when they used to deal with

private parties, because there were more people competing for the land; but the difficulty of getting the Native owners together at one time, in order to obtain their signatures, renders it almost impossible under the present Acts to complete a title.

1723. Then, you consider that there would be far more dealings if a simpler system were adopted?—Certainly.

1724. And the settlement of the country would progress more rapidly?—Certainly, especially if you do away with the oppressive stamp duty of 10 per cent., and with the plan of making people pay this duty at the outset on twenty-one years' rent, if twenty-one years should happen to be the term of the lease. I know a gentleman who had to pay £1,700 in stamp duty on two half-interests.

1725. And he would not be certain of his title even after that?—No, he would not be certain.

1726. *Mr. Carroll.*] Do the Natives see at the present time that it would be to their special benefit if all their lands were under lease or were being dealt with?—Most decidedly; and a great many of them are very anxious to see it brought about. I know of several blocks the Native owners of which are very anxious to lease or dispose of the land; but these difficulties stand in the way, and people will not take the land up under the present system.

1727. *Mr. Rees.*] They are afraid to do so. One lawyer told us this morning that he would not advise his clients to take up Native land under the present system?—The stamp duty, too, is in the way.

1728. *Mr. Carroll.*] Besides, it is almost physically impossible to get a complete title, in view of the number of owners in a block of Native land.

1729. *Mr. Rees.*] Do you think it better to amend the present law or to sweep it entirely away?—By all means sweep it away, for it has got so full of patches that it will not hold together. There is no doubt it is dreadful. It is certainly quite unworkable.

1730. You think that if a simpler method were brought into operation, cheaper to the Maoris and more effectual to the Europeans, there would be no difficulty in having the whole of the Maori lands thrown open, excepting, of course, what they wanted for their own use?—No, none whatever. These fees that they have to pay at present are very hard on the Natives. There ought to be some way of assisting them. There is the cost of the original investigation, and then there is the cost of the subdivision as well, so that they are paying doubly in respect of the same land.

1731. And then, there is the cost of the rehearing?—Yes, there is also the cost of the re-hearing. I feel for the Natives; and I think we ought to try and bring in an Act that, at any rate, would simplify matters, so that the Maoris should not be put to the expenses that they now are subjected to in dealing with their lands.

1732. *Mr. Carroll.*] I suppose, in some instances very nearly the whole value of the land is eaten up by the expenses the Natives are put to in attending the Native Land Court, and in respect of all these other charges?—There is no doubt that a great portion of the value of their lands is swallowed up by these expenses.

1733. You would recommend a reduction of the fees that are charged the Natives in the Native Land Court?—Certainly.

1734. You recommend the reduction of the fees and the simplification of matters as much as possible?—Yes. In the Waikato a block of land passed through the Court and did not pay the agent's fee, and the Native owners had therefore to sell another block in order to liquidate the agent's fee. That took place in the Waikato during the time that Mr. Bryce was Native Minister. That is when he stopped all agents from appearing in Court in connection with these matters.

1735. That was supposed to be the cause of his action in that respect?—Yes. No doubt, in the case of many of these blocks that have passed through the Court, if the Natives had taken a note of their expenses it would be found that more than half the entire value of the land had gone in payment of the expenses. The rest goes to the Natives who carry on the case.

1736. Do you think that the colony ought to be parcelled into one or more districts?—I was going to say: Let the Island be formed into districts for Native purposes, and for every district let a Judge be appointed. Let him keep moving about his district throughout the year, and if there are twenty succession orders to be heard at one place let him go and hear them. At present it is a common occurrence for a Native to apply to succeed a deceased person, and that by the time the application is gazetted the applicant is dead himself. Two or three years usually elapse before the application is heard, in consequence of the amount of work thrown upon the Court by the Act of 1873; whereas, if this Island were parcelled out into districts, and a Judge was appointed for each of these districts, who should visit each part of it within the twelve months, hearing all the applications that the Natives resident there had to make, it would simplify matters very much, and, no doubt, the business of the Court would be much more rapidly advanced than it is being done at the present time.

1737. You say that such Judge should keep his Court moving throughout the entire year?—Yes; within his particular district.

1738. Do you think it would be more satisfactory if the Native Land Courts were more movable than they are now?—Certainly.

1739. Their investigations should be carried on as near as possible to the lands that were being adjudicated on?—Yes. The want of this practice is another great objection to the present system. The Judge should have power to fix the sittings of the Court at whatever place he pleased, with the object of meeting the convenience of the Natives concerned in any matter that was coming before him. It is now a subject of great grievance with the Natives that they are put to considerable expense on this account. We have had experience of that at Wairoa, from which place Natives came here fruitlessly, and really through mistakes that appeared in the notification

published in the *Gazette*. The Court should be held as near as possible to the lands that are to be investigated or adjudicated upon. If a *Gazette* notice should be issued notifying a sitting of the Court at this place, I do not think it right that the Court should proceed to deal with cases of titles from other districts; but that it should move on to Waipawa and other parts of the district, where applications were to be made, or cases heard, so that the Natives should have the opportunity of attending the Court without leaving their own settlements. The Court is composed of only four souls, and surely it is better and more convenient for the Court itself to move about in the prosecution of its duties than to require thirty, forty, or fifty Natives to come long distances to attend its sittings. Then, too, associated with the necessity of making these long journeys there are the hardships incidental to the Natives having to live in tents, especially during winter time, while they are so attending the Court. I think that altogether they are very badly treated.

1740. Would you give the Judge the power of associating with himself at any time any Native tribunal, for the purpose of ascertaining tribal or hapu boundaries, or other such matters as require to be determined?—Yes, I think I would.

1741. *Mr. Mackay.*] And that these matters should be decided on the ground itself?—In almost all these cases the Court should go on the land.

1742. *Mr. Carroll.*] Mr. Justice Richmond, in his report, says, "The Court needs *tentacula* wherewith to seek out and grasp for itself all the facts of the case. It would not be well to throw upon the Judges of the Court the duty of investigations which, to be effective, should be made on the spot. This is rather an administrative than a judicial function, and might be committed to some officer of the Native Department in each district appointed for this duty by the Governor's warrant"?—It strikes me that that would be successful.

1743. *Mr. Mackay.*] In cases where there are disputes, would it not be well for the Judge to go himself on to the spot for the purpose of satisfying himself as to the facts?

1744. *Mr. Carroll.*] This suggestion is to hand that duty over to another body which the Government could put into motion, and not to commit it to the Judge.

1745. *Mr. Rees.*] I suppose you would say that the charges for duties of this simple nature would be small, and that the result of such a plan of working would be to the advantage of both Natives and Europeans?—No doubt it would be of great advantage not only to the Natives and Europeans who were immediately concerned, but also to the colony in general.

1746. *Mr. Carroll.*] That is another point, Mr. Hamlin. In the case of a block of land in which we will say there are a hundred owners, holding undivided shares, would you be in favour of any individual in that number being allowed to sell his share of such land?

1747. *Mr. Rees.*] Before individualisation or partition?—Well, I should be very sorry to be the purchaser.

1748. *Mr. Carroll.*] Do you think that has been the cause of all this confusion?—No doubt it has caused a great deal of it. The practice of Natives selling shares in land which is undivided has undoubtedly been the cause of all the trouble.

1749. *Mr. Mackay.*] And that sort of thing, you think, should be prohibited in the future?—I think it would be a very good plan to prohibit it until subdivison has taken place, excepting, I should say, in cases where the block has been subdivided into hapu interests. Then, as I said just now, if you have the land subdivided into the hapu claims you could not but make all the owners equal.

1750. Share and share alike?—Yes.

1751. *Mr. Carroll.*] In regard to defective titles, you would be in favour of some tribunal which would settle once and for all the matters in dispute?—Just so.

1752. And the Court should say, "We find that the Native in this dispute," or the pakeha, as the case may be, "has established his right to the land, and we therefore give the land to the pakeha claimant," or *vice versâ*, as the finding may be, the point being that there shall be finality in the judgment of the Court?—No doubt that is the proper method. With regard to what Mr. Rees asked me just now about cases in which the large majority of the owners have signed, I think something should be done to settle all such cases.

1753. Then, supposing the Court found that two-thirds of the owners of a block had signed the instrument of sale or lease to a European, and the European was found entitled, you would allow the Court to give him two-thirds of the block straight away, and a perfect title to it, and the balance of the Native owners to also receive a perfect title for the remaining third of the land; or, if the European is found not to be entitled, to so settle the matter as to make it clear that he has no title?—Yes, I think so.

Mr. Matthew Robertson Miller examined.

1754. *Mr. Rees.*] You are an estate agent and auctioneer carrying on business in Napier?—A stock and station agent.

1755. How long have you been in business in Napier?—Close on nineteen years.

1756. Can you state whether the operation of the different Native-land laws has been in favour of the progress of settlement in this district, or has been inimical to it?—For the last five or six years there has been an almost complete cessation of transactions with regard to Native lands. Nobody will look at anything with a Native title, because the Acts are incomprehensible. Even lawyers themselves are puzzled by them, and this of course has frightened clients. That feeling exists outside still. If the law was simplified, there is no doubt that there would be more buyers now than there have been for many years; but as it stands at present every one is afraid to touch Native land. It has been a regular curse to the colony. Nineteen years ago a large and very powerful syndicate authorised me, with the consent of the Government of the day, to treat with the Natives for about a quarter of a million of acres of land situated between Taupo and Rotorua. Well, the Government changed its policy while these negotiations were proceeding. I was permitted to have the Government surveyor, Mr. Mitchell, with me.

1757. In the first instance?—Yes; and I was also permitted to have the assistance of Mr. C. O. Davis, who was the interpreter for them, and matters were progressing slowly; but the Government altered its policy, and I received a letter from Mr. Ormond, as the then Government agent, that I might go on, but that it would be necessary to withdraw Mr. Mitchell and Mr. Davis. Of course, after this it was perfectly hopeless to expect that I could advise my clients to attempt to go on with the transaction. I know the late Sir Donald McLean and Mr. Ormond, who was Superintendent of the Province of Hawke's Bay at the time, quite agreed with me that it was a disaster for the country that these wealthy men, who had been over the ground themselves, should not be able to lease this land, for it had been their intention to take it for a term of twenty-one or thirty-three years. If I am correctly informed, the titles to this land are not completed yet.

1758. How many years ago was this?—It would be nineteen years ago.

1759. If they had completed the lease the term would have been pretty nearly up by this time, and the land would be improved?—Yes.

1760. I would ask you, generally, do you believe that money would be invested and that settlement would advance on Native land if the title could be made simple and certain?—Most clearly so. Unfortunately, the Native agents levy blackmail. Many of these Native agents are scoundrels, who just live and exist by litigation. I have seen one of the most honourable Native chiefs, and an honourable gentleman, who was from the South, disturbed by these agents.

1761. Do you think that such a method of dealing with Native land should be brought into existence as would put it beyond the power of these agents to interfere?—Yes.

1762. There are most honourable and straightforward men amongst the Natives?—Yes. There are, too, people who take advantage of the present position of the Native land laws to interfere between the Natives and Europeans for the purpose of levying blackmail before they will allow any transactions to be completed. In calling them "agents" I was probably wrong. They are not recognised agents, although some of them are called agents.

1763. You say, however, that this is a fact, and that it exercises a deleterious influence in that way?—Yes.

1764. Can you state, in relation to many cases in Hawke's Bay, that people have had to pay very heavily in order to complete Native-land titles?—Very heavly indeed.

1765. Owing to the state of the law?—Yes.

1776. Can you state whether or not people have found very great difficulty and trouble in completing their title, owing to the state of the law?—Yes. That is, in fact, the very reason why there are no transactions now, to speak of, in connection with Native land, and there are men here who cannot get settled on the land that they have dealt for. Their titles were dubious when I came here, and they have not been fixed up yet.

1767. That is, during the last seventeen or eighteen years?—During the last twenty years. In fact, so far as the Native-land laws are concerned, I think that the whole of them should be swept away, and that some new and simpler method of encouraging the Natives to lease or sell their lands to Europeans should be tried.

1768. And so promote the settlement of the country?—Yes.

1769. Does this state of things which you have represented to us cause dissatisfaction in the public mind?—Very much so; especially amongst those who wish to deal in respect of this land. And then there are many men settled on land the titles to which are not clear, and they cannot, in consequence, get money wherewith to improve these lands. While things remain as they are the whole settlement of the country is kept back. If I might suggest any course to you——

1770. Certainly?—Then, I would say that such a course as I heard you mention just now to Mr. Hamlin—some simple and direct method of dealing with the Natives like that—would answer the purpose, authorising the Government agent or representative to act in concert with the Natives. I think it would give confidence to all parties.

1771. Then you were present when Mr. Hamlin was being examined?—Yes.

1772. Do you think, with him, that, in regard to the present difficulties as to the Native title, a strong Court should be formed to settle these matters finally, and that in respect of future dealings there should be some prompt and certain method of dealing?—I quite agree with Mr. Hamlin. It seems to me that there should be a clear, straightforward way of doing these things. It would increase the production of the North Island, at all events, and it would increase prodigiously the settlement of our lands. New Zealand lands are sought for, and some of the best of the lands at this moment are still in the hands of the Natives.

1773. And untouchable?—Yes. I can mention one block of land by way of illustration. Fifteen years ago I was authorised by a gentleman from Christchurch to offer the Natives a liberal rental for a lease of a certain area, as I understood that they would not sell. It was a block of over 1,600 acres. I was authorised to offer a rental of 5s. an acre for the first seven years, 10s. an acre for the next seven years, and £1 an acre for the concluding portion of a term of twenty-one years. The transaction could not be carried out, and—would you believe it!—that land is a wilderness at the present moment; and this took place fifteen years ago.

1774. *Mr. Mackay.*] It must be good land, nevertheless?—Yes.

1775. *Mr. Rees.*] You believe it has never been improved?—Yes. It is situated in the Wairoa district, and is rich and beautiful land. I can assure you that that gentleman represented a lot of farmers who would have followed his example; and he was a grain-merchant himself. I can give you his name in confidence. He saw the lands. However, he is still a grain-dealer in Christchurch.

1776. That land might now have been yielding a revenue to the country and an income to the Native owners, besides being of advantage in the production of large crops and in the employment of labour?—Yes. And the best wheat in New Zealand is grown in that district. In fact, what led up to the contemplated transaction in the first instance was my sending to Christchurch some samples of the wheat grown in that district. The wheat there has the heaviest ears and produces the largest yield in the world.

1777. *Mr. Mackay.*] Is it *papa* land?—Yes.

1778. *Mr. Rees.*] Then, you would say generally that, owing to the state of the Native-land laws, the whole settlement of the country is retarded?—Yes. I do not know whether it would be good for the legal profession, but, in my opinion, it would be a good job if all the Native Land Acts were burned.

1779. That is exactly what the profession want to see.

Mr. James Wren Carlile examined.

1780. *Mr. Rees.*] You are a barrister and solicitor practising in Napier?—Yes; I have been practising here for the last sixteen years.

1781. Have you had, during that time, opportunity of seeing the operation of the Native-land laws, and the working of the Native Land Court?—There is hardly a question that has arisen under these Acts that I have not had to consider in some form or another. I have had a very extensive practice in connection with Native titles, both while acting for Natives and also while acting for Europeans.

1782. Before entering into particulars, do you consider that, speaking generally, the Native-land law in relation to the ascertainment of title, and the alienation of land from Natives to Europeans, is in a satisfactory condition?—Oh, no! not altogether; but I think this last Act of 1888 is perhaps more workable than those which went before it. It is certainly more workable than the system that prevailed from 1873 up to 1888.

1783. As regards the certainty of titles under the present law, what do you say?—Of course you are all aware, I think, that great uncertainty has arisen in connection with the Acts that were in force from 1877 to the end of 1886, because there is a great number of titles depending on them, and the subsequent legislation, which was intended to work retrospectively, has given rise to great disputes, especially in the case of Poaka *v.* Ward. That has really made any title, even though it be under the Act of 1889, which was intended to remove ambiguities and to make the law clear as to future dealings, liable to be attacked. At any rate, if a person took a title from the Natives, even where the land has been surveyed, but belongs to less than twenty owners holding under a memorial of ownership, he would not be safe. Although that Act, as I have just said, was intended to clear up ambiguities, yet Chief Justice Prendergast's opinion, in his recent judgment, shows that this is the difficulty now: Where Native land is held by less than twenty owners under memorial of ownership, you cannot get a title. Poaka *v.* Ward does not deal with that point, but the language made use of by the Judges in that case has given rise to this view.

1784. In relation to such titles, do you consider that Europeans were justified in believing they were dealing under the law?—Most certainly. I think that the regulations brought into operation by the Act of 1888 led almost everybody to think that it referred to land held under memorial of ownership. Lawyers may for some time have had some doubt about it, but even lawyers, after the passing of the Act of 1888, thought they were tolerably safe in advising people that it appeared to apply to past transactions.

1785. In such cases as those you have mentioned do you consider, as a professional man, that the public were, on the advice of the profession, justified in thinking they were safe?—Certainly, in many cases. Of course, care must be exercised to see that the titles are valid.

1786. But there were a good many cases of this class?—Oh, yes! to my own knowledge. I do not suppose that there was a lawyer in the place who had occasion to advise in these cases who did not advise that there was great probability of obtaining a good title.

1787. In relation to any Court to be established you would draw a distinction between the jurisdiction of the Court?—I think it would be rather dangerous to leave to the Court itself the question what are the technicalities interfering with the getting of a good title, which ought to be remedied. I think the Legislature ought to define the technicalities which the Court shall have power to ameliorate.

1788. And then the Court should be confined to a particular class of cases with which it could deal?—The Court could decide whether any particular case falls within any prescribed class. I think care would have to be taken not to make the discretionary power of the Court too great. I do not myself feel sure that you would gain by substituting any other tribunal for the Supreme Court. I think the men you select ought to be equal in calibre and intelligence to the Supreme Court Judges. You will need active and ready men, conversant with those affairs that are in dispute.

1789. You think that great care should be exercised in the selection of the Judges?—Certainly.

1790. In regard to the future method of dealing with Native lands, what would you suggest?—As to that, I think that there should be some such scheme as that which you are popularly reported to be thinking of—that is, some such scheme whereby for the future, and where the land has not already been dealt with, the Government should, as it really did before 1865, have the power of stepping in and selling or leasing Native land, and of equitably dividing the money amongst the Natives, after providing proper reserves for them to live on. But I think the alternative should be left with the Natives of individualising their titles and selling individually, because there are plenty of Natives who are quite as capable of owning land in severalty and of dealing with it as any European. I do not think that the present Act is altogether bad; and, providing that there were less than twenty owners in a block, they would be able to deal together in respect of it, because it is only increasing the expense of subdivision to require that the land should be divided into absolutely single ownerships. Supposing half a dozen Natives of tolerable intelligence might all agree well together in regard to the administration of the land they were holding in common, what is the use and what is the sense of compelling them to divide their land into individual portions before they can make a title? Why should not all together sell? The present Act says there must be not more than twenty owners. It would never do to reinstate the European system of trusteeship under the

Act of 1865. Those who were put in the certificates by the Native Land Court under that Act, though they were never thought to be the owners, were nevertheless allowed to have full power of dealing in respect of the land. That was unfair to the other Natives. Where a limited number of Natives really own any block of land, I cannot see any inconvenience in allowing them to deal with it, or to individualise the titles and allow them to deal with it separately.

1791. Do you think it would be a good thing to encourage the Natives to make large reserves, while they have land available, for the purpose of educating their own children, and possibly drafting European children in with them? I do not mean the ordinary day-schools, but establishments in the nature of industrial farms?—I rather doubt whether the Natives would avail themselves of such institutions.

1792. That is not the point. Do you think it desirable to encourage such a thing?—Yes, if the Natives would do it.

1793. The Commissioners want to know, not whether the Natives would do it, but whether it is advisable, taking it for granted that the Natives consent. Do you think it advisable, both for the Natives and for the general public, that such a thing should be done?—So that Government schools should be established?

1794. No; Native schools like the one at Te Aute, but on a larger scale, where all sorts of industries should be taught—carpentering, blacksmithing, and so on?—I should be rather inclined to think that such a scheme would be a waste of public money.

1795. It would not be public money. The establishments would be supported by the revenues of reserves made by the Maoris themselves for the purpose. The point is whether it would be to the advantage of the Maoris?—That is the question. I do not think it would lead to a good result. I think that reserves should be made all over the Island, on the principle of the Karamu Reserve Act of last year, where the Natives can do nothing more than occupy the land, and not lease at all excepting the giving to Europeans the right of holding from year to year. There is no reason why the land should not be let for grazing purposes like that. I would limit the quantity of land that a Native could alienate in any way, and I would not increase the liability of the Natives' land for their debts. I should not like to see a way opened whereby debts could be run up with shopkeepers and afterwards charged on the land.

1796. You would not make the lands of the Maoris liable for individual debts excepting land owned in severalty?—Yes.

1797. Do you consider that the settlement of the country is delayed by the present condition of the Native-land laws, and that it has been delayed by the same cause for the last twenty years?—I do not know about the present condition, because the present Acts of 1888 and 1889 have not had a fair chance. But most certainly the settlement of the country was delayed by the condition of the Native-land laws from 1873 to 1888.

1798. Do you think that if the whole of the Native lands, after ample Native reserves were cut out, were thrown open for settlement, whether through a Court, or through a Board partly appointed by the Government and partly elected by the Natives themselves, which should give statutory titles having the effect of Crown grants, such a plan would be beneficial in its operations?—I suppose that plan would be contingent on the consent of the Natives?

1799. Not at all?—Would you give such a Board the power of dealing with the land in this way, whether the Natives consented or not?

1800. I would give them the power of taking reserves for the Natives out of each block?—So long as they started on a fresh field, and did not interfere with any land on which any European had a holding, it would be a very good thing indeed. It is just the plan I would advocate if it could be worked. Of course there would be practical difficulties in the working of it. Before the Act of 1865 there was a great quantity of land in this province acquired by cession and granted to Europeans. It may be that the Maoris got too little for it, but still it was a great comfort to the Europeans to have had Crown grants from the very beginning. There is another sort of case I would like you to consider—cases in which Europeans have taken up leases for twenty-one years, and have about seven years of their term to expire. I do not think it would be right to put these men simply in the same category as the rest of the world in negotiating for a renewal of the lease or for purchase. I think their position in treating for a fresh lease ought to be considered in any equitable adjustment. They ought to have some preference given them for a renewal at the end of the term. There are a good many cases of that kind.

1801. *Mr. Mackay.*] Of course there must be some general provision with reference to that?—You have talked already of protecting persons' legal rights. I am talking now of cases in which there are no legal rights. The lessee I am speaking of, who has made improvements legally and strictly on the strength of his twenty-one years' lease, even supposing he gets no more, expects in fairness to have a good chance of getting it renewed. Now, if you suddenly take away from him that opportunity, it is unfair. The existing holders ought, I think, to have a preference for renewing their leases.

1802. A species of tenant right?—Yes; to be applied to their cases as in Ireland tenant right is applied. Something of that kind.

1803. On that principle—that those who have spent their money and labour in improving the land should have some sort of preference in the renewal of their leases?—Yes. They have taken up the leases before the Native land they occupied was in a position to pay for the lease, and they are paying in many cases a good rent now.

1804. In some cases they are paying more than the land is worth, because they agreed to give high rents when the prices ruling for cattle and sheep were large?—One thing that militates against the settlement of the land is the enormous duty that is charged in taking up these leases of Native land. Of course it is very much easier to collect it by demanding the duty on the whole term of the lease at the beginning. If the lease is for twenty-one years you have to pay duty on the rental for

the entire term at the very outset. Thus, for every £10 of rent you have to pay £12 at the start. You pay at the rate of 10 per cent. on the value of the rent for twenty-one years. That prevents the Natives from getting a fair rent for their land, and it also prevents the very men who might considerably improve their holdings from dealing at all. It is a bad thing for everybody? Of course it enables the Government to show a good surplus for the time being by getting all the duty in at once. I think this is a real grievance. The objection is not so much to the duty itself as having to pay it at the very start of the lease. Of course 10 per cent. is a heavy duty on a conveyance, but I do not say anything about that. The Government has got to be supported.

WAIPAWA, 5TH MAY, 1891.

Mr. ROBERT WARD examined.

1805. *Mr. Rees.*] You are a Judge of the Native Land Court?—Yes.

1806. How long have you had opportunity of obtaining a knowledge of the Native character, of the Native Land Court procedure, and of the Native-land laws and their effect?—For the last twenty-two years I have been intimately acquainted with the Natives of the Wanganui and Rangitikei districts. I am only a sojourner in this district. I have been more closely connected with the Native Land Court since 1886.

1807. Then, we should be glad to have anything that strikes you as worthy of remark on any of the questions committed to us for investigation, in order that it may be incorporated in the evidence we are taking?—I have been Resident Magistrate for many years, and it has seemed to me that the Maoris are less affected by the administration of the oath than Europeans are. The European will sometimes tell lies in the Court, and so will the Maori; the European is ashamed to be found out, while the Maori does not care. There is no sense of shame in him at all in that respect. He is simply quite indifferent. I always prefer, when I am taking the evidence of a Maori, to see his face, in order to judge from what I can see of him whether he is speaking the truth or not; and I believe I am rarely mistaken. I have made the human face a lifelong study. This, I think, is very important where a Resident Magistrate or Judge of the Native Land Court has to judge whether the statements made to him on oath are true or not. I have often been able to detect when a Native was about to fabricate a reply to a question, and I have at once stopped him with a caution, when he would admit the charge, saying, "Yes, I was going to make up something." I remember once, when I was sitting at Turakina, in the Wanganui district, as Judge of the Native Land Court, I found that one of the witnesses had been making two or three entirely different statements within the course of a few days, and I thought it was sheer waste of time to be taking evidence of that sort. I therefore pointed out these conflicting statements to the man, and asked him if he could explain them in any way. I found that he could not. I said, "Is it not a fact that you are simply fabricating these statements?" He hesitated for some time, and then, looking up, he said, "Yes, I have." Then I said, "Nearly all these statements, then, are fabrications of your own?" "Yes," he answered. I asked, "Do you know the difference between speaking the truth and lying?" He looked up, smiled, and said, "There is no difference at all until you are found out." I think he meant that the Court should accept a statement made by a Maori as true until it could find out that it was a lie. They think the Court fair game for receiving any statement in support of their case, though it may be utterly without foundation. When they are claiming a block of land they are trying to win that land just as if they were attacking a pa in the olden time; and, just as, in the olden time, any trick or device was fair in their warfare, so now they think that in the Native Land Court everything, too, is fair. Really respectable Maoris, or those who are looked on as such, will at times tell the most unblushing lies in this way, and they consider that there is no impropriety or shame to be attached to them in consequence.

1808. It is their method of carrying on war?—Yes. In the course of that sitting at Turakina which I have already mentioned I found that one witness was making most untruthful statements, and, stopping the examination abruptly, I told him to take up his hat and leave the Court. He did so. Another witness was duly sworn, and in the course of a preliminary inquiry I asked him, "Do you know So-and-so?" referring to the previous witness. He said, "Oh, yes! he is the biggest liar in New Zealand." Yet, when this witness had talked a day or two himself he also was bowled out, and had to leave the Court. The first witness had returned, and was highly pleased at the discomfiture of the man who had succeeded him in the witness-box. Colonel Trimble was sitting with me, having just been appointed a Judge of the Court, and was getting initiated into the practices of the Native Land Court. He was disgusted and astonished at what he had witnessed. In the Native Land Court you have to exercise great discretion, great patience, great tact. I try to exercise these qualities when dealing with the Natives. I was only insulted once, and that was when an old chief at Turakina threatened to cut me down with an axe. I looked at him and kept my seat. He rushed across the Court over several forms to attack me. I sent for the police to arrest him, when he apologized, and promised to behave himself properly in the future. I said, "You are a chief. I will take your word." And he has kept it. With that exception I have always been treated with respect. I have always told the Maoris to look on the Court as essentially a Native Court, and I have asked them to do what they could to maintain the dignity and proper respect due to a properly-constituted Maori Court. It has had great effect with many of them. Of course, mere opinions like these, I am afraid, are not worth much to you, and no doubt you have heard the same things over and over again. I am speaking my own thoughts as I go along. I would say that, to my mind, the duty we are performing now in the Native Land Court is one of the most important functions that any Court has to exercise in this colony; for we are really laying the foundations of all titles for the future. So it seems to me that if the Court is a little bit long in dealing with these cases—in getting down to the bed-rock—it must be excused, because we are going cautiously, carefully, quietly, so that, in the interests of the Maoris and all parties concerned,

no mistake may be made, and that no possible error may be allowed to creep in. That is my own practice, being fully conscious of the importance of our work. I look upon it myself as a noble work; and when I was asked to take up this work I thought the matter carefully over, and concluded to accept it, although my friends advised me not to do so. I saw that, even if it were against my own personal interests, yet it was my duty to do so. I have a love for my work, and I am intensely interested in it. I claim to be familiar with the Maori customs and usages.

1809. In relation to that, can you state what is the Maori custom as regards tribal holdings or individual holdings?—According to Maori custom, there can be no question that there is no such thing as individual holdings. The lands belong to the tribe, and its chiefs are representative of that tribe. Although I do not say that the chief had mana over the land he had mana over the people, and was the representative man of the tribe. The tribe consisted of all persons who were able to bear arms; and, of course, the adult women of the tribe were included in the strength of the tribe for obvious reasons. There was no individualising of interests; but the owners of the block, as I look upon it, were all equal. In fact, you may call them an association, because they were all equal members of the tribe. There was no such thing, according to ancient Maori custom, as that any particular part of the land would belong to any particular individual. The individual might have the using of it, and it might descend to his children after him, in order to be roughly cultivated, after their fashion in those days. Particular portions of the tribal land might be used for particular purposes. There were particular places for catching birds, particular places for snaring rats, and so on; for, of course, these were articles of food to them at that time, and therefore important. These plots that particular persons occupied descended to their children simply as an act of user, but the whole of the land still belonged to the tribe—it was the property of the tribe. Now, to show you the great power which the chiefs wielded in the old times, many times since I have been attached to the Native Land Court I have received evidence of presents of food made to the chief of the place. This present is made practically to the whole of that particular tribe, or section of that tribe, and, according to Maori custom, that present should be returned in kind. Sometimes the chief is unable to do that, and sometimes he gives land instead. He gives the land as the representative of the people, who are not, however, mentioned in the transaction. No one ever disputed the right of the chief to do these things. The chief had power and might; and power and might were paramount then. The man did what he had power to do, and his power was as much as the people gave him and recognised.

1810. Do you know instances, Judge Ward, in which you yourself were concerned, where it has been found possible to settle all the individual interests in a block amongst the owners themselves, and by their own arrangement?—Yes; I can mention many. About eighteen months or two years ago I sat for about two weeks at Waitotara, and during those two weeks we got through as much work as ordinarily would take the Court from six to eight months to dispose of.

1811. In settling the interests of the people?—Yes. I refer to cases of partition. My practice is, in all cases of partition, to invite the parties to come forward, and then to say to them in Maori—for I do not need an interpreter, because I can convey to them exactly what I mean to say—"Now, this is your land. You have asked the Court to partition it. In partitioning your land we may happen to run the boundary through your plantations, through your gardens, and may thereby cause you great inconvenience. I would ask you, therefore, as the owners, to go outside, quietly think the matter over, and all parties give and take. Do not approach each other in an aggressive way, but in a friendly spirit, and thus see if you cannot arrange this matter yourselves. I ask you to do this, and I impress upon you the importance of doing it." They then go away, and return the following morning to tell me what they have done. Sometimes they will say, "We have all agreed in this case, and we have done so-and-so," whereupon they state the terms of agreement, and, all parties agreeing, we confirm it, and the matter is settled. When I have sent the first party away to make their divisions I call on another case, and make a similar statement suited to the varying circumstances of the case; and they retire. And so on. We have in this way had four batches of cases being worked out simultaneously by the Natives, great numbers of them being concerned in the settlement. In the meanwhile we will go on to succession cases and other business of less importance, so as not to interfere with the conferences of the Maoris outside among themselves. I consider we were doing good work, because we were getting them to work for us and for themselves as well. I was determined they should be satisfied with the decisions, and that those decisions should be fair and just. Adverting now to what I said a few minutes ago: As soon as the Court opened next morning I would ask, "Well, how have you got on with your business?" Then they would say, "We have arranged this case, and divided the block into such-and-such areas." And then they would give us their division, indicating on the plan their proposals and so forth. I may say I always took with me some tracing-paper; it is a very useful thing. It does not take an officer of the Court more than a few minutes to run over the boundary. I give the tracing to the proper people, and then they know what they are doing. They show me where the boundaries agreed upon would be, and state their reasons for so determining them. If we consider it to be a fair thing I put it to them, all being present. First of all I would find whether it was a fairly representative meeting, and then ascertain whether all were agreed upon it, sometimes there being little matters to adjust. This being done, I then declared the division as confirmed; and after that comes the definition of the individual interests in it. I would say, "I shall now ask you again to go out, and amongst yourselves arrange this matter also if you can. If you cannot, then come back into the Court and we will take your evidence and decide. But it would be preferable for you to arrange it yourselves." They then retire, and, perhaps, at 2 o'clock they will return with the lists prepared, and, all being agreed, it is fixed and settled. In the meantime we will have been taking other cases, and the people concerned in them would ask for more time. Of course that would be conceded. And so we went on for a fortnight, getting through cases which would take six or eight months if we acted differently. Instead of contesting with each other we got them to take each other by the hand and help each other along.

1812. Do you consider that that is a plan which a Judge and his assistant in any district, knowing the Natives, and acting with care and assiduity, could carry out as the ordinary practice of the Court, instead of being restricted to the individual instance you mention?—This is scarcely an individual case, because there were a great many cases settled in that way. There was the Awarua case, a large block of land, comprising, along with the Motu Kawa Block, nearly 300,000 acres of land.

1813. Good land, too?—Yes; the most of it splendid land. As soon as that case opened I suggested that they should see if all the parties could arrange matters themselves. Of course there were a great many different parties at first, but they were narrowed down to nine or ten. At first there were nearly fifteen. The leading chiefs said, "We think we can arrange it, and we ask the Court to give us time." We gave them time, but they did not arrange matters. Two or three separate times they came and asked "Give us till next day," and so on, "to arrange matters, and then we shall be ready." But they were not arranged, for reasons I would hardly like to mention now. We had to go on, and, metaphorically speaking, plough up almost every bit of the land; and it has taken eight months to get through that block, and we have yet to finish the Hawke's Bay portion.

1814. Supposing that in the Awarua case these people had been by law compelled to take the advice of the district officer, and to bring in a report of some sort or another before the case went on?—You will pardon me. What I am going to say now is rather outside of the case. This proposal of yours would do away with Native agents altogether, I suppose?

1815. Yes?—If that land had been left entirely to the Maoris they ought to settle it, and it is to be regretted that they did not settle it.

1816. If the Maoris themselves, without mentioning agents, solicitors, or any one else, had been left to themselves they would have settled it?—They might, perhaps. You see, one party standing out spoils everything; and one party did stand out in this case. As the case had to go for hearing, we could not shorten it without shutting up the mouths of some Natives. We looked upon it as their last chance, and that they had a right to be heard.

1817. Do you consider that men who knew the Maoris, and whom the Maoris trusted, could, in either many or in a majority of cases in their respective districts, enable the Maoris to come to some amicable arrangement such as you state took place at Waitotara? I do not say in all cases?—Well, before I answer that I must say this: The Maoris are born gamblers. I believe they really like to take the risks whether they win or lose. In exceptional cases they will settle matters among themselves, but in the majority of cases they would be inclined to take the risks and bring them before the tribunal. I am giving you an honest answer to your question. In many instances the officer would be able to induce them to settle among themselves. I have invariably tried to do so, but I have not been able to succeed in all cases. I am inclined to think that if pressure was brought to bear they would settle cases among themselves. In many instances they have come to the conclusion that it is bad policy for them to waste their money and their time, and they know that prolonging the cases does both. There is this to be said about it: They are very greedy, and each one hopes to secure as much out of the scramble as he can, and they think in many cases it is better to do that in the Court than elsewhere.

1818. Do you think that if any party among the Natives refused to come to an arrangement, and by their refusal stopped an arrangement that the Court thought to be wise, if then these recalcitrants were saddled with all the costs of the proceedings, it would effectually stop their litigation?—Yes.

1819. If the Court thought the arrangement proposed was reasonable?—Yes. Many of them, as I say, are born gamblers, and they take the risks, and unless they are saddled with the expense of uselessly prolonging the case they will think they have everything to gain and nothing to lose by proceeding with it. If, however, they are to be saddled with the expense in this way, there must be some means provided of getting it paid.

1820. It can be paid out of the land?—There may be no land to charge it upon. Those who have the least land are the most objectionable.

1821. Would this plan be effectual: If one party of the owners in a block of land, or a small minority, refused to come to an arrangement that the Court thought wise, that they should be required to find security for the costs if they determined to go on against the wish of the other people and against the advice of the Court?—I think it should be in the discretion of the Court, for this minority in number may have the best right in the land.

1822. I say it must be against the advice of the Court?—Yes, that would do it. I think the time has now come when I am inclined to consider that those having no rights should be made to stand aside.

1823. Do you think it would be a wise proceeding, Judge Ward, to let all contracts in connection with the land be agreed to first of all by the people concerned, the titles then to be given by some board or body appointed for the purpose?—I do, for this reason: It would give that which we all want—finality to the proceedings. The titles would then be complete and indefeasible. It would make a wonderful difference. It would enhance the value of the land.

1824. There would be no deeds to sign?—No.

1825. Do you think it would be a good thing that the Maoris themselves should be associated with a Government officer or Judge of the district to see that the rent or the moneys otherwise accruing from the land were fairly divided among the people? That would give confidence to the Maoris?—The present plan is not a bad one, under what we call a lease order. It works very well indeed.

1826. What is that?—It is an order of Court made under the provisions of the Act of 1886. The Court, having determined the value of the individual interest, as to what portion of the lease-money is to be received by each individual, makes its order accordingly, and there can be no interference that way. That is, providing it is made in accordance with the determination of the individual interests.

1827. Do you think it would simplify that very much if the lessees paid their money into the Court and that it should be the duty of an officer of the Court to see to its distribution among the parties entitled to receive it?—It would. The lessees are frequently put to great inconvenience and trouble, because they do not know to whom to pay the money, and whose receipt they should get. If they could lodge the money with a responsible officer of the Court in their district, it would be a great convenience. Of course there would be a special fund for the purpose.

1828. You think that would give confidence to the Maoris?—It would be a greater convenience to the Europeans; it would be a convenience to both parties.

1829. Following on the same lines, do you think that, along with the other duties of the Judge of the Court, or Commissioner, or whatever officer may be appointed, there might be united the position of advisory Commissioner for the Natives in that district, so that the Judge, if he were chosen for the purpose, might not merely discharge judicial functions, but also functions of advice?—How do you mean?

1830. In the payment of moneys, consulting the Natives in the partition of their shares, and other things of that sort. You did at Waitotara what many Judges would hesitate to do. They would say, "We are not here to advise, but to judge." Do you not think that what you did there was of advantage to the Natives?—I thought so at the time.

1831. Have you had any reason to alter that opinion?—No. I knew it was a good thing, and I went straight ahead. That was my practice. We had no conductors of cases (*kaiwhakahaeres*); simply the Maoris themselves; no solicitors or agents. They did not know what to do; we told them what to do, and got them to put it into shape. This was at Waitotara. I have done it in other instances—at Wanganui, for instance. I only mention Waitotara as a striking proof of getting so much work done in a short time, and easily. I wanted to use my brains, and I did. I look upon it in this way: A Judge should act in his district as a sort of paternal guardian. That is the position I am always disposed to take up, and it has been accepted by the Maoris.

1832. Have you found it to be successful?—Perfectly so. I may say that the Maoris know me very well here, and have unbounded confidence in me. I never listen to a Native out of the Court. I will take what he has to say in Court only. They feel, therefore, that I am perfectly impartial, and they have perfect confidence in me.

1833. Do you think it would be a good thing, in view of a new law being passed whereby individual dealing would be stopped, that there should be a Board, partly appointed by the Government and partly elected by the Maoris of the North Island, for the purpose of giving titles—in fact, a sort of Waste Lands Board?—I think it would work very well. I suppose the Judge of the district would report to that Board.

1834. Yes, as to what titles required to be made, what lands were to be leased, and what arrangements were to be made in connection with them; and the central Board would then give statutory titles. Then, do you think it would be useful to add to the functions of the Board the power of doing what any body of owners would not do—that is to say, if they were recalcitrant, and would not act?—There should be power reserved for that purpose, to be used if necessary.

1835. I suppose you would say, not necessarily to interfere with the Native Committees, but to intervene if they did not do their duty?—Yes; it is a power that I should keep back, and not exercise, if possible.

1836. Only as a last resort?—Yes. I have always endeavoured to infuse into the Natives a real interest in their work; and to that I attribute a good deal of the success: that is to say, that they take a great deal of interest in their own work.

1837. We have heard a good deal from many sources about a practice having sprung up of late years of Maoris who really have no tangible claim to land making up a case?—We have always such cases. You have to sift the wheat from the chaff. The difficulty is to do that, because they tell such lies.

1838. Do they make up cases cleverly?—Oh! with wonderful cleverness.

1839. The Maoris themselves tell us that before a runanga of the people, or a joint committee of all the contesting parties, these things would not be said by the people?—Very probably. They often do that before the Court which they would not dream of doing amongst themselves, because they all know the history of these things so well. It would be useless for them to try and impose upon one another in that way. The history of the tribe is common history to them, and is known to every one of them. And I would add this: that if a Judge is confined to his own district he becomes familiar with the history of the people and their lands, and the consequence is that they would not attempt to impose upon him as they attempt to impose upon a stranger.

1840. Have you come across any Natives who not merely fabricated oral evidence, but evidence as to wills or deeds?—Yes; successions. Since I came to Waipa I have seen more wills put before the Court than I ever did before, and several of them were said to be forgeries. Whether they are such has not yet been determined. These are wills that were, perhaps, written out by the husband of the woman in whose favour they are made, and signed by the deceased making his mark. This may be a fabrication. How can we tell, nobody being present but the husband, his wife, who is benefiting by the transaction, and the dying man? All these wills have to be viewed with a great deal of suspicion.

1841. What is the effect as regards the expense and trouble of the enforced definition of interests recently?—Very great indeed. The Maoris have to pay altogether too much in taking a particular matter before the Court, for, in addition to their other expenses, there are the fees of the *kaiwhakahaeres* or conductors. First of all, there is the cost of the surveys. Of course these are necessary. Then there is the preliminary cost of the hearing; and after that there is the division of the land; and, finally, the determination of the individual interests. Every motion is a matter of expense and time. It costs both the Government and the Maoris too much.

1842. What has been the operation of the laws passed during the last eight or ten years relat-

ing to trusteeship of Maori children? What is the effect?—I think there ought to be some provision by which Native trustees should file statements of their accounts, so that their actions as trustees should be supervised, either by the Judge or by some other independent and competent officer. I am afraid that in many cases these people who are very anxious to become trustees—for I notice in travelling about that there is a great deal of competition in respect of it—when they get the trust moneys into their hands, instead of providing for the children, they use it for themselves. In other words, they simply collar the money and keep it. I really do think something must be done in this matter, as I am afraid gross injustice is often practised.

1843. Speaking about trustees for the children, by what right do so many children, while their parents are alive, get into the muniments of title?—They ought not to, in my opinion, for this reason: The land is the property of the tribe or hapu, which is the section of a tribe; and, as the tribe consists of all adult persons, none except adult persons should own land, and the ownership should be confined to such persons. Children under sixteen should not be put in.

1844. For that reason, that they do not form a component part of the tribe for the purposes of defence or of increasing the population?—That is the law; they do not count. They are coming on, of course. A boy becomes of age as soon as he can bear arms, and a girl when she can bear children.

1845. You think that the putting of the names of all these children in these titles is not according to Native custom?—I am sure it is not. It is directly contrary to it. You will see that these children in course of time will become paupers. That is not so if they succeed to their parents' interests. The principle is, supposing there are eight or nine children, and that the parents are in the title, they put in the eight or nine children as well—it may be that they are all under sixteen. In course of time perhaps they all die, and then the father or mother come and claim to be successors to their own children.

1846. Only in cases where these were their children?—Yes. They have no right to do it. I refuse to allow them to do it. In some partition cases I have said, "What is the use of doing that? You have had the children put in. They are still minors, and they have no rights." They put them in in anticipation of their growing into rights. In cases of partitionment of the land, what rights have they now? There is no such thing, according to the Native custom of inheritance. There is no inheriting, because there is no individual ownership of the land.

1847. You simply succeed to a place in the tribe?—Yes. The Maoris recognise that. Supposing a woman marries away from her tribe and remains away, she abandons her rights there. Supposing a man remains away, and his children also for two generations, he ceases to be a member of the tribe; but they may receive him back.

1848. That is to say, incorporate him again?—Yes.

1849. Then, if there were a body to give titles and to conduct tribal dealings, would not a great deal of the difficulty, and expense, and trouble incidental to the present system pass away?—Yes; we should get through our work much more quickly in every way. If it were an understood thing that these people were expected to find their titles, and come into the Court merely to get the titles confirmed, or for the Court to ascertain them when they were unable to do so, it would be more satisfactory, and certainly less expensive to the Maoris. There would be finality about that. They should not go behind their own acts. That is one reason why these people at Waitotara so readily came to an agreement. I was told that they were a cantankerous lot, so I determined at once to take the bull by the horns. There was no appeal in those cases. There was appeal in a Wanganui case, and the people to whom it was granted now wish that they had relied on my previous judgment. I have been very successful in dealing with the Maoris.

1850. The instances you have given are exceptionally favourable?—I am speaking generally.

1851. Do you think, from your knowledge of the Native-land law, that any amendments should be made of that law, or should the present system be remodelled, and a new principle set up?—That is a great question.

1852. Of course, it is a question of policy for Parliament and for the State?—It is.

1853. You would sooner rely on the opinion you have expressed on the other points, and leave the Government and Parliament to decide what it should be?—It might be a good experiment, but experiments are expensive things. There is power under the Acts to deal with the Maoris as I dealt with them at Waitotara. I do not know that the power actually existed at that time, but I did not mind that, for I knew I was right. I was fairly carrying out the spirit of the Act. I have studied the Act pretty carefully, and I thought I grasped the spirit of the Act when I acted as I did at Waitotara. I am not afraid of doing what I think right, although it may be an unusual course. A great deal is said about Maori custom. As a matter of fact, the ancient Maori custom is not invoked so much as you suppose. The habits of the Maoris have become so much changed, and they have become anglicised in dealing with things. In many matters what are called Maori customs are not really so. They are very much anglicised by colonial ways and modern ideas. I do not know whether, after all, that is not right to a great extent, because to keep them down to the old Maori custom, in many instances, would scarcely be right to the Maoris, who have advanced considerably in civilisation; but as to the main principles about the tenure of land, and so forth, that is right.

1854. Maori custom, you mean?—Yes. The practice is the only law; it does not matter whether it is the Maori law or the common law of England. The Maori had that which he could hold. Possession was the evidence of the tribal ownership.

1855. I suppose no one man could hold possession without his tribe?—He could not do it; it is utterly impossible. This has been done over and over again: A man has gone on to a block of land and taken fruit from it, and his own tribe claimed this land because of the acts of the individual. This was given us in evidence the other day. A man was beaten off his land and escaped to the Wairarapa. After many years he came back to this very block. He found two persons there and killed them; and now the tribe claim that they had reoccupied the land through the personal action

of the individual member in killing these two persons whom he found on the land. According to Maori custom that was taken to denote that possession of the land was resumed by the tribe to which the slayer of these men belonged. I instance that to show that the act of the individual was the act of the tribe, and that the two persons killed were the representatives of another tribe, whose rights to the land were thereby annulled.

1856. You were speaking just now of the spread of modern ideas among the Maoris. Do you think it an advisable thing, in the case of men of some little education—half-castes or intelligent Natives—to encourage them to get enough land cut off to farm for themselves, where they are fitted to manage them?—Whether these better men should be encouraged to take individual titles, so far as they were concerned, by arrangement with the rest?

1857. Yes?—I am inclined to think they should be allowed to do so, in most cases. There is no doubt about it that there is a great difference amongst the men. Some of them have come out of the jungle of old Maoridom, and have taken to civilisation, while some of them have not.

1858. These are not the people I mention?—I took it that the question was, whether, in the discretion of the Judge in the district, this distinction should be made.

1859. No doubt the Judge in the district would advise?—Yes; in all suitable cases he should have power to recommend and report.

1860. There should be authority vested in the Judge of the district, or in the central Board?—And the Judge of the district should be able to report.

1861. In such cases the person might be permitted to arrange with the hapu or the tribe to take out a certain portion for his own occupation and use—that is, if, in the opinion of the Government officer or the Board, he is capable of managing properly for himself?—Yes. How would that affect the selling of the land?

1862. Restrictions, no doubt, might be placed on them. I suppose you would say that, especially where there was the family to be considered?—My opinion is that undue restrictions are sometimes placed against the alienation of the land, and it costs so much to remove them that it lessens considerably the value of the land when the man wants to sell it. I remember some years ago that I was acting as Trust Commissioner with regard to a small piece of land. I found that it had been sold by the Native to a European for £1 10s. an acre, and I found that the market-value of the land was £3 an acre. But I also ascertained that it had cost the purchaser the difference between the £1 10s. and the £3 an acre to get his title, owing to the complexity of the law and the restrictions placed around it. The administrators of the law, in the effort to protect this man's interest, had just lessened its value to him by one-half. Reverting to the question of these wills, I think, if it be possible, some such safeguard as this should be adopted: Any document purporting to be a will should be signed either before a Justice of the Peace or some respectable European. I think, too, that in some instances the provision should be made that the parties interested should not be the witnesses to or drawers of the will. Something ought to be done, because there is otherwise a great temptation to fraud.

1863. Do you think it advisable to encourage the Natives to set aside substantial endowments for industrial schools, where the Maori children may be taught practical farming, carpentering, boot- and shoe-making, blacksmithing, and so on? They would be, of course, boarding-schools, the land for the purpose being set apart by the Native owners. These farms could be made self-supporting. Do you think, if this could be arranged with the people, it would be wise?—Yes, I think it would be wise, but I do not think they could be induced to take it up as enthusiastically as it deserves.

1864. If they were induced to do so, do you think it would be a wise proceeding?—Yes. There is something more important than that. I mean, to teach them habits of industry—compelling them to be industrious. I was thinking of some of the Native boys who attend the schools. They are clever, they dress well; speak and read English well; they can play billiards well; they can sing a comic song well, and yet they are no good for work. They are not comfortable in their pas; they are out of their element. They will not work, and the result is that they do nothing. I do not know one of them who has worked at a trade for any time. They are still Maoris, but with the veneer of civilisation. There must be another generation before you can get them out of that condition. They have the savage mind still, and that is why I think they cannot settle down to any work. The young fellows are too ready to pick up the vices of the Europeans and not their better qualities. That is, speaking generally. So with the girls. There was a college at Wanganui started for the purpose of educating Maori girls, but it has stopped, and, I am inclined to think, without any real harm. The girls were brought from the pas to be educated, and they really improved wonderfully. They had a polish put on them. But after their education was over they used to go back to Maori habits again, or else they did worse. They did not meet with educated Maoris who would marry with them. Their home-surroundings were not suitable to them; they were out of the sphere they had been in. The views I have expressed on this subject are simply ideas of my own.

1865. You think that the schools should be mainly industrial schools, where they would be taught to work, to read, to sew—to do farming work, to carpenter, to make boots and shoes, and to acquire a knowledge of blacksmithing?—Yes; where they would be taught mechanics. There would be more real good in that. But a mere book-education, and then turning them adrift, does them no substantial good, because they will not settle down to work and become good colonists or farmers. Some very few of them do, but they are really the exception.

1866. Is there any other point which you think would be worth bringing under our notice?—Yes; I think that the practice of administering the oath in the Native Land Court might be dispensed with, the Natives, however, being given to understand that if they are found out telling lies they will be summarily punished by the Court. I think that would be a more sensible way of dealing with them. If you give the Judges power to punish it would have a salutary effect. It is, of course, a great power, and therefore let it be exercised with discretion. In fact, if they knew that the Judge had this power it would deter them from making false statements. What is the

good of a tribunal taking evidence which the Judge is conscious may be false? It is a pure waste of time. I do not think that more than one Native in a hundred who are sworn in Court to give true testimony are bound by any conscientious feeling of the oath they take. It is a very serious thing to say, but that is my decided opinion. Anybody who knows anything about the Native Land Court procedure, I think, would quite indorse what I say. Of course you come across exceptional cases, where the people are really conscientious. I do not mean those cases.

1867. You speak of the ordinary cases?—Yes; of the ordinary Maori who comes into Court. If the Court is to continue, the conductors and solicitors may be, and often are, of use to it, although their powers are liable to be abused. In the first place the Court ought to be satisfied that the conductors are receiving a fixed fee for the case, and not merely so much per day. The Judge ought to be quite strict in seeing that the proceedings were not being delayed, but that every effort was being made to advance the interests of all concerned. These conductors do a lot of useful work in preparing cases for the Court. It would be advisable, for the saving of time and for securing the directness of the evidence, to have a brief statement of the case and of the evidence to be adduced supplied to the Court; but it should be prepared beforehand, along with the answer of the other side. It would be, in other words, a filing of the pleadings. That being done, then leave it to the Court to find out the facts by its own examination of the witnesses.

DANEVIRKE, 7TH MAY, 1891.

Mr. JAMES ALLARDICE examined.

1868. *Mr. Rees.*] You are a hotelkeeper residing in Danevirke?—Yes.

1869. How long have you been living in Danevirke?—I have been here eighteen years.

1870. Is there any large quantity of land owned by Maoris around Danevirke?—Yes; all round it: in fact, Danevirke is surrounded by Maori lands.

1871. In what condition is this Maori land? Is it leased by the Maoris to Europeans?—A good portion of it is leased to Europeans.

1872. The Tamaki Block is leased, is it not?—That is only for the timber rights. Then, there are the Teratu, Waikopiro, and other blocks.

1873. Now, take the block called Mangatara: that is in possession of the Bank of New Zealand Assets Company as a sheep-run, is it not?—Yes.

1874. If the Maori lands were utilised—cut up and leased in small blocks—would it be of advantage to the district?—Yes; there are dozens of families that would take up land if they could get it.

1875. If they could get it on reasonable terms and in convenient areas?—Yes; decent-sized farms, not 40-acre ones.

1876. Are there any men leaving the district through inability to get land?—Yes; a great many settlers' sons.

1877. Then, you say that Danevirke is surrounded by Maori lands? Do you literally mean that for some extent around Danevirke the lands are Maori lands? You really think that for some distance round the town all the land is in the hands of the Maoris?—It is all Maori land round Danevirke; only the Government has the right to get it.

1878. During the last eighteen years I suppose you have seen a good deal of land taken up by Europeans in the whole district?—Yes.

1879. How was it taken up, in large or small areas?—Much of it was taken up before my time.

1880. Was it possible for persons to get land in small blocks from the Natives?—Not at that time.

1881. I suppose the people had to go to Napier and employ agents?—Yes; and the Government would not cut it up or assist them in getting it. There is the Oringi Block. I believe the Natives are getting it back now, and Tahoraite too.

1882. Then, in your opinion, it would be of considerable benefit to this district if the Maoris had some small benefit in cutting up those lands, like Crown lands are cut up, and sold or leased to Europeans on reasonable terms?—Yes; or if they would sell to the Government; in fact, do anything with it, so that we could get a good title.

1883. Do you suppose that the land being in this condition, and not available for settlement, is having the effect of keeping Danevirke back?—Undoubtedly. There are thousands of acres of land here that could be settled upon, and the only place that is settled is Umutaoroa, a block of 5,000 acres. As soon as it was thrown open every inch of it was taken up by two associations. It was taken up I think, at about £1 5s. an acre, on deferred payments.

1884. *Mr. Carroll.*] Into what size of areas do you think it would be well to cut up this land?—From 100 to 300 acres, according to the character of the land. I should say that, in so far as the Tamaki Block is concerned, the areas should be from 100 to 300 acres. It is good land, and flat.

1885. What would the settlers be willing to give for small farms of that size?—£1 10s. an acre, while land close to the town would bring £5 an acre if it were put up to auction. You will see for yourselves that there is no land close to the town except Native land.

1886. Are there no Crown lands available here?—Not till you get to Weaver, twenty-three or twenty-four miles away, and I think it is nearly all taken up. Then, there are shocking roads. The Government ought really to do something to the roads. They sell the land dearly enough, and yet the road is left just as it used to be long ago.

1887. Do you think that, if special farming settlements were established here and there for the Natives, it would be a good thing?—They have got good farms in the country now.

1888. But, if they were encouraged to go in for it systematically?—I believe it would be a good thing. There would have to be some provision made for them.

1889. Do you think that they would work side by side with the Europeans?—Yes; they do it: and they appear to like to see the place progressing.

1890. You think they only want improved legislation and some simple system of settling the lands?—I do: in fact, I am sure of it. Both Europeans and Maoris are now working under difficulties, and they are working peaceably together. An odd man assists the Maori in threshing and cutting his grain. Of course he is paid for it.

1891. *Mr. Rees.*] Still, there is mutual assistance?—Yes.

1892. *Mr. Carroll.*] Of course you do not know anything about the particulars of this Oringi row?—No; I only know that the Maoris are squatting on the land.

1893. Which was under lease to Mr. Gaysford?—I saw Ihaia yesterday, and he told me that the Natives had not been paid rent for two years, and they could not stand it any longer, and were determined now to have either the money or the land. If it were cut up into small blocks and leased it would be of great advantage. Some of that land along the Manawatu Stream is as good land as ever plough was put into.

WELLINGTON, 12TH MAY, 1891.

Mr. FRANCIS HENRY DILLON BELL examined.

1894. *Mr. Rees.*] You are a barrister and solicitor practising in Wellington?—I am.

1895. How long have you been practising your profession in Wellington, Mr. Bell?—Sixteen years.

1896. During that time have you had means of ascertaining the operation of the existing Native-land laws from time to time with respect to the alienation of land from Natives to Europeans?—As a lawyer, yes; I have had a great deal of practice in cases connected with Native-land titles.

1897. Are you aware professionally of cases of titles which are invalidated or impeached at the present time, not by reason of any contention between Maoris and Europeans, but on account of technical omissions in the Acts?—I should say that by far the larger number of titles at present in dispute are in that category.

1898. And is it not believed by many of the profession that a considerable number of these are cases in respect of which no fault is imputed, but in which the difficulty is merely some technical or trivial omission?—I should say that it is so believed by many of the profession, and, in fact, I should think it is beyond doubt.

1899. Now, do you consider that it would be a proper thing, where there is no contention between the Maoris and Europeans, and where there is no actual illegality, that, in the interests of the public, as well as in the interests of the parties themselves, such titles should be validated?—Yes; I have no doubt about it. I think, however, that some means must be adopted to determine whether there is or is not fraud as well as mere technical omission or technical defect in the title.

1900. But, such means being employed, and this point being determined satisfactorily, so as to remove any doubt of fraud, do you consider that then these titles ought to be made valid and good?—I think the faith of the country is pledged to it. I think the Act of 1886 failed in its effect of intended validation by the use of language which was not fitted for the purpose, according to the view taken by the Court of Appeal.

1901. You mean, then, that the language of the Act, in the determination of the Courts, does not carry out the purpose of the Act?—Yes. I think this is almost admitted by those who had the carriage of the Act. Of course, I do not know what the Hon. Mr. Ballance thinks; but I read the debate on the subject, and I understand that the reason for the introduction into the Act of the sections was that they would have the effect of validating most of the defective titles—I mean the sections providing for inquiry before the Chief Judge. I think, moreover, that there is little doubt about the intention of Parliament in passing the Act of 1888, though here again it did not clearly express its intention.

1902. Under the 16th section of the Act?—Yes, of the Act of 1888. That is why I say that I think the faith of the country is pledged to it. The Act of 1886 repealed the two Acts which enabled pure chases to be completed, and the provision for completion in the Act of 1886 itself has failed, while the titles are left in this position not by any error of the persons who entered into the negotiations, but by the repeal effected by the Act of 1886.

1903. Which the Legislature intended to replace in 1888, but failed through the language it used?—So far as an humble outsider like myself can judge, I should say that is so.

1904. Now, in regard to cases other than those of mere technical omission or mistake, or where titles have been suddenly stopped in their completion—in regard, I mean, to cases where there is contentious matter, and in which questions have arisen between Natives and Europeans, what do you think should be done with these?—Well, I proposed to the Native Affairs Committee in 1889, when the Commission clauses were inserted in the Act, that, in lieu of establishing a Commission, to which the holder of the alleged title was the applicant for validation, the law should be amended by enabling any Native to apply to the Frauds Commissioner for investigation under the Frauds Prevention Act within a limited period after the passing of the Act of 1889, thus making the Native who alleged the complaint the applicant; and that the deeds should be validated after a limited period, except as to all such as had been the subject of applications to the Frauds Commissioner.

1905. Do you think that, having regard to the magnitude of some of the interests at stake, and the important questions raised, the Trust Commissioner would be a competent tribunal?—No; I have since been considering the matter, and I think I should have added to the proposal made to the Committee, when giving my evidence before it in 1889, that such applications as were made to the Frauds Commissioner should be dealt with by a special tribunal.

1906. On thinking it over you consider that that ought to be done?—Yes.

1907. The questions would be of considerable importance in many instances?—Yes; and of difficulty in one or two cases that I know of. But I venture to submit to the Commission that whatever process they may have to suggest to Parliament should be a process by which the complainant Native should be the person to put the matter in question, so that there might be a validation Act except as to such as were complained of by the Natives; the reason being that if there is to be an investigation into every title the limits of human life prevent the prospect of speedy termination.

1908. Now, do you consider this, Mr. Bell: that in respect of these cases of both classes which we are considering—that is to say, the non-contentious class and the contentious class—a Commission or Court competent in power and jurisdiction to deal with both classes of cases should be erected by the Legislature?—Yes. I hope that will be done; but I hope also, as I have said, that its functions will be limited to contentious cases, in which the contention appears by the act of the Native or subsequent claim. I must add this: that I do not see why a Court is necessary for non-contentious cases.

1909. I understood you to say there should be some tribunal to decide whether there was fraud or not?—Yes; that is the proposition I made. By far the larger number of cases in which there is technical defect—and this is well understood—could be remedied immediately by the use of proper language in the enactments; and as to all those cases, I would suggest that an Act should be passed so worded as to remedy such defects, with this provision: that it should not come into force for a limited time after the passing of the Act, and that within this limited period any Native concerned in the titles might apply to the tribunal to be constituted, alleging that the acquisition of the land was effected by fraud or some such practice, and that such titles in respect of which such applications have been made should then be referred to the tribunal; the others would be remedied by the enactment.

1910. Would not that cover all cases—that is, the Act would silently validate all cases, whether there were technical faults or mere omissions and mistakes, and also cases in which illegality and fraud were alleged, but in regard to which the Natives were not careful to take the position of applicants?—Yes; because I do not think there is any case in respect of which fraud was practised, or in which a breach of the law has been committed, in which the Natives are not ready to object.

1911. Do you not think that it is going too far, where there may have been breaches of the law, or *quasi* or legal fraud, to afford opportunity for validation in such cases if the Native does not happen to know what is required of him, or fails to come forward?—By the terms of the enactment which I suggest the title would not be validated if there was legal fraud in connection with it.

1912. That would be the distinction, then? You speak of breaches of the law; but I must remark that by far the larger class of cases are cases in which there is no real breach of the law—where the actual process of acquisition of the title was that authorised by the Act of 1873, and where they are only awaiting completion?—In such cases there was in no sense a breach of the law. There must be a gradual process before the assent of all the Natives is obtained.

1913. I want you to draw a distinction between these two classes?—That is, one class in which there has been no breach of the law. There is another class of cases which may be said to involve a breach of the law in one sense, but which is not really a breach of the law—where attestation of a document has been defective by some act or omission of the witness, or of the person in charge of the deed, but where the deed has subsequently been submitted to and approved by the Frauds Commissioner.

1914. And where there is no contention?—That is another class, where there has been no breach of the law, but a non-compliance with specific requirements of the law. I give this instance. I am not prepared to give others at the present moment, but these are cases which can easily be remedied by enactment, and still there should be reserved to any Native thereby affected the right of claiming to have the matter investigated by the tribunal. As to all other cases, they would be submitted to the tribunal, because the enactment would not be so worded as to validate them.

1915. Now, as to the nature of this tribunal, have you thought of that at all? It is of considerable importance that the leaders of the profession should be consulted as to this; and I propose to ask you and Sir Robert Stout this question as to the nature of this tribunal. Have you thought about that? It is a matter of very great importance indeed?—I have not for the present purpose, but I thought the matter over very carefully in 1889, and it seemed to me that at all events one member of the Commission must be a lawyer. The reason was this: that the distinction between a breach of the law, in the sense of a defiance of the law, and a mere omission to comply with a statutory enactment—and, again, the distinction between a breach of the law in the first sense, and such a proceeding as the actual acquisition under the Act of 1873 of the title—is one well understood by lawyers, but is not very clearly expressed in some of the judgments which have been delivered in the Courts. The danger that I anticipated in 1889 was that laymen might take the case of Seymour and Macdonald to mean a great deal more than it does mean to a lawyer. That case has been followed by others and preceded by others which are dangerous to the purpose which the Commission would desire to see established, and for those reasons I think one member at least of the tribunal should be a lawyer.

1916. In regard to the other members, do you think that three would be a good number, of whom the Chairman or President should be a member of the legal profession?—I think it is necessary that one should be a Maori, and I do not think it would be satisfactory without that. I think it would be a good thing if some man of common-sense, as opposed to lawyer's sense, should be another member, and I certainly think it would not be wise to have more than three members altogether.

1917. Do you think, then, that a tribunal composed of one member of the legal profession of standing and experience, some mercantile man, and a member of the Maori race would be likely to inspire confidence in the public mind as to the administration of these complicated cases? Do you think that the European population and the profession would have confidence in such a tribunal for deciding cases of that class, seeing that such a tribunal of some sort must be raised?—I think that

such a tribunal would command the confidence of the public and of all those who are interested in titles which are at present in dispute. The members of this Commission are more competent than myself to say whether it would be satisfactory to the Maoris. I may say that I have no means of judging that, but I should think it would. I do not know. I can speak with confidence on one side, because I have represented a great many in these cases.

1918. Do you think that the decisions of that tribunal should be subject to appeal, or should be final?—They should be final.

1919. Complete in themselves?—I see no room for appeal. The questions to be determined would be questions for a jury, not for a Court. They would be questions of fact, of fair dealing, of justice, and, of course, questions free from legal technicalities. Such questions are not subject to appeal in any Court that I know of. Nothing more can be done than a new trial, and the new trial could only be before experts of the same kind. No tribunal you could devise should be a second jury for the purpose for which the first tribunal acted.

1920. Do you think they should be clothed with powers somewhat more extensive than the Judges of Courts usually have—such powers, for example, as arbitrators would have for the purpose of arbitrating between parties, and deciding as to all questions which might arise?—I think an example of that is afforded by a question in which you were concerned, which arose before the Commission of 1889, where all the parties were anxious to come to a settlement, but the Court had no power to award it.

1921. You refer to the Whangara case?—Yes. The Commission ought to have power of directing what ought to be done, and agreed to by the parties, and of validating any agreement which it was satisfied had been mutually arrived at.

1922. Then, going still further, do you think that such a tribunal should have power not merely to decide, but to give titles?—Oh, yes! I do not quite understand the thing otherwise. If the function of the tribunal was only to report, it would be of no advantage whatever.

1923. I mean, instead of merely giving a final and binding decision between the parties, do you think it should have administrative power to carry that decision into effect by partitioning the land and giving a title. Take the Whangara case by way of illustration. It should be enabled to give each party a distinct portion of the land, which could be made on the register?—If partition had previously taken place, yes; but if the partition had not previously taken place, I do not think the tribunal would have time to deal with the question of partition except by mutual agreement, the power to confirm which they would have under the section you have just asked me about. But with regard to the power of completing by awarding a partition, I should say the tribunal would find a great deal of difficulty in dealing with it unless there had been previous partition. I think, of course, they should have the power to validate a previous partition made on the faith of the document if they validated the document; but the tribunal might be sitting to deal with a block of very large extent, and the limits of human life must again be taken into consideration. The object is to get the present difficulty as to title disposed of with as much speed as possible. I do not see any objection to the tribunal having the power; but if I were a member of the Commission I would not use it.

1924. It would not be compulsory?—There is no possible objection to the power, because I am certain that it would not be used except where the tribunal were satisfied that they could give effect to some agreement.

1925. And with economy of time and money?—They should have surveyors at their disposal, of course.

Mr. Mackay: They should have all the machinery necessary for settling a partition.

1926. *Mr. Rees.*] In respect of that portion of the reference to the Commission as to the erection of a tribunal for the settlement of past or existing disputes, is there any suggestion which you think should be made to the Commission?—I consider that the names of the members of the tribunal should be submitted to Parliament.

1927. That they should not be left to be merely appointed?—No; the names should be submitted to Parliament, and the appointment should not be made during the recess. I only say that in consequence of past experience.

1928. I think, myself, it would be a wise suggestion. I may say that I asked that question in order to elicit anything further you might have in mind. As regards the future disposition of Native lands, what do you consider to have been the main cause of all these troubles, complications, and disputes under the different Acts, and especially under the Act of 1873?—The main cause since the Act of 1873 has been the provision of the Act which did not recognise the gradual acquisition as amounting to an individual conveyance.

1929. That is to say, that on an individual selling his share in an undivided title there was no partition made in respect of it, and this caused confusion?—So far as I know, that is the whole difficulty. Of course there has been the further difficulty of want of Courts to partition and divide; but the machinery really required by the Act of 1873 was so enormous that it broke down at once, the contemplated advantages being always that it would lead to the partitionment of blocks in all parts of the country.

1930. And that these partitions would come in by tens of thousands?—You asked me what I considered had caused the difficulty. There is another root of the difficulty, and that is that it was never contemplated, as I think, under the Act of 1873 that such a huge number of names would be put in the certificates to any block. At all events, this is another of the more serious difficulties: that the Native Land Court, having a large block before it, and finding a vast number of persons interested, instead of dividing the block into certain areas and putting so many people in each, preferred to put all the people into the one large block.

1931. Of course you know there is an immense number of names in respect of some of these blocks?—Yes.

1932. *Mr. Carroll.*] Even if they defined the interest at the time it would be something?—That would have been of very little use.

1933. I think it would have facilitated the question of shares afterwards?—And then there is another matter—the infant and married-woman difficulty, that we have always with us.

1934. *Mr. Rees.*] And that is always increasing, because of the deaths and births. As regards future dealing, do you think it would be wise if, instead of individual dealings, there should be public dealings by a committee or board appointed to give titles if the Natives publicly assented?—What sort of a board?

1935. A board partly appointed by the Natives and partly appointed by the Government—in fact, a species of Land Board?—To deal with large blocks.

1936. Yes, under the authority of the Government?—Do you mean blocks the titles to which have not been ascertained, or merely blocks the titles to which have been ascertained?

1937. Both classes?—With regard to blocks of land the titles to which have not been ascertained, nothing could be better than the constitution of a board approved by the Natives, having the character of a Waste Lands Board, if we could be satisfied that they did approve of it. We are in the habit of speaking of the Natives collectively, as if they dealt collectively; but I think that is not the case.

1938. Could they not act in that way in relation to both classes of land?—I still venture to doubt it. I do not think any course could be better in respect of lands the title to which has been ascertained than the suggested course of having a board approved by the Natives, and acting upon instructions from committees appointed by the owners of the blocks; but it is for the Commission and for Parliament to satisfy themselves that they have the consent of the Natives to that course. Then, with regard to the lands the title to which has not been ascertained by the Court, I am not in a position to offer any opinion at all; but I am unable to see how it could carry out such powers in respect of blocks of land the titles to which had not been ascertained.

1939. *Mr. Mackay.*] Do you not think that a committee of the Natives, assisted by a Government officer, could settle the tribal and hapu boundaries?—A committee of what Natives?

1940. Of the Natives claiming to be owners of the block?—I do not think so. That is not the experience of the Native Land Court. The experience of the Native Land Court is that a large number of blocks are the subject of amicable agreement outside the doors of the Court, and that another class is the subject of most bitter fighting out of doors and in Court. In my opinion there would be disagreement between the Natives as to the ownership in most cases.

1941. The people could come to an agreement as to the first division of the land, and submit that to the Court and get their title accordingly, and they would also submit to the Court any cases in respect of which they had disputes?—What Court?

1942. The Native Land Court?—That simply means a Court to ascertain the title, which it is at present. That Court is at present the tribunal which ascertains the title to land. I do not see how you are going to dispense with that ascertainment. If you say the Natives will agree, I say that that is not the experience of the past.

1943. *Mr. Carroll.*] What you mean is this: You cannot see that the committees will work harmoniously with the Court in respect to partitions and subdivisions?—Oh, yes! I see that they may work harmoniously if there is a committee for each block consisting of the owners. But then, in using that term, they are impersonal owners, and we are speaking of a body impossible to ascertain.

1944. *Mr. Rees.*] Supposing that half a dozen blocks of land are brought before the Court for ascertainment of the title, the Natives in their own runangas meet together and talk over the matter, and come to an amicable decision as to the tribal and hapu boundaries, and, at any rate, ascertain if there are any, and what, matters in dispute?—So far as I am aware, that is the present practice.

1945. That is the practice suggested, but it has not been pursued. Some of the Judges, past and present, suggested that it should be so?—My cardinal difficulty is to see how you are to get the committee before you know who are the owners.

1946. You will have a committee of the Natives resident in the district. Supposing the Natives would meet and talk over these matters in their runangas, do you think that preliminary work may be done with advantage, thus easing the Court and shortening its proceedings, leaving questions of dispute to the decision of the Court or some competent tribunal?—I do not see that I can pretend to give an opinion as to that. I have never practised in the Native Land Court, and my knowledge has simply been derived from perusing the minutes of proceedings of some of these Courts in respect of cases in which I have been engaged.

1947. *Mr. Carroll.*] If the Court thought proper to empanel a jury to decide all matters connected with the land, do you think that would be effective?

1948. *Mr. Rees.*] A Maori jury?—Substituting twelve assessors for the one employed at present.

1949. *Mr. Carroll.*] Yes; or six?—I do not think so. Again, however, I say that I am not competent to speak as to that; but my opinion is that it would not be so effective. There is great danger of the jury being composed of persons who would not admit persons who might be properly entitled, and yet whose claim would be adverse to those represented on the jury. And if you had a large number of the claimants my experience is that there would be not even a talk in the jury-room.

Mr Carroll: It was the practice of the old Judges to call in independent witnesses.

1950. *Mr. Rees.*] Mr. Bell says that as far as the Europeans are concerned he is able to give a distinct opinion?—As to partition also, I know something about that. As to the practice of the Native Land Court in the ascertainment of title I do not know sufficient to be able to speak with any authority.

Mr. MARTIN CHAPMAN examined.

1951. *Mr. Rees.*] You are a barrister and solicitor practising in Wellington?—I am.

1952. How long have you been in practice in Wellington?—Since 1875.

1953. In the practice of your profession during that time have you had brought under your notice the law in relation to the alienation of Native lands?—I have never been in direct contact to any extent with the Natives themselves, and I have never been inside the Native Land Court; but I think I may say that I have had a great deal of practice in respect of the Native-land law.

1954. In the Supreme Court and Court of Appeal?—Yes, mostly in the Court of Appeal. Conveyancing also, of course.

1955. Are you aware of the existence of cases in which, through the complex nature of the Native-land law, and the interpretation of that law by the Supreme Court and Court of Appeal, there are titles imperilled by reason of formal technicalities and omissions?—I should think there are many.

1956. Are you aware also that there are other cases in respect of which there are disputes—contentious matter arising from questions of title between Natives and Europeans?—I should say so, undoubtedly, just as there are among Europeans. You cannot have conveyancing without having questions of law arising.

1957. Now, as regards these two classes of cases which you have stated that you know to exist—that is, defective titles arising from mere matters of non-feasance—simple omissions—and cases where serious disputes may arise—can you suggest any difference of plan for the settlement of these two classes of cases?—I should not like to make any suggestion. I have thought of a great many things from time to time, but I have never gone into the matter with the studied application that I would give to it if I were asked, for instance, to frame a Bill.

1958. Speaking generally in relation to titles in respect of which there were mere matters of omission, no question as to the merits or any contentious matter whatever, but which the peculiarities of various statutes comprehended in the present law impeached or invalidated, do you think a law should be passed to validate such titles?—All, without exception, do you mean?

1959. No; mere omissions: all technical omissions, but not cases which involve questions as to the merits, or in which contentious matter has arisen?—There is always a difficulty in saying what amounts to an error involving merits and what does not, because every technicality imposed by the Legislature is presumed to meet some merits. Every technicality is supposed to be essential, and, though it may not appear so in ninety-nine cases out of a hundred, yet in the hundredth case, the merest technicality may prevent a fraud.

1960. Then, do you think it would be wise to submit even cases of technicality to the judgment of some tribunal to be appointed?—I should prefer that to a sweeping enactment curing all omissions.

1961. *Mr. Carroll.*] It would be the safest course?—Yes; that no omitted compliance with a technicality should be condoned without the prior recommendation of some competent and unbiassed person.

1962. *Mr. Rees.*] As regards those cases where there is contentious matter between Natives and Europeans in relation to titles, having regard to the complexity of the Native-land laws, do you think it would be advisable that a special tribunal should be created to deal finally with those cases?—That is a subject I have never given much thought to. My own idea has hitherto been that the Native Land Court, if differently constituted from what it is now, ought to be able to deal with such cases; and if the power is to be given to any tribunal I should think that a differently-constituted Native Land Court ought to be that tribunal. By "differently-constituted" I mean the Court should consist of lawyers, or persons with a technical education, and independent of the Government for the time being.

1963. I may tell you that Mr. F. H. D. Bell, in the course of his examination this morning, stated his opinion that the *personnel* of such tribunal should be appointed by statute, and not by the Government?—That is my meaning, when I say they should be independent of the Government for the time being. I may say that I did not know that that was Mr. Bell's expression of opinion.

1964. He stated it distinctly this morning. Their names should be included in the statute, and should not be filled in by the Government during the recess?—I agree with that.

1965. Of course your object would be to secure a Court absolutely independent of any political influence?—Yes. I do not wish for an instant to suggest that anything of this kind has ever been done, but I see nothing in the present constitution of the Court to prevent the Government from virtually taking away a particular case from the Judge who is hearing it, and setting another Judge to hear it, and, if necessary, it could remove that Judge. Supposing a Government was in power that desired to interfere with the Native Land Court in this way, the means are ready to its hand. I do not imagine it ever has been done or that it ever will be in the future, but it is possible, and that very possibility might, particularly in cases where the Government is interested, influence the mind of the Judge, and particularly an untrained Judge.

1966. Respecting those cases where disputes exist between Maoris and Europeans, whether cases of fraud, actual or constructive, or illegality, or any other question that might arise, do you think such a tribunal should have power finally to decide all such questions?—I have not thought of that, but I am inclined to think it would be as well that it should; subject, however, to this: that it should not go against the law of the land except such portions of that law as were directly specified. The particular points on which such a tribunal could ignore the law should be carefully specified in the statute; otherwise we might find such a tribunal overriding the common law and the statute law applicable generally to Her Majesty's subjects; and I consider that would be a great misfortune. But, subject to that, I think, with an appeal against proceedings in that way, a plan could be devised.

1967. That would be a species of prohibition?—Well, prohibition would do; but, subject to that, I think the decision should be final.

1968. Within the limits of its jurisdiction it should be final?—Yes. Apart from my opinion as to the desirability of speedy justice, I should say that the absence of a possible tribunal influences my answer to that.

1969. How do you mean?—The only Court there could be an appeal to would be the Supreme Court; and the Supreme Court generally cannot reach the merits of Native-land disputes—that is, the merits of Maori title. It has no means of reaching the true merits of these disputes. That influences me in my answer.

1970. As a matter of fact, is it not generally considered among the profession that the decisions of the Supreme Court and Court of Appeal are in all cases open to very grave objection upon these subjects—disputes rather than objections?—In what way?

1971. As to the decisions they have given on the questions arising out of these complicated subjects?—I do not quite understand you. Of course there is always one person or set of persons dissatisfied with every decision; but you do not mean that, I presume?

1972. No. Does not the profession think the statutes in reference to these matters are so difficult to understand or to construe that scarcely any judgment is likely to be absolutely correct in itself?—I cannot say that I have ever thought that. I may say that, as a rule, in most cases I have been satisfied so far; I have thought the judgment as a matter of law, was right, or probably right, in most cases—I do not say in all cases. When the case has been threshed out I have generally felt I was going to win or to lose, as the case might be, before the judgment was actually given. And the result has generally been in accordance with my anticipation; not according to my anticipation before I went into the Court, but after the argument has been concluded.

1973. In many dealings between Natives and Europeans—which dealings have been declared either inoperative or illegal by Courts afterwards, do you think that the Europeans were justified in entering into those dealings, believing they were within the law, as in the case of Poaka *v.* Ward, for instance, and also the case of Matthews *v.* Brown?—Well, I have never considered that. These two cases I had nothing to do with beyond editing the reports for the New Zealand Law Reports, and I cannot remember that I formed any opinion as to the merits of those cases.

1974. What is your opinion, as a conveyancer, in the matters that professionally come before you, as to the individual dealings of Natives in respect of land—the signing of individual Natives for their land held in common?—Well, my opinion is this: that the Natives held their land by no tenure which we can describe in European language, nor did they hold it by any tenure which they could have described themselves. I believe their idea was not the ownership of the land, but a right to the products of the land. Well, we have upset that entirely. New notions have sprung up among the Maoris, due to our legislation, the desire of Europeans to acquire land, and the position of the Natives, who have transmuted their original Native title to the European title, or a title known to the English law. I take it, nothing you could do would enable them to hold their land as they did before Europeans arrived. You have made a great transformation, and I think, if you are going to make a transformation at all, the more complete it is the better. In my opinion, a good deal of the trouble has been caused by attempting to make an incomplete transformation—that is, giving a title known to Europeans, and yet without the incidents to that title.

1975. Attempting, in fact, to graft a fixed individual ownership, according to our system, upon the tribal system of the Natives?—Yes.

1976. And halting half-way?—It is halting half-way. I do not think it is wrong. I think there is a reason for it, and a meritorious one. It is to secure to the Natives their land. But the same end might be better secured in another way.

1977. Do you think, if some method were adopted of enabling the Natives, in cases where there are large blocks of land with large numbers of owners, to deal collectively, like the shareholders of a joint-stock company or the members of a body corporate, through themselves and an officer appointed by the Government, it would work satisfactorily?—Well, I do not know. My opinion has always been that it would not work. The persons appointed by the Natives would be Natives ignorant of the European modes of dealing in most cases, not in all; and in some cases they would not act up to that standard of honesty and fair dealing that we look to trustees for. They would be trustees, and dealing as such without a sense of the responsibility of trustees. That is the principal fault I find with the suggestion. The same fault I find with the grants issued, under the Act of 1866, to ten people out of the owners in each block. I have always thought this created shocking injustice.

1978. Supposing a Board were created like the Waste Lands Board, partly appointed by the Government and partly elected by the Natives?—For dealing with the land?

1979. Yes; subject to the directions of the owners. What do you think of such a plan as that?—I have never thought of that. I should like to see that plan elaborated before expressing an opinion upon it. That is a sort of enlargement of the Native Committees?

1980. Yes; adding, of course, the European element, appointed by the Government and responsible to Parliament?—They would have to deal, perhaps, with blocks that they knew nothing about.

1981. They would have to get the instructions of the people in the district, and work with them, under regulations, of course, for the disposal of the lands?—I prefer not to express an opinion on that until I see the thing elaborated. It has a very large possibility, no doubt, and it would require very careful treatment.

1982. Do you think it would be a good thing to take from the ordinary Courts, supposing such a tribunal as that which was hinted at before were created, all jurisdiction in regard to these past Native-land troubles, and devolve it upon the new tribunal?—No, I do not. I am not disposed to think it would be a good thing.

1983. You would leave open the resort to the superior Courts of law, or to such a Court as we have spoken of before?—That is what I mean.

1984. But I say that, assuming this tribunal were created, you would devolve upon it the jurisdiction now exercised by the ordinary Courts?—Oh, yes! I thought you were referring to the Board you spoke of.

1985. No. Supposing such a Court as I mentioned before were created?—Yes, a special statutory tribunal with special jurisdiction. That is your question?

1986. Then, you say that, supposing this Court were created it would be a wise thing to devolve upon it the determination of cases which now ordinarily come before the Native Land Court—cases between Natives and Europeans?—On questions involving the construction of Native-land Acts?

1987. Yes?—Such questions as were before the Court of Appeal at its last sitting in the Paremata and Mangaohane cases, for instance. It was this sort of case I understood you to allude to originally, and my first answer was directed to that.

1988. Yes; but I have been asking you as to a special tribunal claiming jurisdiction in such cases. I now ask, Do you think it advisable that these cases should be relegated to that Court?—I think, under proper limitations such a Court could be made very useful. I think that cases like the Mangaohane case could be dealt with by a tribunal of that kind. But in that case, if what the plaintiff complains of is taken to be proved, the Native Land Court has simply neglected its duty. This allegation of neglect of duty I know is a very common fault which parties ascribe to the Native Land Court, and the misfortune for the Natives is the way in which it casts doubt on the Court rather than on the parties themselves. I should think that would be a case with which the proposed tribunal could deal. It could determine, first, whether there were irregularities or omissions; secondly, whether injustice was caused thereby; and, finally, could correct any injustice.

1989. Then, do you think that such a tribunal should have further powers than the mere powers of Judges, so as to settle any case as arbitrators would?—This would be constituting it a sort of Appeal Court from the Native Land Court?

1990. On those points?—On points like that.

1991. Well, in any proposed legislation, do you think it would be wise to give extended powers, like those of arbitrators, to finally decide, and to issue valid titles?—It is difficult to say. I should not like to say beforehand what powers this tribunal should have. I am not sufficiently conversant with the ways of the Native Land Court to know in what way to constitute a Court of Appeal to the Native Land Court.

1992. There are many cases irrespective of the mere work of the Native Land Court which would come before this tribunal?—No doubt many of the cases do not arise till the business of the Native Land Court is over. For instance, the Native Trustee sells. Well, the Native Land Court does not have anything to do with that at all. A thing may be done in an improper way, and no trace of it remain on the deeds. Such things as that may very properly be investigated by a tribunal such as you have mentioned. But I think that the Native Land Court could do it all itself if it were differently constituted. I do not see the necessity of having another Court if the Native Land Court had the necessary powers given it.

1993. *Mr. Mackay.*] And the status?—Yes, and the status. As the Native Land Court is constituted at present I do not think it would be submitted to.

1994. *Mr. Rees.*] No, it would not?—The Native Land Court Judges, in the first place, I think, should be more independent than they are for a thing like that. I do not mean to say that necessarily they should hold their offices during good behaviour, but they should have a statutory term of office, or perhaps causes of removal should be specified.

1995. So as not to be dependent on the party in power, whether it was likely to use its influence for good or bad?—Yes; they should be appointed for a number of years. The principal objection, I think, to the Native Land Court at present is that any Judge is removable here and there.

1996. And, whether the power to which you have referred be exercised or not, there is the power, at any rate?—Yes. If a suggestion comes from the Government the Native Land Court Judge cannot fail to feel that probably it would be better for him to comply with that suggestion. He may yield almost unconsciously to that feeling. There would be a tendency to comply with it rather than to refuse to comply with it. The same thing applies to a case in which there has been a Government purchase. The Government purchases, we will say, a number of shares in a block of Native land. The rest of the owners do not sell, and the Government wishes to get the land individualised so as to secure a portion of the land corresponding to the shares which it has acquired. The Judge would not be human if he did not give some favour to the Government, and so give a share to every Native who had sold, notwithstanding that perhaps those who sold, as very often would be the case, were those of the smallest consideration—men who felt the smallest amount of responsibility and exercised the smallest amount of ownership. The Native Land Court Judge would not be human if he did not give way to his feeling that it would be better to allot something to all these people.

1997. Your opinion, then, is decided, that, in respect of any special tribunal to be constituted for the purposes of deciding upon these cases, the names of the Judges should not be left to any Government to put in during the recess, but that those names should be inserted in the statute, and that it should specify the term for which they were appointed to office?—Yes, and their salary should also be fixed.

1998. And the powers they were to exercise?—Of course that would be a *sine qua non*.

1999. Mr. F. H. D. Bell said this morning he thought there should be a Court of three—one to be a lawyer, to preside, so that he might instruct the other two technically; one to be a layman of position, who would bring to bear on his duties the common-sense of an ordinary layman; and the third to be a member of the Maori race. Do you think such a tribunal would be satisfactory to the European public?—I cannot say. There is a general feeling, I suspect, among the public that they would rather have lawyers left out. These are people who do not know all the manifold uses of lawyers. I think a great many people would like to see lawyers left out of everything. What the general public think about it I do not know, and I do not know that what the general public thinks is really of very great moment. What we want to know is not what the general public thinks, but what would be most useful. The public are not always the best judges in a matter so highly technical as the Native-land laws.

2000. Do you think such a tribunal as that would give satisfaction to the profession in the interests of their clients?—I feel doubtful as to the uses of the layman. The Maori I would have no objection to see there—not on account of the assistance he might be to the Court, because I do not think he would be of any assistance to the Court—but I think he would be very useful in winning for the Court the confidence of people of his own race; and in that aspect I think the Maori member of the Court would be very useful, because we want not only to be just, but to make the people think we are just.

2001. To have the appearance as well as the reality?—Yes; and so I think the Maori member would be useful. But, as for the lay pakeha member, I do not feel so sure about him. Of course, my alternative would be another lawyer; but, as I said before, the general public have their opinions about lawyers. As a matter of policy, to get the thing through it might be as well to have only one lawyer.

2002. Is there anything we have not talked about that you would like to suggest?—The questions I have been asked are not of the nature I had anticipated at all. If I had known the questions you were going to ask me I should have prepared my answers, in order to try to be of some assistance to the Commissioners. The matter is pretty crude in my mind. I thought of other matters altogether. For instance, I was going to say something about the amendment of the Native-land laws.

2003. We should be very glad to hear anything you have to say on that subject?—I was only going to make this suggestion: The fault I find with the Native Land Acts is that they are too vague. This vagueness is due, I think, to a paucity of language. If you look at the English statutes dealing with a new subject, you find that, although there is not the language you would expect in, we will say, a good essay written by a brilliant writer—that is to say, worded with extreme care—yet the draftsman tries to meet every possible case that may possibly arise, and he provides for each one that he thinks of separately, and then he puts at the end some general words to meet cases which he cannot think of. I find in our Acts that they sometimes contain the general words only, and very often they are not wide enough. In other cases only particular cases are specified. I might instance a clause in the present Native Land Court Act, empowering the Supreme Court to refer matters to the Native Land Court. That clause has been copied from Act to Act, sometimes with slight variations in the words, for ten or twelve years, and each one is declared by the Judges to be inadequate for the purpose for which it was put in; and that is simply because the draftsman did not take the trouble, I suppose, to look up the decisions on the matter. He did not know what he was legislating for. The Acts are filled with things of that sort, partly with the object of having the clauses short. I do not deny that it is easier to read the Acts in consequence; but I think that attempted perspicuity is carried to excess in the Native Land Acts. I should like also to say that—I was going to mention it before—I think the Natives are hardly treated in the taxes they have to pay.

2004. You mean the 10-per-cent. duty, as well as the other fees and duties? They complain very bitterly of this?—It is worse than that. When a man buys a Native estate, he first considers what it will cost him to get it into his hands, and then what it is worth. He gives the person from whom he buys it the amount which the estate is worth, less what it costs him to complete the transaction. If the costs amount to £10 and the estate is worth £100, he will give £90. The lawyers get the £10. Now, if he has to pay £10 to the Government in addition to all this, he will deduct that sum from the price, and that will reduce the amount which the seller is to receive to £80. Then, there are surveys to be paid for. If you consider carefully the numerous expenses that have to be paid before the Native gets any money, you will find he pays in reality taxes and charges to the extent of 50 per cent. And then the uncertainty of the titles creates another heavy tax on the Native, because a man will never give so much if his title is not quite sure.

2005. In fact, he deducts a certain proportion of the money-value of the estate to form an insurance fund?—Yes. He must make an insurance fund. There is a sort of speculation about it; and any legislation ought to be, I think, largely directed to that: while not making it too easy, yet, when alienation does take place, to make the title certain, so that the Native shall get the greatest advantage from the purchaser. That has all been neglected in the past.

Mr. Carroll: The duty is about 15 per cent?

2006. *Mr. Rees.*] No: 10¾ per cent?—The fees the Native has to pay in Court, the survey-fees for subdivision, and the long attendances he has to pay for, along with the expense of all the other things, swallow up the great bulk of the money accruing from the land.

2007. *Mr. Carroll.*] I think it is reckoned at 15 per cent. in the matter of a lease?—That is on the annual value.

2008. *Mr. Rees.*] You pay once on the capitalised value of the rent?—It takes the Native a long time to put a large block of land through the Court, and the cost is frightful. I heard of a case the other day in which £20,000 had been paid to get the land through the Native Land Court, and yet after all this expenditure the whole thing is going to be attacked owing to some mistake in the Native Land Court. Yet, as I say, £20,000 was paid for the surveys and the investigation in that Court. I do not mean to say that it is all absolutely useless. Possibly some of the surveys will be used there again.

Mr. Rees: But the hearing and other costs cannot.

Mr. Carroll: Then, there is the question of succession duties.

2009. *Mr. Rees.*] They complain very bitterly of that?—I have never done anything in connection with that. I have not been in the Native Land Court. It would be just the same with successions of that kind with Europeans, I think.

2010. Except that you cannot swear them under £100, because they do not know what they are worth?—But, supposing a European dies, and his property goes to his eldest son, a certain rate of duty is payable. We will suppose further that before a month has gone by the son dies, then it devolves on his son. Then that son will have to pay the two duties.

Mr. Rees: They do not know, and have to pay over £100.

2011. *Mr. Carroll.*] They do not hold individually, but collectively, and they have to pay on the assumption that it is £100?—There is another matter which is severely felt in the Native Land Court. All orders and other records of the Court are drawn and settled by the Court, the parties not necessarily being present. If a mistake is made it will in many cases result in a costly action, perhaps years afterwards. In the Supreme Court the parties draw up their orders, &c. It is the duty of the Registrar so far as he can to see that the order drawn up coincides with that pronounced or minuted by the Judge. If he makes a mistake there is a simple remedy: the party aggrieved brings the other party before the Judge, who sets aside the erroneously-drawn order, and the correct order is then drawn up, and, if desirable, may be dictated by the Judge. A similar process also enables omissions made *per incuriam* to be supplied. The proceedings are thus made regular. Something of the kind ought to be done in the Native Land Courts.

Mr. Thomas William Lewis examined.

2012. *Mr. Rees.*] How long have you been connected with the Native Department, Mr. Lewis?—I anticipated some of these questions, and so I have refreshed my memory on the subject. I became private secretary to the late Sir Donald McLean on his assumption of office on the 28th June, 1869, and I became Under-Secretary of the Native Department on the 1st March, 1879.

2013. Ten years afterwards?—Yes; and I was placed in charge of the Land Purchase Department from the 30th June, 1885. I entered the Government service on the 22nd July, 1863, in the Defence Office, and, that being a department in a measure connected with the Natives, my experience of the Natives dates from my entrance into the Government service, but my intimate connection with the Native Department commenced in June, 1869.

2014. Now, perhaps it would be better if you could give the Commission, before it proceeds to ask you any questions, any ideas that you yourself have formed as to the Native Land Court and the Native-land laws, in respect of the method of alienating Native lands, so that it might be certain that the Commission did not suggest in the first instance any answer which should be given. The members of the Commission will put questions to you afterwards, but they would be pleased if, in relation to the Native Land Court, and in relation to the Native-land laws, and the method of alienating Native lands, you would give us any ideas that, in the course of your experience, have suggested themselves to you. Then we can ask questions as to your suggestions subsequently?—I shall be very glad to do so.

2015. Do not be afraid at all to make your answers diffusive, because we want to acquire a mass of information upon these matters?—I would premise my statement by saying that the position I have occupied enables me to look at the matter from several different standpoints. For example, the Natives, when they have complaints to make in connection with the Native Land Court, or, indeed, in respect of other matters, generally do so through the Native Office. All the petitions to Parliament relating to Native affairs I have to report upon, and many of these petitions also relate to Native Land Court questions. Then, my official connection with the Native Land Court, and my intimacy with the Judges, enable me likewise to look at the matter from their point of view. There is, moreover, what may be called the Government point of view, which is distinct from both of those, and in regard to which also my departmental position compels me to look at these questions from. Another point of view which assists me in arriving at conclusions on this matter has been that of land-purchaser, and in that position I may be said to take the view of the general public on the question—in this way: It is my duty as officer in charge of the Land Purchase Department to purchase land from the Natives, and the first question that arises in connection with such purchases is as to the certainty of the title. I shall not enter further into detail on that point at present. I simply wish to show at the outset that in the course of the remarks I may make I may speak first from one point of view and then from another, but it will be borne in mind by the Commission that I approach the subject from many standpoints, which few others not in the same position could do. In the first place, my opinion is that the whole object of appointing a Court for the ascertainment of Native title was to enable alienation for settlement. Unless this object is attained the Court serves no good purpose, and the Natives would be better without it, as, in my opinion, fairer Native occupation would be had under the Maoris' own customs and usages without any intervention whatever from outside. Therefore, in speaking of the Native Land Court, this test to it must, I consider, be applied—viz., that there should be a final and definite ascertainment of the Native title in such a way as to enable either the Government or private individuals to purchase Native land. As to the Court, I shall first speak of matters that have occurred to my mind in connection with the Court itself. The ground of decision of any Court must necessarily be the evidence before it; and, from all that I have heard from those who are intimately acquainted with the Native Land Court, and from the Judges particularly, the great difficulty that the Court has to contend with is the unreliability of the evidence, and, according to some of the Judges, the persistent perjury that is resorted to by the witnesses. This is a matter that is obviously very difficult to reform. I think it might be met to some extent by the Court having the power to commit for short periods of imprisonment any Natives whom the Court was satisfied were guilty of making wilful and corrupt statements when on oath before it. I make these suggestions certainly not as being inimical to the Native race, as I think that the great obstacle that almost every good Native has to contend with in the Native Land Court in the ascertainment of title is this disregard for the truth of the evidence offered to the Court; and the Natives themselves bitterly and frequently complain of false evidence. Owing to the evidence being given in Maori and interpreted into English, it is obvious that in an ordinary trial in a Court of justice it has been found impossible to obtain a conviction. It would, perhaps, be only necessary to apply the remedy I have suggested in one or two cases, and I believe the power, when exercised with good judgment, would have the effect of materially altering the nature of the evidence given before the Native Land Court. Bearing in mind that the foundation of all settlement in the country is the ascertainment of title, in my opinion the Natives should not be allowed to keep

their lands out of Court. In large districts—as, for instance, the Wanganui district—it is a long time since the Natives have brought before the Court any cases for original investigation of title. And I think that, if applications for hearing of blocks required for settlement are not sent in, the Court should, on application of the Governor, ascertain the ownership of any such lands after due notification. And if the Natives refused to attend the Court to give evidence as to the ownership the Court should give its decision upon such evidence as it could obtain, and award the land to the Natives whom it could best ascertain were the owners, and especially it should declare the relative interests of each. All surveys of Native lands for purposes of first investigation, and such subsequent partitions as may be approved by the Native Minister, should be paid for by the Crown out of funds provided for the purchase of Native lands. I suggest that because I would give the Natives every possible facility for bringing their lands into the Court, so that Natives without means should not be debarred from bringing land into the Court. The surveys and any other incidental expenses should therefore be paid for by the Crown, and the amount should form a lien upon the land, to be recovered on the application of the Crown. The Court should award land to cover all these costs, on the valuation of, say, the Surveyor-General. The Crown should also take precedence of all suitors before the Native Land Court.

2016. When it has purchased interests in the land?—I think, at any time. The object of the Native Land Court is to ascertain the Native titles for the purposes of settlement. It is a duty of the Government to provide land for settlement. It acts in the interest of the whole of the people of the country, Natives and Europeans together. Consequently, for the purpose of acquiring land for settlement, the Crown should take precedence of all suitors.

2017. I see what you mean. In respect of cases in which the Crown is interested it should have precedence of other parties?—Yes. As it is at present, the Crown necessarily is theoretically on an equal footing with every one else before the Native Land Court, and if precedence, which all must recognise as desirable, is given, charges might be brought against the Court of favouring the Crown in having blocks heard, and in other ways. My opinion is, that Crown cases of any sort should take precedence, and that it should be by law, and not by any arrangement of the Court.

2018. *Mr. Carroll:* You mean, where the Crown is interested?

Mr. Rees: Yes; any cases in which the Crown is interested.

2019. *Mr. Carroll.*] In what way?—Perhaps I had better go a little more into detail. I mean, supposing the Crown wishes to obtain for settlement a block of land in respect of which there is an application before the Court for its hearing, the Crown should be in a position to apply to the Chief Judge for the hearing in respect of that block to take precedence of all other cases. To start with, fix a special Court for it if necessary, and then let that particular case take precedence of any other. It might be a succession case, or it might be a partition case, or it might involve any other operation of the Court that is necessary to complete the title of the Crown, and in all these instances the Crown's should take precedence. I do not think it would inflict any injury or hardship upon any one, and it would be better to have it clearly understood than to leave it in its present undefined state. Another matter is the difficulty the Crown, in common with private parties, is placed in by the existing legislation with regard to the restrictions upon the alienation of Native lands. The Crown stands in exactly the same position as private individuals in respect of these restrictions. The principle that the Crown is not affected where it is not especially named does not apply, because the restriction is not upon the Crown purchasing, but upon the individual selling; and provision should be made by the Legislature that land under restriction may be sold to the Crown. I think no hardship can possibly arise, for this reason: A private individual buys land from the Natives, passes it under the Land Transfer Act, and sells to another individual, when his responsibility is at an end; and if any wrong has been done the Natives they may have no redress or remedy: but in the case of a Crown purchase the Crown never gets away from its responsibility; so that if it were possible that the lands have been bought improperly, or any hardship or grievance is connected with the transaction, the Native who makes complaint has always the Crown to come upon for redress. Therefore, restrictions that are reasonable in any other case are not reasonable as against the Crown.

2020. Even if the Crown, you say, is the evil-doer, the Native will always look to the Crown for relief?—Undoubtedly. The Crown is always amenable to Parliament. That Court, which cannot touch the private individual, can touch the Crown. In case of any hardship, or grievance, or wrong, the Native has always got his means of redress as against the Crown. But, apart from that argument, seeing that it is a very common thing now for lands to be placed under restriction—as I shall illustrate presently by returns I shall show the Commission—it follows that, if the Crown is buying a large block of land subject to these restrictions, the purchaser is practically compelled to break the law, and buy in defiance of the restriction, and consequently with an unsatisfactory title, or is prevented from purchasing at all, which is extremely unsatisfactory where the land is required for settlement. The next point—that seems to be somewhat akin to the last-mentioned subject—is that trustees for minors should be allowed to sell to the Crown without it being necessary to obtain the consent of a Judge of the Supreme Court. As the law stands at present, a purchase can only be made from the trustee of a minor with the consent of a Judge of the Supreme Court, which is obtained by the formal process of a motion in chambers. It would be better, as far as the public are concerned, that they should only purchase with the consent of a Judge of the Native Land Court; but, in the case of a purchase by the Crown, the consent of any Judge should not be necessary. Upon all these general questions I have spoken from a land-purchase officer's point of view.

2021. Do you not propose any accompanying steps to that last part of your statement—as to the investment of the money, for instance, for the benefit of the minors?—I do not propose that the law should be altered at all in that respect. The law at present is that the money is to be paid in to the Public Trustee and disbursed on the approval of a Judge of the Native Land Court. That is very fair, and I would leave it exactly as it is at present. But, apart from that, you have to go

through the form of obtaining the consent of a Judge of the Supreme Court to the purchase itself. I would leave the matter of the investment of the money as the law provides at present.

2022. You simply recommend that, in so far as Government purchases are concerned, these restrictions should be taken away, and that it would be for the good of the public?—Yes; they should be entirely taken away, in so far as the Government are concerned. As to the suggestions I have made with regard to the practice of the Court, I should say that, although I have sometimes appeared before the Native Land Court, yet I have not had any extensive practical experience of the working of the Court; but my position as one receiving information from so many different quarters, as well as a theoretical knowledge and my own observation, I think, enable me to offer the suggestions.

2023. *Mr. Rees.*] The experience, at any rate, of others communicated to yourself?—Yes; and I have myself had a very great deal to do with Native-land legislation in many ways, and all these questions have come up in connection with that legislation. But I thought it necessary to say that I have not had much experience in the way of appearing before the Court myself. I have noted down, as a suggestion, that claims sent into the Court should contain the names of claimants and the grounds of claim, as well as a full description of the land in respect of which the claims are made.

2024. That is to say, that written claims should be sent in?—Yes. At present an application can be made by any one individual who may furnish a description of the land, and he may appear for himself, or a great number of others, but that is not known until after the Court sits. For the purpose of preventing claimants altering their cases, or important grounds of their claim, as the case goes on, it would be a good thing, and would save the time of the Court very much, if, when the claim was sent in, the grounds upon which it was based were stated, and the names set forth of the persons who constituted the claimant party. Then the counter-claimants, within one month after the appearance of the advertisement of the claim, should be required to send in their grounds of counter-claim, together with the names of all the counter-claimants. The next thing I would suggest is one that is difficult to obtain by legislation or anything else. It is this—if the Commission can suggest any way by which it could be obtained, it would be of great value—that only evidence relevant to the issue should be admitted by the Court, and that the Court should not allow the evidence to be unduly multiplied or extended. This extension and multiplication of the evidence, and the introduction of irrelevant matter, form the subject of general complaint by the Natives, by the Judges, and by the public, and certainly, too, affect the Government very considerably, seeing that cases in the Native Land Court which ought only to last a month, or a little more, run into five or six months, to the great cost and trouble of everybody concerned. The problem is, how to curtail this cost. I think it might be done by curtailing the evidence that the Court felt, when it was being given, was not relevant to the issue before the Court; and evidence that was relevant to the issue should not be allowed to be multiplied and extended indefinitely. I might say further in connection with this that what I believe has led to the Court admitting evidence of this sort, and listening with extreme patience to long-winded stories that the Judges consider not to be relevant to the issue, is because, if a Native is dissatisfied with the judgment of the Court, he immediately applies for a rehearing, or appeals to Parliament; and it is more particularly, I think, appeals to Parliament that have led the Judges to give every license to the Natives, so as to take away from them any possible ground of complaint.

2025. But they have not succeeded?—No.

2026. These cases have increased rather than diminished?—I think it would be a good thing if Parliament could in some way strengthen the hands of the Judges by indicating to them that they were not to allow cases to be extended beyond what was in their judgment necessary to secure justice. There is another matter of practice which has come before me in my official capacity on more than one occasion, and this is that in its decisions the Court has placed contending parties in the same block and in the same division of the block. This has led to very serious trouble, and I consider that legislation should compel the Court to make a partition of the land in such cases—an arbitrary partition if necessary—so as not to include in the same block parties who could not agree upon any division or who could not live together amicably.

2027. Persons with distinctly contrary rights?—Yes; and not only that, but who are absolutely inimical to one another.

2028. *Mr. Carroll.*] Opposing parties altogether, although belonging to the one tribe?—Yes. The decision of the Court may be absolutely correct that a particular piece of land, consisting of, we will say, 10 acres, belongs to certain Natives; but if they are found to be strongly opposing each other the Court should make its division so as to put together the people who are in sympathy with each other. It would save the Court, and the Government, and every one else concerned a very great deal of trouble if the Court did so. It will be evident to the Commissioners that where the parties are disagreeing with each other, as in these cases, it is almost impossible to deal with them from a land-purchase point of view. I think that rehearings, as at present allowed, should be abolished. The Chief Judge at the present time has power to make amendments in decisions, and that power might be perhaps with advantage extended, and parties dissatisfied with such amendments, or with original decisions, should have leave to appeal; but the appeal should, I think, be to a Court of Appeal.

2029. Do you mean the Supreme Court of Appeal?—No; I mean a specially-constituted Court of Appeal, which might consist of the Chief Judge and, if it were thought necessary, a specially-appointed Judge and a specially-appointed Assessor. Such Court of Appeal might be constituted in any way that was thought to be necessary—that is a matter of detail; but the Court of Appeal should have powers analogous to what are, I understand, the powers of the Supreme Court of Appeal—viz., that it should deal with the case on the evidence already taken, or having what I understand to be the right of the Supreme Court of Appeal to take fresh evidence if it thought fit, or, if it considered it necessary, to refer the case for readjudication. I think it would be a good thing if this Court of

Appeal simply sat in Wellington; but that also is a matter of detail which might easily be settled. What I consider should be done in addition to this is, that in the first hearing of the case the Natives should have every facility; every difficulty which it is possible to remove should be removed out of their way, and the Court should study their convenience in the place of sitting. I think, too, the Court of Appeal should be a Court of higher level than the ordinary Native Land Court, and those appealing should go to it. In fact, I would not make appeals anything like so easy as they are present. I doubt whether any one realises that until recent legislation it would have been competent for any boy in a Native school to block the whole business of the Native Land Court by simply taking and filling in an application for rehearing in every block passed through the Court. The law required that all such applications should be gazetted. The mere sending-in of the application, without any responsibility attaching to the person sending it in, was sufficient to stop the entire business of the Native Land Court in relation to that particular block until decision had been given. Recent legislation has removed that to some extent by making a fee of £5 payable, but I think it will be evident to the Commission that it is undesirable, in respect of cases costing perhaps thousands of pounds to hear, and which occupy a considerable amount of time, and in which the interests of the country are largely concerned, that any Native who chose should be allowed, merely by paying a fee of £5, which may be paid for him by interested parties, to stop the whole proceedings and reopen the whole question. I think the question of rehearings is probably the most important of all, or, at any rate, one of the most important questions affecting the Native Land Court. There is another general question that I should like to bring before the Commission. At the present time the law is stringent in preventing dealings with land that has not passed through the Native Land Court—the Native Lands Frauds Prevention Act, for instance; but it is certainly the case that a coach-and-four could very easily be driven through its provisions. I mean, in this way: Any Native in New Zealand, so far as I know, could legally go and cut any timber upon any timbered land, and if he could get any European to support him he could remove such timber as he liked, so long as he was doing it in his own name.

2030. That is, always before subdivision?—I am speaking of Native land before it passes through the Native Land Court at all.

2031. And afterwards until the title is ascertained?—Yes; until it is ascertained any Native may go on any Native land.

2032. *Mr. Mackay:* That is according to their communal ideas.

Mr. Rees: Except that in the old days a man would be knocked on the head if he went on another's land. They take advantage of our laws to perpetrate gross wrongs.

Mr. Lewis: Speaking generally, according to Maori custom the persons having the best claim to any land are those who are occupying it; but until their rights are decided by the Court they could only prevent any other Native from making free with the timber, or other products of the land, by using force, and thus breaking the law.

2033. *Mr. Rees.*] They could not do so by going to the Court—that is clear?—So far as I know, at present there is no legal protection for such a case.

2034. There is none; it has been so decided in the Supreme Court?—It has led already to bloodshed and loss of life in different places. I therefore consider that a provision somewhat to this effect should be passed: that no dealings with land, or the produce of land, or occupation other than residence and cultivation according to Maori custom, shall be lawful until the title has been ascertained by the Native Land Court—that is to say, any sale of flax, or timber, or gum, or other natural product of such land, shall be illegal; and any person selling or purchasing such produce shall be liable to a penalty of, say, £100 for each offence; and any person erecting a timber- or flax-mill on land the title to which has not been ascertained shall be liable to a penalty of £100. Further, that it shall not be lawful to depasture sheep, cattle, or horses on land the title to which has not been ascertained by the Native Land Court; and any sheep, cattle, or horses so depastured shall be forfeited to Her Majesty, and the owners be liable to a fine of £50. The object of some such provision is not to lock up the land, and prevent dealings with the land or its products, but to facilitate *bonâ fide* and lawful dealings and occupation, which are much retarded now by Natives who are only some of the owners, or who even may not be owners at all, complicating matters, and creating trouble and ill-feeling by illegal arrangements with Europeans for the produce of land not through the Court. Some such provision is needed, first, to make it to the interest of Native owners to get their land through the Court, and the title ascertained, and thus promote legal dealings and settlement; and, second, to protect the estate from spoliation until the owners are legally ascertained. Five or six years ago, when the Hon. the Premier was Native Minister, the Native Land Court, as at the present time, attracted a great deal of attention, more especially from the large number of petitions addressed to Parliament complaining against the Native Land Court Acts and the Court. I then addressed a memorandum to the Native Minister, suggesting a scheme which I thought might work side by side with the Native Land Court, and on the one hand tend to popularise the Court, while, on the other, if the scheme was found workable (which would depend on the Natives), would very much facilitate the operations of the Court, and the final determination and settlement of Native title. The scheme, though it was viewed with some favour by the Hon. Mr. Ballance and the then Premier (Sir Robert Stout), was not made public, and the legislation of 1886, although it introduced several reforms in the working of the Native Land Court, which have much improved the Court, followed generally on the old lines. Although matters have altered considerably since the memorandum was first written, and large blocks of land to which I think the scheme proposed might with advantage have been applied have been otherwise dealt with, I am of opinion that it may be worth a trial, one merit of it being that it involves no cost to the State; and if it is adopted and carried out successfully by the Natives it would save both them and the country some thousands of pounds annually. The Hon. the Native Minister, to whom it has been submitted, instructed me to indicate in detail how it would work out in practice. This I have done in a supplementary memorandum; and I have Mr. Cadman's permission to submit both the memo-

randa as part of my evidence before the Commission. I shall now, if the Commission wish, read my memorandum.

2035. Yes, we should be glad to hear it?—It is as follows:—"Memorandum for the Hon. the Native Minister: In accordance with your instructions that I should submit to you in writing the scheme that I mentioned had occurred to me as a possible improvement in the investigation of the title to Native lands, I respectfully submit the following memorandum. I am conscious that it would be an easy task to point out many flaws in the scheme, and, indeed, seeing that strong objections have been taken to every plan propounded in connection with Native lands, it can hardly be expected that the one which is the subject of this memorandum can escape the general fate. Before proceeding to detail the proposal, I will, with your permission, make a few preliminary remarks on the question to be dealt with. Much might be said about the peculiarity of the Treaty of Waitangi, but the subject is too large to be entered upon here; and, as the ownership of the Natives of the land according to their Native custom is an established fact, it will be sufficient to deal with the question as it exists. In the early days of the colony the chiefs were recognised both by their people and the Crown as having authority over the lands of their tribes, and the old purchases of the large blocks acquired by the Crown were negotiated with the chiefs by the Land Purchase Commissioners, who themselves, as best they could, investigated the title of those who assumed authority to cede the lands dealt with. In 1862 an Act was passed 'to provide for the ascertainment of the ownership of Native lands and for granting of certificates of title thereto, and for regulating the disposal of Native lands, and for other purposes.' But it is not necessary for me here to refer to its provisions. In 1865 the Native Lands Act was passed, which constituted a Native Land Court for the investigation of the titles of persons to Native lands according to Native custom, the determination of succession, and other purposes set forth. Since 1865 various other Acts have been passed on the subject, but the general principle of the investigation has been unchanged, and the Native Land Court of to-day is practically the same as it was when constituted twenty years ago. Although the Court is the same, the Natives have greatly changed, and, it may be said, not for the better for Court purposes. Twenty years' intercourse with Europeans has not strengthened their sense of moral rectitude. Lawyers and agents have instructed them in the art of getting up a case. The lands, also, that remain under Native tenure have year by year greatly increased in value owing to the development and progress of the colony, thus offering greater prizes to their cupidity. These and other considerations have had the effect of causing the present generation of Maoris to contest the title to every block in a keen and unscrupulous manner entirely unknown in former days. I am inclined to think that the principles of strategy and treachery which in olden times were constant elements in their warfare are still employed by modern Maoris in another form to gain possession of land belonging to other people. These practices not only increase the difficulty of the Court, but tend greatly to lengthen its proceedings, so that cases now occupy as many weeks or months as days formerly. The effect upon the Maoris themselves is injurious in the extreme—their time is wasted, their money squandered, and their health in many cases ruined. Numerous deaths amongst the Maoris, both old and young, are directly traceable to their manner of living while attending protracted sittings of the Native Land Court." I may here mention that, of course, six years ago the Natives were not so temperate in their habits as they are now.

Mr. Rees: Things are as bad now in some cases.

Mr. Carroll: But, still, there has been a marvellous change.

Mr. Lewis: Yes. There has certainly been a wonderful change in that respect. "For some time past the Maoris themselves have been greatly dissatisfied with the Court, and they have forwarded numerous letters to the Government and petitions to Parliament on the subject. This year their representations have been stronger than ever before. As all Native petitions to Parliament are referred to me for report, the subject has been prominently under my notice, and, although I have always devoted considerable thought and attention to the Native Land Court, the scheme I am about to propound only occurred to me a short time ago. It does not, however, differ materially in principle from many previous proposals, though it has never, so far as I am aware, been suggested in the same form. As to the petitions and complaints of the Natives, there is no doubt that most, if not all, their grievances against the Court are the result of their own fault, and that if they would only bring before the Court truthful evidence relevant to the cases under investigation, and then assist the Court in arriving at a right conclusion, the machinery provided is ample to do them justice, and well adapted to the end. But—and I would respectfully call attention to the importance of this point—the Native Land Court is peculiar in this: that it has rarely, if ever, any independent testimony before it, the evidence being that only of the claimants and counter-claimants themselves. Under such circumstances it is hardly to be expected that truthful evidence will be given. The witnesses have every inducement to state only what is in their interests, irrespective of whether it is false or true; and I have heard so much from those whose opinions on the question were of great value of the disregard for truth Natives have under such circumstances that I consider the evidence produced before the Land Court is in most cases likely to be extremely unreliable. Of course the Judges are gentlemen of knowledge in weighing evidence; but it must be remembered that, besides the skill and experience the Maoris have acquired in the conduct of cases before the Court, they obtain the assistance, at heavy cost, of legal gentlemen of special ability, who know exactly the facts that have to be proved to enable the case to be won; and the Natives have no difficulty in bringing forward witnesses to state what is desired. Moreover, the evidence upon which Native land title usually rests is of facts strange to all English ideas of law, and generally relates to battles, murders, occupation of land, or other events which happened many generations ago, the accounts of which have been handed down by tradition more or less reliable; and sometimes acts of the grossest treachery, according to our ideas, form the basis, according to Maori custom, of a good title. It must be apparent, therefore—when it is remembered (1) that the witnesses are directly interested in stating only what suits them; (2) that the evidence they give, as a rule, relates to traditionary events, or genealogy, or other matters of old date; (3) that they know exactly

what they have to prove—that any ordinary Court of English constitution, which has to be guided to its decision by the evidence before it, must be placed in a position of the greatest difficulty in arriving at a true judgment. There is one other feature in the present practice of the Court to which I will refer, as the plan I propose will, I think, tend to remedy the evils connected with it. When a Court is about to sit a notice is issued giving a list of the claims which have been sent in, and which are set down for hearing at that particular Court. This list usually contains a large number of cases. The Natives interested in any of the cases assemble at the date fixed, and wait for their case to come on. Perhaps the first one called may last for weeks or months, and during that time the Natives having other cases wait on, afraid to leave lest their case should be brought on in their absence. It has often happened that numbers of Natives have attended Court for months without the cases in which they were interested coming on for hearing. As Land Courts are frequently held in towns, the Natives who are attending them often become involved in debt, so that when their title is obtained their land has to be sold to pay the debts and expenses they have incurred while attending the Court. Recently the Court in some places has attempted to remedy this by fixing days for taking certain cases; but this plan, seeing it cannot be known beforehand what length of time any case will take, can only rarely be adopted, and is open to many objections. One of the chief recommendations, in my opinion, of the plan I propose is that it can be made purely tentative, can be limited or extended as desired, and that if it is not found to work it will not have cost anything in its operation. If it does good it will unquestionably be of great advantage, and if it does not succeed it will do no harm, but simply leave matters as they are. The scheme is this: To announce to the Natives that they can, by runanga meeting, composed, if possible, of all the Natives interested in the land to be dealt with, held in any way they think fit, and at any time and place, and at their own cost, settle amongst themselves the title to any extent of country or block; that the Government will assist them in so doing by advertising their meetings in the *Kahiti*, and sending out notices by post, these advertisements and notices giving the locality and description of the land to be dealt with in such a way that it can be recognised by the Natives." I should say here that I adopted the term "runanga meetings" because I did not know any other term that would apply.

Mr. Rees: We have also adopted the same term, Mr. Lewis.

Mr Lewis: I adopted it because it would apply to meetings held in the Native settlements. "The Runanga to have liberty to settle either the tribal title or subdivide into blocks, giving the names of all the owners, and in what proportion—to individualise to any extent, in fact, making whatever division of the land they may be able to do. These divisions can be made before survey or after, as they may think fit. If survey is required the Native claimants must pay the cost, or the Government might pay the cost and hold a lien on the land. Landmarks, should, however, in any case be placed upon the ground, showing any divisions made by the Runanga. When the Runanga has arrived at what it considers a satisfactory conclusion as to the title to any block, the result of the investigation should be forwarded to the Native Land Court or to the Government, and advertised in the *Kahiti*, and otherwise publicly notified amongst the Natives for, say, three months. If within that period no objections are made the title as ascertained should be ratified by the Native Land Court, and a certificate issued as though the Court had itself given judgment in the case. If any points were obscure the Court to make such further investigation before making an order as it might find necessary, but the unprotested judgment of the Runanga to be adhered to as far as possible. If numerous or serious protests were received against the decision of the Runanga the decision to be quashed and declared void, the intention being that the Runanga should continue its work until it had arrived at a decision which obtained the concurrence of all concerned. I believe it would be found that a sound judgment, carefully arrived at, would not be appealed against. My idea is that the Runanga system of investigation should go on concurrently with the Land Court, so that Natives could adopt the one system or the other as they thought fit; the Court, however, having no jurisdiction over any land notified as under investigation by the Runanga, and, on the other hand, the Runanga should not have power to deal with any land advertised for hearing before the Court. It would be of great advantage that entirely friendly relations should exist between the Court and the Runanga, and the Court being made the ratifying authority of the Runanga's proceedings would, I think, tend to bring about this desirable end. To avoid any locking-up of the land under this system without the title being determined, it might be arranged that if the Runanga did not settle the title satisfactorily in a reasonable time, upon the application of any Natives the claim to any block could be heard and decided by the Land Court in the ordinary way. I need not at present go into further details of the scheme, but will proceed to state what I consider some of the advantages of it. There is no doubt that the Natives are becoming more and more antagonistic to the Land Court, and some influential chiefs have threatened to prevent lands being brought before it. As I have already said, this antagonism is unreasonable, and the grievances of which the Natives complain arise in most if not all cases from their own action, and not from any fault of the Court. It is a matter of the utmost importance to the Natives themselves and to settlement that the Native title should be determined, and any growing dissatisfaction of the Natives with the Court must be attended with serious injury to the progress of the colony. Some alteration of the present system is, I think, likely to be forced on the Government by the Natives unless the initiative is taken and a reform proposed. I believe the plan I propose would be regarded with favour by the Natives (1) because it accords with their ancient customs; (2) it gives every man and woman interested in the land a voice in the council which determines the title; (3) it will restore to the chiefs some of their old influence of which the Court has tended to deprive them—in other words, in a Runanga each Native chief or other member, and any statement made, will be much more likely to be appraised at a true value than in the Native Land Court; (4) the Runanga will not offer so strong an inducement to false evidence, and if false statements are made they will be more readily detected." I should like to make a remark in connection with that. I have heard of several cases in which a Native chief of high rank has been giving evidence before the Court, and because he is put under cross-examination by a man whom he considers to be very

inferior to himself, and required to answer questions which he regards as insulting, he has indignantly left the Court, thus depriving it of evidence material to the case. All persons appearing before the Court stand necessarily on an equal footing; but, knowing as I do the strong feeling of rank entertained by old chiefs, I consider that in the Runanga an old chief's susceptibilities would not be so likely to suffer, and in my opinion the truth would be more likely to prevail. "It has been repeatedly urged during the recent debate on the Native Land Disposition Bill that the remedy for many of the grievances of the Natives would be the individualisation of their title, and that this would also tend to promote the general settlement and progress of the colony, and the prosperity of both races. This can be readily admitted as a theoretical proposition, but I venture to say—and any one acquainted with the subject would confirm the statement—that under the present system, and at the rate of progress now made, it would take very many years to individualise Native title in the Native Land Court, owing, as I have already pointed out, to the way in which nearly every claim is contested. I have not mentioned the subject of applications for rehearing, which are becoming more numerous every year. The longer the time a case has occupied, and the more care devoted by the Court to its investigation, the more certain it apparently is that an application and agitation for rehearing will follow. I think this unsatisfactory state of things would be remedied by the system I propose. It is also my opinion that the scheme proposed would tend to facilitate subdivision and individualisation of title by the Court, and would bring the Natives into harmony and sympathy with the Court, instead of their present antagonistic and dissatisfied state of feeling with regard to it. In conclusion, I would remark that it may be said that the Natives have at present power to do all that I propose, and that the Court would gladly ratify the unanimous decision of the claimants as to the title of any block. This I am aware of, and it is the fact that the most satisfactory decisions of the Court have been in cases where the Natives themselves have agreed as to owners, which proves to my mind that the principle of leaving the Natives to settle amongst themselves the ownership of land could well be extended in the manner I have pointed out." This memorandum was written by me nearly six years ago, the date attached to it being the 15th August, 1885. Although many blocks have since then passed through the Court, yet I think that the larger blocks, which are now in an extremely unsettled state, would possibly have been satisfactorily settled under such a system as this. Six years' additional experience rather strengthens than weakens the convictions which I held when I wrote that memorandum.

2036. *Mr. Rees.*] I was going to ask you if you have had any reason to recall any portion of that argument?—I think not.

2037. You have been strengthened in the solidity of your argument by what has taken place since?—I think I have. In replying to this last question, I would say that I believe the scheme could with the greatest possible advantage have been applied in such districts as the Rohe Potae, where the Ngatimaniapoto Tribe could have arrived at such a settlement as would have been satisfactory to all concerned. It would also have worked well in the Taupo district, where the Ngatituwharetoa Tribe could have so dealt with their lands. The hearing in connection with the Rohe Potae Block commenced on the 28th July, 1886, so that it has been in progress about five years, and, for the practical purposes of dealing with it, it is but little advanced; whereas, I think, if it had been dealt with under such a plan as I have mentioned, the title could have been ascertained, and comparatively without cost to the Natives, in one-quarter of the time.

2038. And without cost to the country?—Yes. I should like to add in connection with this memorandum that it is evident that the whole success of such a scheme would depend entirely on the Natives themselves. The advantages and inducements it offers them to be fair and to endeavour to arrive unanimously at right conclusions are so great that I think they would override any temptation to mere cupidity and selfishness. For instance, in respect of a valuable block of land, the Natives know what would be the cost in attending the Court in connection with it. They know that there would be the Court fees to pay, and that the expense of attending the Court and the costs of the agents must swallow up a very considerable proportion of the monetary value of the land. Under this scheme of mine they have the whole matter in their own hands, and would be enabled to make such a division as all would be satisfied with—each one getting what he was fairly entitled to—while it would cost them practically nothing at all. That inducement of itself being so very great, I am of opinion that if the scheme was properly explained to the Natives, by some one who was interested in seeing it carried out going among the Natives and urging them to endeavour to give effect to it, and if they fell in with it, and consented to take it up, it would lead to the ascertainment of their title in a very short time. There is this other advantage that might be mentioned: There would be no question then of lands not being able to be dealt with by the Court, because the Natives in the different districts could deal contemporaneously all over the country. And, moreover, I might add that I suppose no people who ever existed have been so capable of dealing with their lands judicially, and of perceiving and arriving at conclusions respecting them, as the Maoris themselves. In my opinion, it is an occupation that would be extremely congenial to them.

2039. *Mr. Mackay.*] There is no doubt about that?—In the course of my experience as a land-purchase officer I have had occasion frequently to have large meetings of the Natives, at which every person interested in the title had a right to be present and to speak; and I have found that, whether it was a man or woman, young or old, they were all capable—and highly capable, too—of conducting their own business and of looking after their own interests; and I think they would be found equally so in arriving at questions of title under this scheme. I hope I do not weary the Commission?

2040. *Mr. Rees.*] Certainly not. What we want is to get information of different lights and different shades on the subject committed to us for investigation?—One other advantage of this scheme which I think would tend to make it successful is this: that the majority would not be tempted to oppress the minority, or the minority to prove obstructive, because the whole result of their time and labour would be thrown away if the decision was not fairly unanimous.

2041. *Mr. Mackay.*] It would stop all these cases of perjury?—I think so. When, at the request of the Native Minister, I submitted this memorandum some few months ago, Mr. Cadman requested me to put it into practical form. I have not got his minute with me, unfortunately. That is to say, I was to take a piece of Maori land, and propose rules by which it could be carried through under my system to a Land Transfer title. That I have endeavoured to do, and I shall now read the result to the Commission. It is in the form of rules.—"(1.) Any Natives being owners according to Maori custom or occupiers of Native land which has not been before the Native Land Court may send in an application to be allowed to ascertain the title by inquiry in Runanga. (2.) Such application shall give the name or names by which such land is known, and describe its boundaries. Where the boundaries are not natural features, such as ranges, streams, or other boundaries easily recognisable, unmistakable landmarks should be placed. (3.) Applications should be signed by not less than adult Natives, whose signatures must be duly attested by a Justice of the Peace, Resident Magistrate, Postmaster, or schoolmaster. (4.) Applications to be addressed to the Chief Judge of the Native Land Court, Wellington. (5.) Applications should state place and date proposed for first meeting of Runanga. The date should not be earlier than one month from the sending-in of the application. (6.) The Chief Judge may alter date should he consider a longer notice necessary. (7.) If the Runanga is not able to meet on the date fixed, it shall not therefore lapse, but may meet and proceed to business on such other subsequent date as may be found convenient. (8.) All persons claiming any interest in the land shall have an equal right to be present at any meeting of the Runanga, and be entitled to speak and vote. (9.) Twelve adult members shall be a quorum. (10.) A Chairman shall be elected at the first meeting of the Runanga, who shall have an ordinary as well as a casting vote at all meetings. (11.) The Chairman shall be the medium of communication between the Runanga and the Native Land Court or the Government. (12.) All notices of sittings or adjournments of the Runanga to be published in the *Kahiti*. (13.) The notification of the first meeting of the Runanga shall fully describe the land which is to be adjudicated upon, and shall state the time within which the Runanga shall be required to report its decision. (14.) The time within which the Runanga shall be required to report its decision shall be fixed by the Governor. (15.) If the Runanga has not come to a decision at the time fixed, application may be made to the Governor for an extension of time, which may be granted or refused by the Governor. (16.) If the Runanga cannot agree upon any report as to the ownership of the land under investigation within the time fixed under clauses 14 and 15, the Chairman shall report to that effect to the Chief Judge, who shall thereupon notify in the *Kahiti* that the land is subject to adjudication by the Native Land Court in the ordinary way, as provided by law. (17.) The decision of the Runanga shall be forwarded by the Chairman to the Chief Judge of the Native Land Court, who shall advertise it in the *Kahiti*. (18.) Any objections to such decision shall be forwarded to the Chief Judge in Wellington within three months of the date of publication of the decision, stating reasons in full for same objection. All signatures to objections must be attested by a Justice of the Peace, Resident Magistrate, Postmaster, or schoolmaster, and any objection the signature to which is not so attested shall be null and void. (19.) Objections shall be dealt with by the Chief Judge in the same manner as applications for rehearing of cases adjudicated upon by the Native Land Court. (20.) If objections are sustained the Chief Judge may declare the proceedings of the Runanga quashed and the land open for investigation by the Native Land Court in its ordinary procedure, or the Chief Judge may refer the decision back for reinvestigation by the Runanga. (21.) Costs may be given by the Chief Judge against the Runanga or against the person or persons appealing, and such costs may be registered against the interests in land of the persons against whom they are given." My object in drafting this clause is to protect both sides from oppression or unreasonable obstruction, and to make the Natives really feel their responsibility in the matter, and to lead them to act in good faith. "(22.) The Runanga may investigate and decide on all the following matters, or may limit its investigation and decision to the first one or more: (*a.*) The tribal or hapu boundaries, with the names of the tribe or hapu entitled to the land under investigation. (*b.*) The names of the persons entitled as owners, with their relative shares. (*c.*) The family or individual shares. (*d.*) The location of the family or individual shares. (*e.*) The portion of the block to be vested in Her Majesty in satisfaction of any lien which the Crown may have upon the land. (23.) If no appeal is made against the decision of the Runanga, effect shall be given to it by the Chief Judge of the Native Land Court making an order therewith, which order shall have the same force and effect as an order made after investigation by the Native Land Court." I would like to interpolate here that it will thus be seen that, supposing the Natives have arrived at a decision as to the title, and have carried that decision even to individualisation if they like, and they are unanimous in so doing, the title will become a Land Transfer title, without the block, however valuable it may be, or however extensive the investigation, costing them any more than the expense of meeting amongst themselves. "(24.) On application being made to the Surveyor-General by the Chairman of the Runanga for any survey, sketch-plan or completed map of the land under investigation by the Runanga, such survey, sketch-plan, or map shall be supplied, and the cost thereof paid in the first place by the Government. (25.) The cost, to be fixed by the Surveyor-General, shall be a lien against the land under investigation. (26.) Land in satisfaction of such lien to be given within months after service has been performed, and such land to be valued by the Surveyor-General, and to be set apart in a locality to be approved by him. (27.) Any objections to the valuation of the Surveyor-General must be made within three months after the land has been set apart. Such objections to be forwarded to the Chief Judge of the Native Land Court, who shall investigate them in such manner as he may think fit, and decide thereon, and his decision shall be final and conclusive. (28.) Land set apart for payment of survey or other charges to be declared vested in Her Majesty, and an order to that effect shall be made by the Chief Judge. (29.) No lawyer or agent shall be allowed to be present at any meeting of the Runanga, and any person not claiming an interest as an owner of the land under investigation who shall refuse to leave after having been requested to do so by the Chairman of the Runanga shall be liable to a penalty not exceeding £5

for each such offence, to be recovered summarily by proceeding before a Resident Magistrate or two Justices of the Peace. (30.) Such expenses of the Runanga as the Chief Judge may approve as necessary to the investigation may be made a lien upon the land investigated, and the Chief Judge shall direct accordingly." Of course I do not propose to say that these clauses are sufficiently perfect, but they generally sketch out, I think, the whole of the proceedings. I think it would be found that some such scheme working side by side with the Native Land Court would tend to facilitate the operations of the Court. For instance, those Natives who might not feel disposed to bring their lands under the scheme for settlement by the Runanga would be more ready to bring them before the Native Land Court and to press them on to a decision, in order to demonstrate that the Court was the best tribunal for the purpose; and, on the other hand, those favourable—assuming the Natives were favourable—to the system of inquiry which I have indicated would have an interest in showing that if trusted they were worthy of such trust, and would endeavour to make the scheme a success. What really we desire to arrive at in connection with the ascertainment of the Native title by any scheme that may be devised is reasonable speed in arriving at decisions, which cannot be said to be the case at present, and finality in the decisions when they are arrived at, which also does not exist now; and also—which is of the utmost importance—that every decision should declare at the earliest time possible the relative interests of all the owners in any block of land investigated.

WELLINGTON, 13TH MAY 1891.

Mr. THOMAS WILLIAM LEWIS (examination continued).

2042. *Mr. Rees.*] When the Commission adjourned yesterday afternoon, Mr. Lewis, you had just finished one portion of the subject you were dealing with, and we understood you to say that there were some other points with which you wished to deal before we proceeded to ask questions?—Yes. I do not exactly remember the point at which I left off. I think, however, I left off yesterday by expressing the opinion that the object we desired to attain was reasonable speed in arriving at decisions by the Native Land Court, and that there should be a declaration by the Court at the earliest possible stage of the proceedings of the relative interests, and that, furthermore, there should be finality in the judgments and orders of the Court. I could enlarge upon each of these points, and submit illustrations of the difficulty in which the Government and, much more, private purchasers are placed in the purchase of land before the relative interests are declared. For example, in respect of the Rohe Potae, a large block in the Waikato, which, as the Commission is aware, the Government and the public have been most anxious to acquire for settlement, although the Court has been sitting on that block for about five years, yet in comparatively few of the cases are the relative interests determined; and the Land Purchase Department finds itself in this difficulty: that when interests are bought the non-sellers immediately turn round and say, "Oh! the shares you have bought are simply those of persons admitted through *aroha* (love), and they have really but little interest in the land." It is obvious that the only way in which the Government can deal with a block of land before the relative interests are determined is by the assumption, unless in exceptional cases, that the interests are equal; and what I have mentioned will show the immense importance to every purchaser of Native land, both as a matter of security to the purchaser and of justice to the Natives, that the Court should, in giving its decision, declare the relative interests of the owners.

2043. *Mr. Carroll.*] Or, would you put it in this way: that the relative interests should first be defined before any sale was permitted?—That I should be quite prepared to concede if it were not for the delay that would thereby arise in the acquisition of land for settlement. The Commission is aware that the Land Purchase Department of the Government has been pressed by the public to acquire lands for settlement, and the department is met by the difficulties in the title. When the land has passed through the Court, and the owners are ascertained, the Government have considered it inadvisable to wait for the ascertainment of the relative interests, as possibly a very long delay might occur, and have proceeded in several cases to purchase land; but a risk is thereby run which is obviously unsatisfactory to the department purchasing.

2044. And to the Government?—And to the Government. I may say that generally, in the purchase of large blocks, when the cases have come before the Native Land Court for partition the matter has come out fairly satisfactory, but not so satisfactory while the purchase is going on as it would be if the relative interests were known, and each person was dealt with according to the value of his interest.

2045. *Mr. Mackay.*] The interest to be defined afterwards?—I mean that if the relative interests are determined beforehand then you know what you are buying, but if they are not determined you do not know for certain what the interest is that you have acquired until the Native Land Court has determined it. I may illustrate what I mean by stating what is done. We will suppose we are dealing with a block in which there are, say, five hundred owners. In the purchase of that block, speaking generally, the Crown has to assume that the owners hold in equal shares. The purchase goes on until, say, two or three hundred or more interests have been acquired. When the Crown desires to realise, as it were, upon its purchase, it applies to the Native Land Court to cut off an area equivalent to what, in the opinion of the Court, the Crown has acquired.

2046. *Mr. Carroll.*] I understand you to suggest this: that it would be better if the relative interests were first defined before any sale proceeded, or any purchase?—Undoubtedly, if it were not for the delay,

2047. But the Government cannot stand the delay, and, as it cannot stand the delay, that, no matter what purchases it may have made, whether they be large or small, they should be taken on the basis of equal shares?—That is the general rule laid down when the purchase is started. There are exceptions.

2048. The question arises whether that would be satisfactory to the Natives. Of course it

suits the Government right enough?—Any one acquainted with the purchase of Native land knows that the shares are not necessarily equal, and it is obvious that you may pay more or less than you ought for them on the basis of equal shares; but it would be really making the land-purchase officer a Court to decide the relative interests if we made a difference in respect of each share purchased.

2049. *Mr. Rees.*] Is there any criterion by which the Native Land Court can judge of the relative interests?—Yes; I should say the same kind of evidence that decides the question of ownership would enable it to decide the question of relative interests.

Mr. Mackay: In the case of the Government taking land under the Public Works Act, the Court awards a sum *in globo* for the damage, and then makes award not only for the sum, but for the proportions.

2050. *Mr. Rees.*] I am asking if there is any rule by which the thing is done. Is there anything beyond the mere arbitrary decision of the Court as to what is the individual interest?—I should say that the whole principle under which the Court acts is bound to be more or less arbitrary. I take it that when colonisation started in New Zealand we found the Maoris holding under a tenure of their own, which was the right of the strongest, and which was liable to be shifted and altered from time to time. With that right, there was undoubtedly the right of the chiefs to give away large tracts of land, and then possibly those who had the strongest claims were those who were the strongest and best able to hold them; and the introduction of the law which clothed the Maoris with a title, and which started upon the assumption that every Maori in New Zealand owned land, compelled the Court necessarily to act more or less arbitrarily in its decisions. Starting with the assumption that the object of the Court is to clothe the land with a title that will enable it to be dealt with, you are met at once by the necessity for deciding the relative interests to enable the proceeds to be properly divided amongst those entitled to participate in them. That division may be, and probably must be, a more or less arbitrary division, governed as far as it can be governed according to Native custom by principles of equity. What I wish to make clear is this: that when the Native Land Court has gone the length of declaring that a certain block of land is owned by five hundred persons, it has done comparatively little that facilitates the acquisition of it by purchase, unless it declares, in the judgment of the Court, according to the evidence before it, the relative interests; or, in other words, in what proportions these five hundred people should receive payment for the land.

2051. That supposes the individual right of each?—You open up by that remark a rather large field of inquiry, in this way: There may be persons who have occupied and cultivated the land, and who have done so from time immemorial. The basis, as I understand, upon which the Native Land Court goes in the ascertainment of title is this: The Court considers that when New Zealand became a British colony in 1840 that fixed the title of the Natives at that time; so what the Court sets itself to inquire into is, who were the owners of the land, according to Native custom, in 1840; and it is those owners, or the descendants of those owners, who are entitled to be declared by the Court to be the owners at the present day. In point of fact, the title is not assumed to have changed since that time. This is the point I was coming to: There may be, therefore, persons who were owners according to Native custom in 1840, but since then they may have had visitors amongst them, or others who were admitted as having a certain right in the land, and who were admitted by the Natives themselves under what is known as *aroha*. Now, those persons who may be admitted into the title through *aroha* are rightly considered by the Maoris to have a much smaller claim than the persons who own otherwise according to Maori custom, and that is a class of cases where the Court will, having admitted, at the request of the Natives themselves, a number of names through *aroha*, subsequently say that these persons so admitted have only infinitessimal claims.

2052. *Mr. Carroll.*] Excepting in a very few instances, according to my understanding of Maori law, there was no actual individual ownership. There were family holdings, and many family holdings made up one large tribal holding. One family might own a larger portion of the tribal territory than another family or hapu. We will take, for instance, a portion of the Wairarapa—the block called Ngawakaakupe. This is a block containing about 60,000 acres. Although the whole of the Wairarapa hapus formed into a tribe to protect all their respective estates within the tribal boundary, still they always acknowledged that this block belonged to the section called Ngatihikawera. That has been admitted by them in Court, with the exception of a few claims along the borders—claims for inclusion into the portion along the boundary. As, therefore, that hapu was too weak in itself to hold its property against any invading party, still, in confederation with the other hapus, who had also holdings to protect, they formed a tribe to resist aggression from outside. But still, in subdivision you find one hapu owning a larger piece of land than another hapu. All the adult members of that family would share equally, excepting where some of their relations have intermarried into other families, and have not been constantly lighting fires on the land, but coming back occasionally and rekindling fires at intervals. They would be still, according to Maori opinion, those who had weak claims, and their proportion of the hapu estate would necessarily be small?—Quite so. I would remark that I quite agree with what Mr. Carroll has said, and that is what I meant by saying that the Native Land Court, in deciding the ownership, should at the same time decide what those differential interests were.

2053. If you push the question further, and say, What is the exact area to which each individual was entitled? there is no answer to it?—But when the land is being dealt with, and you are apportioning the purchase-money, it becomes necessary to have an authoritative decision as to what the relative shares of the owners are.

2054. *Mr. Rees.*] In relation to the Native Land Act of 1865, which introduced ten people into the ownership, was there anything like individual dealing in Native land in New Zealand? Was it not all done by the chiefs of the tribe?—So far as I am aware, it was.

2055. Then, the processes of our statute law have compelled this distinction of the individual ownership?—Undoubtedly. I think that I will reserve anything further for what might be

suggested by the questions that are asked me. I do not remember just now that I have anything special to say, although something additional may be suggested by your questions.

2056. In relation to the Government purchases in the Rohe Potae, are they not, for all practical purposes for getting land for settlement, pretty well at a standstill at the present time?—Not exactly so. Within the last month the Government have under offer large interests that are simply waiting the exact area to be ascertained in order to enable the purchases to be completed. The purchases are practically made.

2057. What is the extent of the land—approximately, I mean?—I think, when the surveys are completed under these proposals, about fifteen or twenty thousand acres will be at once acquired. Of course, it is a small area as compared with what the Natives there hold, but still it is a substantial breaking of the ice, and will probably lead to the immediate acquisition of other large blocks.

2058. As regards the working of the Native Land Court, have you found, while in the Native Office, that for the last ten or fifteen years the Natives have been making complaint of the working of that Court?—Yes. These complaints are made generally by petitions to Parliament, or by appealing to the Government. The complaints, I may say, generally come from disappointed suitors before the Court.

2059. *Mr. Carroll.*] Naturally?—And in that connection I may say that the Natives have not been sufficiently led to regard the decisions of the Court as final.

2060. *Mr. Rees.*] They do not so regard them?—No; the process usually being, when the decision is given, to apply for a rehearing, and, on the rehearing being refused, or the rehearing adjudication proving unsatisfactory to certain individuals, petitions are then addressed to Parliament for a parliamentary hearing to be granted, and, such hearing having been granted in certain cases, of course it has opened the door, at different times, for a large number of petitions.

2061. Has the Native Land Department had to interfere at all so as to expedite the settlement of claims—to push the Court on, I mean?—The Native Land Courts are recognised to be absolutely independent of the Government.

2062. *Mr. Carroll.*] They are recognised, or they are, which?—They are recognised by the Government, I should say, to be absolutely independent of Government interference, and, so far as I can remember, there has been no interference with the Native Land Court by the Native Department that in any way trenches upon the judicial functions of the Court, as laid down by statute. Applications, of course, have frequently been made to the Government to cause Courts to sit in particular localities. Where, for instance, the Court has been fixed at one place, strong representations have been made that that place was unsuitable, and that, in the interests of the Natives, it should sit somewhere else. In these cases the department has invariably replied that it was a matter that had been placed by the law in the hands of the Chief Judge for decision, and that the application had been forwarded to the Chief Judge. I am aware that the idea has existed that the Government has at different times interfered with the Native Land Court; but, so far as I am aware, that idea is really without foundation. Does this meet what you wanted to know?

2063. Yes. I wanted to know whether the Native Department had made representations to the Native Land Court with the view of expediting the work of the Native Land Court in the ascertainment of title?—No; the Government, so far as I am aware, and the Native Department, have felt themselves powerless in the matter. Any such representation might be regarded as an interference with a judicial tribunal.

2064. Does the Native Department keep any record independent of that kept in the Native Land Court of the areas and the amounts of land the titles to which are determined?—No. The Native Land Purchase Department, of course, keeps itself informed as far as it can, and, as it is, of course, in frequent communication with the Native Land Court in connection with blocks investigated or requiring investigation—that is, blocks which the Government wish to acquire—it does not record the work done by the Native Land Court.

2065. Have you any idea what the expenses are per acre in acquiring Native land—the mere expenses, I mean, not the cost of the land itself?—In point of fact, the expense of the Land Purchase Department?

2066. Yes?—The expenses per acre of the land acquired?

2067. Yes?—I can supply you with an exact return of the expenses: they will be found to be small in proportion to the land acquired. The Land Purchase Department at the present time is a very small one. I am in charge of the office, and I hold that position in combination with the Under-Secretaryship of the Native Department. There is a clerk and accountant, and there are two land-purchase officers. That comprises the whole of the present staff.

2068. Then, how are the surveys paid?—The surveys are in a great number of cases paid by the Crown, and become a lien on the land, and practically part of the purchase-money. In my opinion it is a very satisfactory way by which the Natives can get their lands surveyed, and by which also the Crown may acquire land, because a portion of the block can always be cut off to meet the cost of survey. This was largely done in the case of the Tauponuiatia Block.

2069. That is the large block near Lake Taupo?—Yes.

2070. Is that return for which Mr. T. K. Macdonald asked in the House last session completed yet?—The preparation of that return chiefly appertains to the Survey and Crown Lands Department. The portion relating to the Land Purchase Department is ready to be supplied at any time. Inquiry has been made respecting that return, and I believe it will be ready early in the session.

2071. Has the Government ever made any attempt to assist or encourage Natives to take up land for themselves and settle upon it, in the manner of Europeans on Crown lands?—No, no systematic attempt. I have long been of opinion that such a course would be extremely advisable, and in many cases where individual Natives have applied for land I have written to them, by direction of the Native Minister, suggesting that they should place themselves in communication with the

Crown Lands Boards, and, in fact, put them in the way of getting land under the ordinary land-laws. While I have written these letters on frequent occasions, there has been no systematic endeavour made to induce the Natives to take up land under the Crown lands regulations. I am certainly of opinion that it would be a very wise thing to do.

2072. And even lands belonging to themselves?—I was going to say that in the Opotiki district I am aware of some few cases in which the Natives have taken up land. An old chief, named Hira te Popo, took up, if I remember aright, three or four sections at different times under the ordinary Crown-lands law. What was your further question, Mr. Carroll?

2073. That in respect of lands held by themselves, where they have not parted to the Crown, do you know has any attempt been made to get them to cut up those lands and settle upon them under a farming system?—Yes, there has. For instance, my theory for the purchase of Maori lands is that in all cases of land-purchases liberal reserves should be made, and in the reserves made the land should be granted to families or to individuals—that is to say, the title should as nearly as possible be assimilated to our own. I may instance the Waimarino block, and purchases in the Mangatainoko Block, where reserves of 50 acres each were made and granted to the Natives under instructions from the Hon. Mr. Ballance, when Native Minister—land very suitable for farming purposes. In the purchases also in the Rohe Potae, the original scheme of purchase was that 10 per cent. of the land should be made reserves for the Natives and granted to them. All that would go in the direction of giving them individual titles, and also land that could be used for farming purposes.

2074. But there has been no special Native-settlement scheme, as a policy, inaugurated on the part of any Government?—Not since the ordinary military settlements, in which there were one or two Native companies; but, speaking generally, neither the Native nor European military settlers proved successful settlers.

2075. It was only in places like Poverty Bay and the West Coast that any success attended that scheme?—Quite so; and one or two successful settlements in Waikato.

2076. *Mr. Mackay.*] Of course the percentage of land reserved would be according to the relative proportion of the number of individuals to the acreage, and quality of the land?—In the reserves?

2077. Yes?—No; in the cases I have mentioned the proportion would depend upon the area acquired by the Crown from the vendors—that is to say, if the individual interests acquired were 500 acres, the individual, under the 10-per-cent. system, would get 50 acres. I may say that the advantage, to my mind, of offering 10 per cent. was not only that it afforded provision for the Natives who had sold to the Crown, but that it offered them an inducement not to undervalue their interests after they had sold them.

2078. And was that 10 per cent. made absolutely inalienable?—Speaking generally, yes; except that under the law at present there is no such thing as absolute inalienability.

Mr. Mackay: Of course it is liable to be removed by application to the Native Land Court or the Government.

2079. *Mr. Carroll.*] In purchasing interests for the Crown in one of these blocks, is the transaction, on behalf of the Crown, and all the documents connected therewith, submitted to the scrutiny of the Trust Commissioner?—No: the law does not require it.

2080. *Mr. Rees.*] Not in relation to Government purchases?—No.

2081. I did not know that that was the case?—Yes, it is so. It would hardly arise out of the question, but my opinion is that the Native Lands Frauds Prevention Acts, which were certainly passed for the protection of the Maoris, have inflicted serious loss upon them—and for this reason: The Native Lands Frauds Prevention Acts require that after a person has paid his money his title is not complete until it is passed by the Land Frauds Commissioner. Consequently, in addition to the land duties and the other expenses that are really deducted by the purchaser from the price of the land paid to the Maori, the purchaser would necessarily allow himself a very liberal assurance fund to cover the risk of the result of the inquiry before the Frauds Commissioner; and I think it will be found—the returns certainly that have come before me establish it—that lands are purchased from the Natives at very much below what would be the value of similar land in the hands of Europeans. And I consider that the Frauds Prevention Acts have certainly the effect of reducing the price of the land of the Maoris and so of depriving the Natives of at least 25 per cent. of the monetary value of their land.

2082. *Mr. Carroll.*] What is the risk, Mr. Lewis, that causes that depreciation of 25 per cent.?—The risk is this: that the purchaser has not got a title, although he has paid the whole of his money, until his deed has passed the Trust Commissioner.

2083. *Mr. Rees.*] And the Trust Commissioner may send it back?—And there is the possibility of the Trust Commissioner withholding his certificate. In fact, I would go further, and say that I think that in ordinary transactions with Europeans it would be a thing unknown for the purchaser to pay the whole of his money and yet to have an uncertainty in the title. I think, moreover, that, generally speaking, the fact that in every case that goes before the Trust Commissioner the money has already been paid—that the purchase is practically complete—does not tend to make the Trust Commissioner's investigation all that it might be, supposing it was made before the money was parted with. My experience of the various Frauds Prevention Acts is that they in no way protect the interests of the Natives, because the ordinary law would enable the Maori to recover in case of any fraud, and the effect of keeping the title open until the Trust Commissioner's certificate is obtained is injurious and oppressive to the European, and in the case of the Maori leads, in my opinion, to the loss of at least 25 per cent. of the value of his land. The one important thing to be secured is that the Maori should not denude himself of his land; and this, I think, could be attained by the issue of a certificate from the Native Land Court that the Maori had sufficient other land for his maintenance than the portion which he proposed to deal with, which certificate could be shown to the purchaser, who could then proceed with the purchase under the ordinary laws. Some such provision would, in my opinion, be a great protection to the European purchaser, and very highly beneficial to the Maori by enabling him to secure a better price for his land.

2084. Then, the fault, to your mind, is this: that the Trust Commissioner does not conserve the interests of the Maoris, because he is only too ready to put his certificate on a deed?—I do not wish to make any reflection on the Trust Commissioner. On the contrary. But I take it that the Trust Commissioner, with the fact before him that the purchaser has in good faith paid the whole of the purchase-money on a valuable block of land, would feel himself bound by that fact in a way he would not be if his inquiry was altogether preliminary to the payment.

2085. What is the risk that the purchaser contemplates under the hands of the Trust Commissioner which causes him to pay a lesser sum for the block of land than he otherwise would? Is it the risk of a close scrutiny or not?—No; but you can conceive of cases where a man who had received all his money for a piece of land could go and declare before the Trust Commissioner that spirits or ammunition had formed part of the payment. That would invalidate the deed. He might, as the law stands now, say that he had no other land, and thereby put the purchaser to considerable difficulty in proving that he had. There could, I think, be no difficulty in proving that the price of Maori land sold to private individuals is very much less than would be realised by the same land sold by Europeans.

2086. Certainly their money goes, and you think this is to some extent due to the process of appearing before the Trust Commissioner, and the risks attendant upon that?—Yes, obviously; because, in the case of a man buying land from a European, I assume that he would not pay his money absolutely away until he saw that his title was perfectly secure; but in the case of the Trust Commissioner, one of the subjects he has to inquire into is as to the consideration that has been paid. Consequently, the whole of the payment has usually been made before the inquiry takes place. Then, it has to be remembered that, although the law does not allow purchasers to deal for any land where there are more than twenty owners, even if we take the case of twenty owners in a block the negotiations for a purchase may last a very considerable time before they are completed. You may have some of the Trust Commissioners insisting—and, perhaps, properly so—upon the person who has sold being brought before them; and in all cases where there are a number of sellers that difficulty would of itself make a serious difference in the price.

2087. Supposing the Trust Commissioner was removed, and there was no Native Lands Frauds Prevention Act, what form of inquiry would you have; or would you admit that an inquiry was necessary into the *bonâ fides* of the transaction?—I cannot see, myself, what good the inquiry is, because I assume that, in respect of any transaction not *bonâ fide*, or in which the Frauds Commissioner would have power to refuse his certificate, the wrong would have its remedy under the ordinary law.

2088. In the Supreme Court?—Yes.

2089. That would necessitate any Maori who thought he was suffering from fraudulent practice going into the Supreme Court?—Yes; and I assume that transactions generally as between Europeans and Maoris would be fair and equitable. I assume that in the great majority of cases the Maori knows what he is about when he is signing a deed.

2090. You assume that there is no necessity for all this protection, and that it would be sufficient to leave the European purchaser to obtain a receipt for the money he has paid?—Quite so. I first of all assume that the protection afforded by the Frauds Prevention Act is quite infinitessimal, and that the Maori has to pay very dearly for it by the reduced price he gets for his land—that, in point of fact, he receives a pennyworth of protection at a cost, we will say, of a pound. I think that, in cases where Europeans are allowed by law to purchase, the nearer the transaction is assimilated to ordinary transactions between Europeans the better prices the Natives will get for their lands. It will be more satisfactory to the European as well.

2091. Then, would the European have to go into the Native Land Office and find out if the Maori with whom he was dealing for land had sufficient land left to live upon; or who is to make these inquiries, assuming that there has been fraud, and that it is necessary that the Maori should not be allowed to denude himself of all his landed property?—I should say there would be no difficulty in the Maori going and getting a certificate from the Native Land Court that he is the owner of such-and-such land, just in the same way as he would get a succession order.

2092. Yes, but he may sell all he has got without going to the Native Land Court?—You may say the same thing is possible now. If a deed is executed now in respect of Native land, and the purchase-money is paid, and then the Frauds Commissioner satisfies himself that the Native had sold all his land, he would refuse his certificate, and the purchaser would be defrauded of his purchase-money.

2093. But you were saying that there should be a different state of things—that there should be no Trust Commissioner?—Quite so. The Native Land Court's certificate, obtained before purchase, would meet the case. I understood your line of question to be that the Maori would lose nothing, because there would be no risk to be run by the purchaser. Your last remark shows a very evident risk that the purchaser would run. He would run the risk of the Maori denuding himself of the whole of his land. In respect of that risk, or any risk that he runs, the purchaser makes a difference in the price to be paid, and, in my opinion, it will be found that the unknown risk, although it may be but a very small one, will lead to the purchaser making a larger deduction on that account.

2094. I wanted to see if you had anything in your mind wherewith to replace this protection?—The Native Land Court should before purchase certify as to the Maori having a sufficiency of other land for maintenance than that proposed to be sold: beyond that no other protection is necessary, and, at all events, it is not, I think, given by the Lands Frauds Prevention Act.

2095. In buying the interests of Natives in a block of Native land, does the Crown take any trouble to find out whether the Natives selling to it have other land to live upon?—Yes, it is an almost invariable rule that reserves are made—in fact, I may say it is the invariable rule, without any exception, that the Crown is aware that the Native selling has plenty of other land.

2096. Has the Crown any fixed area as a standard upon which to gauge what the Maori should remain possessed of?—No; there has been no particular area fixed as a standard, but I should certainly say that if a Maori was reduced to 50 or 100 or even more acres, and it was known that that was all the land he had, assuming that it was land of fair quality, he should not be allowed to dlspose of any of it.

2097. That would be all good land?—That would be fairly good land.

2098. Average land?—Yes. For instance, I remember, some years ago Sir George Grey stopped all dealing with Native lands for a time in the Tauranga district, because the returns of land in the possession of the Maoris there showed that there were only about 50 acres left, as an average, for each man, woman, and child there.

2099. When the Natives refuse to sell to the Government, what is the course followed then? Is there any dealing, or just an abandonment of all transactions?—Just an abandonment. You cannot compel the Natives to sell. When, in respect of any block for the purchase of which Government is treating, all the interests of those willing to sell are acquired, the course adopted is to apply to the Native Land Court to cut off the Crown's interest, and the rest is left as it was.

2100. And where the Natives are willing to sell to the Government, yet they cannot agree in respect of the price offered by the Government, is there any means employed by the agents of the Government by which the question of the price can be settled by a system of arbitration?—No; that has not been found necessary up to the present time. Of course, the Government buy large areas, and, speaking generally, in most cases all the land is not alike; the area includes land of varying qualities. The reserves that are made for the Maoris are usually amongst the best of the land. So that I think it will be found in all the purchases made by the Crown that the Government gives a fair commercial wholesale price for the land.

2101. Because the Crown has the risk. It may happen that the Natives are willing to sell to the Government, but want a bigger price for their land than that offered them by the Government. Now, is there any mode nearer at hand by which such a question could be settled?—No. I may say that, generally speaking, the Maoris are averse to selling their land. In point of fact, the great problem the solution of which the Maori wishes to arrive at is how he can keep his land and live on it without work and without trouble. I believe the Maoris, as a rule, only think of selling land in order to supply their wants, and following the example of other Natives. I have pointed out to them, as a strong reason why they should sell, that when a Maori holds land in common with others he practically cannot go upon any portion and say it belongs to himself. So with all lands that are dealt with communistically, there is the smallest possible benefit for the individuals; and that accounts for the very large areas of Maori land that are absolutely profitless to them.

2102. Supposing that they had their waste lands cut into sections large enough to admit of profitable occupation, and then that these lands were let to European settlers on long leases, the Maoris themselves taking up each alternate section, do you think that would be a good scheme—of course, giving them every encouragement by having the terms made as liberal as possible, and having small rents?—The difficulty that confronts you in connection with all these Native-land leases is that of the distribution of the rent amongst those entitled to participate in it.

2103. Yes; but supposing a Committee of the owners were formed to act as a kind of executive for the whole tribe, and to parcel out the land in conjunction with some Government officer, and that they would cut up the land in the manner I have described, and that the annual proceeds arising therefrom—they would not be much in the first part of the term of lease—would be distributed among all the owners by the Committee, acting along with the Government officer, how would that suit? Would it be calculated to promote settlement?—It might promote settlement, and theoretically the leasing of land in that way sounds very satisfactory; but I think I have had sufficient practical experience to justify me in saying that it does not work out at all satisfactorily. I might remind you of the case of some of the best land in New Zealand—viz., the Waimate Plains, on the west coast of this Island, which was owned by not a very large number of Natives as compared with the number owning land in other localities. That land, when it was first leased, realised large rentals—so much so, indeed, that under the Fair Rent Act these rents have since been reduced. In the distribution of that rent-money, of course, there was this difficulty: A number of these Native owners were Te Whiti-ites, and would not take the money accruing to them from the leases. Without the matter being in my department, I have had the opportunity, more regularly some time ago, of seeing the returns in the Public Trust Office of the amounts due to the Natives in respect of the rents of these lands; and the individual proportions were really not worth the trouble of distributing. You looked down a long list of owners' names—I think the rents were distributed quarterly—and you found that 2s., 2s. 6d., 2s. 3d., and in some instances as little as 10d., were the individual amounts to be distributed. Instances in which the shares approached £1 were the exception to the rule. I think it will be found that the unimproved land in New Zealand at present in the hands of the Natives is of so little commercial value that any sort of fair rent under lease would yield but such a small sum-total for distribution among a large number of owners that, unless it were distributed, we will say, once in five years, or at some long interval like that, the amount would not be worth the trouble of distribution. In order to illustrate what I mean, we will take a few of the divisions that have been made in the Rohe Potae. I shall read out simply the particulars of the first four divisions upon the list: "Te Awaroa—number of owners 472, area of the block 8,690 acres; Te Taharoa—369 owners, area of the block 24,139 acres; South Ohura—225 owners, area of the block 116,152 acres; Wharepuhunga—991 owners, area of the block 135,000 acres."

2104. That shows that in many of these blocks the area is small in proportion to the number of owners?—I should say that the number of the owners in proportion to the area of the blocks is so large that probably, in the case of the Wharepuhunga Block, for instance, only 2s. an acre would represent the purchasing-value of it. In such cases the rental would be a very small amount indeed, and to distribute that rental, even if it were the highest conceivable rental in respect of a block

of that sort, comprising 991 owners, would—even if you made the machinery of distribution the simplest possible compatible with the securing of accuracy and proper check—cost more than the amount to be distributed would justify. And that, I fear, is the difficulty that will have to be met in any general leasing of Native lands. An idea has occurred to my mind as to how it could best be met, and it would be something like this, assuming, of course, that it was land fit for leasing: If the Maoris would consent to give up their land to be leased, having reserves made from it sufficient for their occupation and maintenance, these being in intermingled blocks—which reserves would really be the most valuable part of the consideration, because the general progress of settlement in the neighbourhood would largely increase the value of the blocks they held—and if they were content to leave the rent to accumulate so as to be divided only when it was worth dividing, then a scheme of leasing might be workable. But no scheme that anticipates the distribution annually through a Maori Committee, or in any other form, of the rent derived from general unimproved Maori land, unless the rent was far away in excess of the value of the land, would realise, I think, an amount that would be in any way satisfactory to the Maoris. It would appear, in point of fact, that in many cases where the rent has to be distributed among a large number of owners many of the individual proportions are really hardly worth receiving. I may explain that, not anticipating having to give any opinion on the subject I have just mentioned, the opinion I have given I only submit because I have been asked for it. I do not profess to offer it as evidence, but simply in answer to your question, for whatever you may consider it to be worth.

2105. That must show that the Natives have very little or no land on the West Coast?—On the West Coast a great deal of the Native land is not let at all. I would go further than that, and say that in my opinion, if the Natives could be got to see it, the best system for themselves would be to dispose of their surplus lands, retaining reserves—not too large reserves, but sufficient reserves for themselves. We will suppose, for instance, that the system adopted by the New Zealand Company had been carried out implicitly—that the Natives had retained 10 per cent. of all the lands they had sold in New Zealand—the Natives in New Zealand at the present day would be the wealthiest community, perhaps, in the world.

2106. You would make them simply annuitants, instead of sellers or lessees?—No; on the contrary, I would, by bringing settlement into their districts, make their lands of such value that, together with the example thus before them of profitable occupation, they would very soon assimilate their ways to those of their European neighbours, and become sheep-farmers and agriculturists themselves in the same way as Europeans, more especially as the Maoris are practically cultivators of the soil. Obviously it is not for the advantage of the Maoris that large tracts of land like those in the Waikato district, for example, should remain locked up and unproductive; and if they sold, say, one-half, or even three-quarters of their land, the Crown would immediately open it up for settlement, and the land retained by the Maoris for themselves would be worth much more in money-value than the whole of it is at present, and it would be increasing in value every year. My impression is that the Maoris, if their lands are opened up in this way, would very speedily assimilate their manners and customs, their modes of living and clothing themselves, to those of their European neighbours, and that they would hold their properties individually. And when they do this they will also commence to increase in numbers. That is my very strong opinion, because I have myself noticed frequently that, where the Maori is living and cultivating the land apart and separate from other Natives, after the manner of European settlers, he has a large, and, in some cases that I have known, an unusually large, family. I have one case in my mind, which came under my notice a few years ago, of a Maori man and his wife living in the Wangaehu Valley who had a family of thirteen children. I think this is a very interesting instance to illustrate how they can live and multiply when they are not living communistically.

2107. That communistic habit is dying out and breaking up now among the Maoris, and we have to anticipate, therefore, the future for them. We must not legislate merely for the present time, or simply for the conditions that may obtain now?—Undoubtedly.

Mr. Hugh Owen examined.

2108. *Mr. Rees.*] What are you, Mr. Owen?—I am a mining agent, and reside at Nelson.

2109. We understand that you desire to make a statement to us in relation to Native lands?—Yes, that is my wish. I desire to refer more particularly to lands at the Mokau, in respect of which A. Owen has been petitioning since 1887. First of all, I would like to draw your attention to a letter from the Hon. the Native Minister to Judge Smith, containing a request for his report upon the Mokau lands generally. I had a short interview with the Native Minister on Monday, the 11th instant, relative to his obtaining from Judge Smith a report with respect to Mokau lands generally. There has been no reply, Judge Smith having been away, and the Minister anticipates getting a reply as soon as he is back. I have turned up the original plan of the Rohe Potae, and I now produce it. [Government plan, printed in September, 1884, and showing the Rohe Potae and the land included in the schedule to the Native Lands Alienation Restriction Act of 1884, produced.] Here is the *Kahiti* of the 1st July, 1886, which describes this land. [Copy of *Kahiti* produced.] There is no corresponding *Gazette* in English. A subsequent plan of this land has been issued in connection with the North Island Main Trunk Railway scheme, but no law has ever removed the original position. Here is a copy of the Native Lands Alienation Restriction Act of 1884, which shows the schedule connected with this land. [Act produced.]

2110. You say, then, that there has been no Act of the General Assembly altering the boundaries of this land?—Altering the position of this land, no. Only a subsequent plan in connection with the North Island Main Trunk Railway has been issued.

2111. But no Act of Parliament altering the Native Lands Alienation Restriction Act of 1884 and the schedules attached to that Act?—No.

2112. Are you aware of any lands having been surveyed since that time in defiance of this Act?—Yes, certainly, at Mokau at the present time. I refer to the Mangapapa Block.

2113. Was it in relation to these surveys that the letter which you referred to in your opening statement had reference?—Yes.

2114. That letter, I believe, has a statement that Judge Smith has not given in his report?—Yes; and that was the subject of the interview I mentioned. Here is the letter which I wrote to Judge Smith in January last calling his attention to this matter: "Nelson, 5th January, 1891.—*Re* Mokau land under petition by A. Owen.—Sir,—the above applies to the Mangapapa Block, before the House of Representatives since 1887, and now learning that a movement is on foot to create or give a title of the land to other persons, as adverse to the interest of the petitioner, who is apprehensive that you may not be conversant with the facts, I therefore beg to invite your attention to the following: (1.) That the claim, if any, of Messrs. Russell and Morrin is based from the late Neville S. Walker through jobbery and fraud. (2.) That the claim, if any, of the Mokau Coal Company (who are illegally in possession of a portion of the block) is based in contravention of the restrictive Acts of 1883 and 1884, and is amenable to the penal character of those laws. (3.) That the Hon. the Premier has, under a pledge to the House, assented that a Royal Commission of inquiry into this case be appointed, and that the land in question would be held prohibitive to be dealt with till that inquiry is carried out. This is on record, and can be substantiated in its proper place. (4.) That, in the face of the foregoing plaint pending, I am sure that you will deem it just and fair—in the event of any action that may be done by you departmentally with the view to facilitate a title to any person or persons to the land in question—that you will be good enough to forward notice or copies thereof to the undersigned, and oblige.—I have the honour to be, sir, your most obedient servant, HUGH OWEN.—To His Honour the Chief Judge, Native Land Court, Wellington."

2115. Did you get a reply to that communication?—Yes. Here it is: "Native Land Court (Chief Judge's Office), Auckland, 13th January, 1891.—Sir,—I have the honour to acknowledge the receipt of your letter of the 5th instant, with reference to the Mangapapa Block, and in reply to inform you that I am not aware of any proceedings in this Court with reference to the purchase.—I have the honour to be, sir, your most obedient servant, H. G. SETH SMITH, Chief Judge.—Hugh Owen, Esq., Nelson."

2116. Are you aware of anything having been done in relation to that land besides surveying it?—Yes; they were lately taking fresh signatures.

2117. With a view to lease or to purchase?—For leasing, as I believe; I cannot say, however, which it is. Within the last fortnight Mr. Richmond has taken a Magistrate there, along with a licensed interpreter, and is now taking signatures of Natives with a view of obtaining a title.

2118. Who is the Magistrate?—Mr. John Purdie, J.P., of Waitara.

2119. At any rate, you have heard that a lease of the Mangapapa Block is being signed?—Yes; they are now obtaining fresh signatures. Here is a printed statement of the position of affairs. [Printed paper produced.] We are prepared to maintain the facts therein set forth.

2120. We cannot enter into the disputes of particular parties, but we can take evidence with regard to any operation of the Native-land laws that is found to be objectionable, or to any breach of the Native-land laws committed by any party. You say that that printed statement explains your position?—Yes; our position in 1887.

2121. Is there anything else beyond what is set forth in these papers that you wish to say?—These people by their action in obtaining fresh signatures may possibly have their document ratified before a Trust Commissioner, assuming it to be within the law, unless the Government gives them notice to desist.

2122. You have reason to believe that the law at present has actually been broken in respect of this Rohe Potae land?—Certainly; we are prepared to substantiate the statements contained in that printed paper.

2123. The other people you believe are breaking the law at the present time?—Yes; they never had any legal status at the Mokau, and have been defying the law since the beginning of 1884. I further beg to draw your attention to "The North Island Main Trunk Loan Application Act, 1886," subsection 5, which includes these lands in the schedule to "The Native Lands Alienation Restriction Act, 1884;" clearly showing that these lands were reserved.

Mr. ERNEST DILLON BELL examined.

2124. *Mr. Rees.*] You are a barrister and solicitor, are you not?—Yes.

2125. You have been conversant for some time, have you not, with a portion, at any rate, of the working of the Native-land laws in New Zealand. In using the term "portion" I mean to say that your attention has been specially directed, has it not, to some portion of the working of those laws?—I was for some time connected with the West Coast Commission as secretary, and since that time as a solicitor I have had to do with getting Native titles through, and I have encountered the difficulties connected therewith.

2126. I suppose you would say their name is Legion?—Yes.

2127. Many of the questions arising under the Native Land Court Acts which come before the Courts are extremely complicated, are they not, and difficult?—Are you referring to the procedure?

2128. I mean not only in the Native Land Court, but litigation arising also in the Supreme Court and Court of Appeal?—Yes. The complication has in many cases arisen from Acts being passed by the Legislature when it had in its mind, I think, some particular case, while the provisions of the Act have been extended far beyond the limits that were contemplated at the time.

2129. Naturally, they have come to include cases that were not at all contemplated. It is an instance of particular legislation extending to general legislation?—Yes.

2130. In regard to the case of Poaka *v.* Ward, is it a fact that both Judges and the profession are somewhat divided as to the state of the law in that case?—Yes; the Judges certainly were, and the profession six on one side and half a dozen on the other.

2131. Have you had brought under your notice any instance which you can mention showing the complicated state of the Native-land law?—Well, I think a fairly good instance of it occurs in

connection with the forty days which, by the 5th section of "The Frauds Prevention Act, 1888," must expire before lands can be dealt with. Under the Native Land Court Act it is provided that the order of the Court shall take effect from the date when the hearing was held. The Frauds Prevention Act of 1888 says that there shall be no dealing until forty days after the issue of the title. Now, an order cannot be signed until the plan is indorsed. Consequently this happens: A *bonâ fide* purchaser or lessee of the land may be waiting for the issue of the title, which I take it should not be complete until it is signed by the Judge. The survey may take a long time to do, and as a matter of fact the order may not be signed until, say, a year after the hearing. Anybody wishing to deal with the land is kept perpetually waiting on the Native Land Court to ascertain when the signature of the Judge will be attached to the order. Very well: another person, perhaps quite innocently, may go to the Native Land Court and uplift this order after it is signed, not knowing when it was signed by the Judge. He takes it to the Land Transfer Office and gets the title through, and that office, knowing nothing as to the date on which the Judge issued the title, antevests the certificate to the date of the hearing. The consequence is that the person who has wished to keep within the four corners of the Act is shut out, and the other person, perhaps innocently or perhaps not, gets the title through in front of him. Now, if it is intended to restrict dealings in Native land until forty days after the issue of the title, all parties should clearly understand that the forty days count from the date of the signature of the Judge; or let it be understood that as soon as the order is signed it shall date back from the date of hearing. Considerable complications may occur, and it is simply impossible to say whether the purchaser is liable or not to the very severe penalties which are provided for cases in which there is dealing for land within forty days of the issue of the order. There should be no ambiguity.

2132. Everybody should know what is the law, and should keep it?—Yes; but it is impossible to know when a title is issued, because as soon as it is signed it bears the date of hearing, not the date of signing.

2133. Like a Supreme Court order, although in contradiction of the Act under which it is issued?—In entire contradiction.

2134. I suppose there are other difficulties of construction in the Native Land Acts besides that one which you have mentioned?—There are very many. Under the Maori Real Estate Management Act a trustee can only lease for twenty-one years. Now, you may have a contract with Natives to lease for thirty years. This is not an unreasonable term in the case of rough and heavy bush-land. You may have got nine out of ten signatures required, and that tenth man may die before you have obtained his signature. Trustees are appointed for the minors who succeed. You then go to the Supreme Court, and the Court will only grant a lease of the minors' land for twenty-one years, under the Act. Then, the minors that may be appointed may not have other land, and that is a further bar. There should be, I think, in all these cases a provision enabling the person who has entered into a contract of that sort to transfer to the trustees for the minors other land.

2135. In exchange?—Well, if the person having the contract wishes to complete his title it would afford him the opportunity of doing so. As it is, he is completely barred. Then, another provision that causes great loss of time and annoyance is the dual process there is for the issue of titles, after partition, to Native land which is under the Land Transfer Act, and land which is held under Native Land Court title. The Native Land Court, in subdividing, and in some cases in issuing an original title to Native land, sends the partition order to the Governor for the issue of a Land Transfer title. The order has to go through several departments—the Native Land Office, the Crown Lands Department, and the Governor himself—and by the time it comes back a long period has elapsed, and you never know where it is. It seems to me that there is no reason why a different process should be followed in this case from that pursued in cases where the land is already Crown title. In case of a Land Transfer title the Court makes a subdivision order, and any person having authority from the Native owner can uplift that order, take it to the Land Transfer Office, and get the title issued. Now, I cannot understand why the Governor should issue his warrant for the title in the one case and not in the other. It would certainly save a lot of trouble to assimilate the procedure, because it would cut out the necessity for references to various departments, and the title would be issued very much more quickly, and at less expense. Of course I take it that the expense that the dealer is put to in some way reduces the price paid to the Maori vendor.

2136. It must do so?—With reference to the Supreme Court passing alienation by trustees, that is another cause of expense and delay. The Native Land Court has power to issue letters of administration to the Natives, and surely it could be trusted with the necessary power also in respect of alienation by trustees. Surely the Trust Commissioner could pass the deed for the alienation by the trustee as well as by adult Natives.

2137. There is the difficulty of both the Supreme Court and the Native Land Court having power to issue probates?—There was that difficulty, but it has been provided for under recent Acts. There was a Native who was appointed devisee under a will of which the Supreme Court had issued probate, and application was made to register transmission in the Land Transfer Office. The Registrar said he would not recognise the will; he must have a succession order in the Native Land Court. Thereupon the Native went to the Native Land Court to apply for succession. The Judge of the Native Land Court said probate had been issued by the Supreme Court, and he would have nothing to do with it. So the Native went back to the Registrar, and said that was the answer given him by the Native Land Court; whereupon he was informed that, any way, that transmission certainly could not be registered. That necessitated an amendment being brought into the Act, and it was done.

2138. Can you say that that illustrates the uncertainty pervading all these matters, although the case you have mentioned relates to the law of administration?—Yes. While on the subject of the complications arising under the Acts, I should like to suggest, if the Commission has not already done so, that Mr. Judge Mackay's evidence should be heard on the subject of the removal of restrictions.

2139. We have a written communication from Judge Mackay?—This is a very good instance of one of the extraordinary complications that have arisen, and which clearly were never intended by the Legislature. The intention of the Legislature seems to have been to provide for the removal not simply of the existing restrictions at the time of the passing of the Act, but also restrictions that might subsequently be imposed. At the present time, owing to the extraordinary confusion of the Acts, the intention of the law is obscure, and it seems that there is no provision by which the Governor, or anybody, can remove certain restrictions on land.

2140. *Mr. Carroll.*] You mean restrictions on absolute alienation?—Yes; or any restrictions at all.

2141. *Mr. Rees.*] Either leasing or selling?—Yes.

2142. *Mr. Carroll.*] There are some blocks that may be leased. Of course, I suppose that generally the restrictions were intended to be only temporary in many cases?

2143. *Mr. Rees.*] The witness means that, owing to the confusion of the statutes, there is no provision for removing these restrictions at all—neither by the Governor nor by the Court?—I do not know whether I am at liberty to refer to the expenses incurred in dealing with Native land.

2144. Certainly. We want all the information we can get from those who are acquainted with such matters?—Of course, I am only speaking from my own experience. I am sure that it is not only unfair but unconstitutional that people dealing with Native land should be fleeced in the way they are now by the exorbitant charges imposed. I do not say those imposts are illegal, but I feel certain it was never contemplated that they would amount to the large sums they do. The person dealing may not have had previous experience. He may be a *bonâ fide* settler going for the first time to take up a block of land, and he has entered into a contract on his own account with the Natives for lease or purchase at a certain consideration. If he is wise, he next consults a lawyer, and has a search made, which elicits the fact that there is a large number of Native Land Court fees outstanding, which he has to pay, and an enormous survey-lien which he is also called upon to pay. The piece of land for which he is negotiating may be 100 acres out of, say, 1,000 covered by the lien. He is told, however, that he must pay the whole of the survey-lien on the 1,000 acres, because there is no person who can or will apportion the survey-lien to the 100 acres. He then has his deeds prepared, and he pays interpreters in different places where signatures have to be obtained for the usual indorsement and the interpretation. He then takes his deed to the Stamp Office, as he has to have it stamped before it passes the Trust Commissioner. He is there told that rates have been accumulating upon this block of land since the year 1, and he is mulcted, first of all, in a proportion of the rates that have accumulated on the land. He has probably had some difficulty in getting all the signatures, and perhaps he has not been able, through the Natives living in different parts, and through the difficulties that are always connected with the obtaining of Native signatures, to get all the signatures within the three months from the date of the first signature. The Stamp Office then proceed to assess the duty. They first of all assess the Native duty of 10 per cent. upon the capital value of the lease, or 10 per cent. upon the principal.

2145. *Mr. Carroll.*] That is in the case of a sale?—Yes. They then tell him that, as he has not presented the deed within the prescribed three months from the date of the first execution, therefore he must pay 100 per cent. fine upon this 10 per cent. duty. And in this connection I should like to point out what is an unequal system of stamping in the case of Native lands. It is perfectly true that the Native owners should pay the Native Land Court fees, survey-liens, and deceased's estates duties; but it nearly always ends in the purchaser paying. Consequently he ought to allow for those payments in the amount of the purchase-money, and the consideration mentioned in the deed may therefore be less than the property-tax value of the land. The Stamp Office, notwithstanding, assess on the property-tax value, and duty has to be paid on that value. But the Office are also very careful, if the consideration is in excess of the property-tax value, to assess on the consideration. But to continue. Then they tell him that the ordinary duty is at the rate of 7s. 6d. upon every £50 (in the case of a purchase), and that he is fined the maximum penalty for the ordinary duty also.

2146. *Mr. Rees.*] That is, 21½ per cent. he has got to pay in duties. That is good?—He then has to pay the fee required in the Trust Commissioner's Court, and the Trust Commissioner may make requisitions before giving his certificate. Either before or after he has passed the Trust Commissioner for adult signatures, he has to go to the Supreme Court for the passing of the alienation of minors' interests by the trustees. There are certain affidavits and fees which have to be made and paid in the Supreme Court, and he has to pay his lawyer's bill for going before the Judge.

2147. *Mr. Carroll.*] Then, there are the succession duties?—Yes, you are quite right; they come in in the registration. After he has got his deed through these ordeals he presents it for registration. He is then informed that it appears that he has been purchasing from some successors. Evidence is required that the succession duties on the succession orders have been paid. He probably has never heard about the succession duties at all, but he is told that he cannot register until he pays them. He then has to go to the trouble of getting from the Property-tax Commissioner an assessment of the deceased Native's share. He then has to prepare the papers for the Stamp Office, and send them up for execution. The interpreter has again to be called in, and the whole business gone over again. When the deceased's estate duties are paid—and he has also to pay fees for copies of the succession orders to be lodged with his deeds—he then is told that upon payment of certain other fees, and probably one or two liens which were omitted before, he will get his deeds registered.

2148. *Mr. Rees.*] After all that is done he may be told that his title is not good?—Yes, a caveat may be lodged. A petition may be presented to Parliament complaining of the whole transaction. Then the petition is considered by the Native Affairs Committee, and the unfortunate man has to come down to Wellington, attend before this Committee, and pay all his witnesses' expenses. The Native Affairs Committee refer the petition to the Government; and the Government may order a further inquiry to be made by the Trust Commissioner. During the recess the Trust

Commissioner holds the inquiry, and states that he is satisfied with the transaction, and thinks that the title ought to issue. By the time that this inquiry is over another session has come round, and a further petition is presented complaining about the Trust Commissioner's inquiry; and a new member of Parliament may come upon the scene—entirely new to the whole of the previous transactions—and he thinks there has been great unfairness towards the Natives, and the whole business is raked up in Parliament. In the meantime the subject of all these processes has had probably to pay the expenses of bringing his witnesses forward for the second inquiry by the Trust Commissioner. It is possible, then, the case may become the subject of Supreme Court proceedings.

This is a shocking state of affairs. It is a scandal in a civilised country. It has never been ascertained why this impost of the 10-per-cent. duty should be levied upon Native transactions; but in any case, supposing it is necessary, it is most unfair that the 10-per-cent. penalty should be inflicted in the same way as in deeds between Europeans.—It was not so intended, and it is only by accident that it is so. Under the Native Land Alienation Act there was a special provision for the payment of a Native duty; but in the Stamp Act of 1882, and the subsequent Amendment Act of 1885, the Native duty was included in the general Stamp Act, and the provisions of the general Stamp Act came to be applied to the Native duty as well. It is manifestly impossible in some cases, on account of some of the difficulties that I have mentioned, and on account of the Natives living so far apart, to get the signatures within the time limited by the Act; and it was never intended that dealers with Native lands should be treated in that way, and there could be no harm, therefore, in making the Act more liberal as regards Native duty.

2149. By reverting to the original position?—At any rate, that no fine whatever should be inflicted until the person dealing has had, say, three months at least to get the signatures. At present he is fined 25 per cent. if his deed is presented more than one month after the first execution, and within three months.

2150. *Mr. Carroll.*] At the end of the three months, whether or not you have obtained all the signatures of owners in that block of land, are you compelled to pay the duties to avoid a fine?—The Stamp Office date from the first signature, and, whether you obtain the rest or not, you have to pay. The only safe way is to pay the duty though you may not have got all the signatures.

2151. In the event of your not completing the title and of your having to throw it up, is there any provision for refunding the stamp duty?—Yes; you can get a refund.

2152. *Mr. Rees.*] I thought there was no provision to meet such a case, it being held that as you have obtained some of the signatures you have some title?—I do not think the Stamp Office shut you out altogether from getting a refund where they know the dealing is useless.

2153. *Mr. Carroll.*] And in the event of competition, where there are two purchasers endeavouring to secure the block of land, one of them getting so many of the signatures of the owners, and the other so many, does each of these men have to pay stamp duty on the value of the whole concern?—That may happen; and I do not know whether you would be able to get a refund in a case of that sort. If you came to fighting the matter in a Court of law I think it would be obtainable. There is a provision with regard to abatement when the land is subject to lease that should be mentioned with reference to this duty. If the person has paid on the lease, and subsequently purchases, then the duty he has paid on the lease is deducted from the duty on the purchase; but that is only in the case of the purchaser himself. A duty may have been paid on the lease by the first lessee, and the purchaser may be the assignee of the lease; but, inasmuch as, being assignee, he did not pay the original duty on the lease, he is not entitled to get any deduction at all. So that the mere accident of the person being the assignee of the lease precludes him from the advantage conferred on the original dealer. So long as the State gets the duty, why should there be this distinction?

2154. *Mr. Rees.*] In respect of all these matters, would it be just to say generally that the Native-land laws, under which the alienation of land is conducted at the present time, are in a state of confusion, and all want remedying?—I think so. And I think I am not exaggerating the position when I say that, generally speaking, no lawyer can honestly advise a client of his to have anything whatever to do with Native-land dealings.

2155. In relation to existing disputes between Natives and Europeans as to titles, do you think it would be a proper thing to erect a tribunal with power to finally and absolutely decide without any appeal?—Certainly.

2156. In regard to matters in regard to which there are mere technicalities in the way—of course you are aware there are cases in which mere technical flaws may be considered to exist—such a tribunal, being satisfied that there is no contentious matter involved, should be empowered to validate the titles without any reference to Parliament—that is, taking first of all mere cases of omission, non-feasance, and minor matters of the kind, and where there are no questions in dispute between the Maoris and the Europeans?—Yes, I think so.

2157. Then, in regard to cases in which there are disputes, what would you say about these where the merits are in question—how should they be dealt with?—After the failure of Judge Edwards and the other Commissioner, I am not prepared to suggest any other way. I thought that the Commission which he had, embracing the powers of a Supreme Court Judge, and being allowed to consider the cases on their merits, would have sufficed.

2158. But they had only the power to report?—I think they should have had the power of decision.

2159. You think that the tribunal proposed to be set up should have the power, on full examination, to decide?—Yes.

2160. *Mr. Carroll.*] That is what was wanted in the case of the Edwards Commission?—Yes. It is understood that you eliminate cases of fraud. It is the relief of fair cases which is wanted; and the tribunal ought to have power to refuse to allow any cases to go through which are tainted with fraud.

2161. It seems to be outside the power of any Legislature to discriminate between such cases—It can only be done by a tribunal inquiring into the merits of each case that one can be discriminated from the other. Take the case of Paraone *v.* Matthews, where it was held in the case of Land Transfer lands that unless the Native title was registered the dealing could not be registered. A large number of deeds have been shut out by the registration office because the succession orders have not been registered before the dealing. While there was no fraud, illegality, or anything else involved, it simply happened that the purchasers, through no fault on the part of themselves or their lawyers, had not registered the succession orders, not knowing that they were bound to do so.

2162. And they were not allowed to register the deeds signed by the non-registered successors?—No; the deeds were shut out, and in some cases the whole of the expenses had to be gone over again through this little flaw. In some cases the persons dealing have not been able to do it.

2163. *Mr. Rees.*] Some of the Natives may have died in the meantime?—Yes. The difficulty has been amended now, so far as regards transactions after the Land Transfer Act of 1889.

2164. That Act leaves the operation of the Native question open, but closes it as against the European. The man must have registered prior to making his own title?—The effect of the Amendment Act is that it is not necessary to have the succession order registered after the passing of that Act, but it does not validate those that were executed before.

2165. You think that is a class of cases which should be rectified by such a tribunal as we have spoken of on examination of the facts?—Yes.

2166. The Legislature has provided for the rectification of subsequent transactions, but not as to prior transactions?—Yes.

2167. Do you think it would be wise, in relation to Maori dealings, where numbers of Maoris hold land in common—that is to say, tribal land—to find a simpler method of dealing than that which is in vogue at present? Supposing there are a hundred owners in a block of land, instead of the whole of these owners having to sign, would it be advisable to have a Board like the Waste Lands Board, but partly appointed by the Government and partly elected by the Maoris, to carry into effect what the owners desired to have done with their land, and the Board having the power to give statutory titles?—I think it would be a very good thing in theory, but I do not think it would work, because you cannot get the Natives to assent.

2168. Would there be any other difficulty if the Natives assented?—No, I do not think there would; but I cannot imagine that the consent of the Natives, if obtained now, will be permanent. Very soon some will say they never gave it, and will take advantage, through their members in Parliament, at a time of close party-fighting, to force the Government to give back the management of the lands.

2169. *Mr. Carroll.*] How would it do, do you think, to revert to the principle that was laid down under the 17th section of the Act of 1867, with slight alterations, which enabled ten or a less number of the owners to be put on the face of the certificate with power to act, and the rest of the owners being registered on the back of the certificate?—I do not think that the indorsement of the owners would work at all. It has created a great deal of confusion. I think the proper way is for the Native Land Court, or whatever tribunal it is, to issue titles for each block in such a manner that as few owners are included in the orders as possible, but that all the owners in that block should be included.

2170. That is to say, the principle of the Act of 1865?—Yes; that was the intention of the Act of 1865.

2171. There is this to be looked at: There are large tracts of land throughout New Zealand owned by Natives, the character of which land is very poor—hilly land, and weighted with an enormous number of owners. Now, there would be a difficulty in cutting up that land into convenient areas. There would be the cost of surveying, and other expenses contingent upon that, and after all this is done the land may not realise the expenses incurred?—Yes; that is true.

2172. The Act of 1867 did work unsatisfactorily, because there was no control whatever over the ten by the registered owners?—Just so.

2173. The ten received the money and disbursed it in whatever way they liked. They were not responsible to the original owners. Supposing the principle of that Act were altered so that the ten should merely be the performing hands for the rest of the owners; that they should execute sales or leases, but not to be the recipients of the money; that each individual should be paid his share of the money, and that previous to this each individual's interest should be defined by the Natives themselves and the Court, so that they may know probably how much each one will get—how would that act?—I do not see why you should restrict the number to the ten. I do not see why you should not include the *cestui que trustent* along with the rest.

2174. There is only this reason: that the trouble of having to get all the signatures would be great, and that you would have to run all over New Zealand for them; whereas if the Native owners in a block selected some of their number to act as an executive, the trouble and cost would be minimised?—I could not alter my view about that. I certainly think the Maori idea of trusteeship is one with very loose limits, and that you cannot provide for one Native having authority to act on behalf of others with any certainty that the *cestui que trustent* will be fairly dealt with. I am afraid it would not require very much inducement to cause the selected Natives to lease or sell against the wish of the *cestui que trustent.*

2175. *Mr. Rees.*] Supposing a Government officer or the Commissioner for the district had to receive the money and distribute it?

2176. *Mr. Mackay.*] Such a man, for instance, as Mr. Rennell, on the West Coast?—That, I think, is the best system. But, as far as the contracts are concerned, they should be with the Natives themselves.

2177. *Mr. Rees.*] Supposing a man like that had to receive and distribute the money, and that there were a Board to give titles, how would that work?—Well, I should say it would work very well, subject to the approval of the Natives.

2178. If the Maoris assented?—Yes.

2179. *Mr. Carroll.*] Of course, wherever they see there is any advantage to be derived from it they will go in for individualisation. We shall be leaving the door open to any limited number of Natives. But what is suggested is only to provide for cases where it would be ruination to go in for subdivision, as, for instance, in the back parts of the country, and waste land. That is the simplest method that would be fruitful of results both to the Europeans and the Natives.

2180. *Mr. Rees.*] You would have no Trust Commissioner in that?—I think I would have considered that the plan would work well had it not been for the experience in connection with the West Coast Settlement Reserves. I certainly expected when the Public Trustee was appointed to manage those lands for the Natives on the West Coast that it would work most satisfactorily; but there certainly has been a great deal of trouble, from whatever cause it has arisen.

Mr. Rees: But the Public Trustee never sees the Natives, or comes into contact with them; but the Board would?

2181. *Mr. Carroll.*] Mr. Samuel explains it in this way: that that failure was because the Public Trustee and the administrative officers under the Act held themselves to be responsible only to the Government. They do not hold that they are in any way trustees for the Natives, or administering the interests of the Natives. In all their work they act in the same manner?—I certainly never understood that. I thought the Public Trustee acted on behalf of the Natives in the first instance. I cannot think, looking to our experience of the Maoris in the past, that they would consent to hand over the whole of the administration of their lands to a body like the Waste Lands Board. Of course, I think it would work if it can be done.

Mr. Carroll: The Natives would not hand it over to any such Board appointed by themselves, where the powers were similar to those of the Waste Lands Board.

2182. *Mr. Rees.*] What is proposed is a Board appointed partly by the Government, and partly elected by the Natives, for the purpose of carrying into effect the will of the Natives themselves with regard to their lands. The Natives would say what they wanted done with the land, and the Board would carry it into effect, a Government officer receiving and distributing the money accruing from the land. However, if the Natives would assent, you think it would be a simplification of the present mode of land-dealing, do you not?—Oh, yes! but I do not think the Natives will assent. It must be remembered that successors often entirely repudiate what their predecessors have contracted to do. And I think "The Native Land Administration Act, 1886," was a dead-letter.

2183. Is there anything else you would like to suggest?—No.

2184. *Mr. Carroll.*] Can you suggest any system which you think would be an improvement upon the present mode of dealing with Native lands? We are trying to find out and elaborate such a system?—I have always thought—though it seems almost impossible to do it—that a Royal Commission travelling about the country and ascertaining definitely the hapu boundaries, with power to individualise each member's interest, is the proper way. The internal subdivisions are then accomplished with facility. Bringing the Natives to the Courts has not worked well. It is worth trying if bringing the Courts to the Natives would not succeed better.

2185. *Mr. Rees.*] That is valuable, too, because one of the subjects we have to consider is as to the constitution of the Native Land Court, its practice and procedure, with the view of ascertaining how they can be altered, amended, or reconstituted for the purpose of improving its mode of working. No doubt, in its present state the Court is very unsatisfactory, and it has been suggested by some witnesses that Native Committees should act in concert with the Native Land Court, the Committees to do all the preliminary work, such as deciding tribal and hapu boundaries, individual interests, and so forth. And, again, others have suggested that some District Commissioner should perform that work along with the Maori Committee, leaving the Native Land Court to act as a Confirmation Court or Court of Appeal?—Yes.

2186. A variety of opinions have been expressed by those who thought over the matter, both Europeans and Natives, and we want to get whatever suggestions we can obtain, so as to select what is practicable?—I think it creates great complication to have too many tribunals. If one tribunal could be set up for the whole it would be best. The thing requires simplification.

2187. *Mr. Carroll.*] The cardinal points would be simplicity, inexpensiveness, and justice?—Yes. I think that the question is to decide whether the Natives are to be allowed to sell their lands. If it is not thought advisable for them to alienate their lands, then that limits the field tremendously. But if the policy should be to allow them to alienate their lands, the whole process should be made as simple as possible. It is quite clear that the number of tribunals dealing with Native lands cause, in ways that one cannot foresee, enormous expenses to everybody concerned. For that reason I do not know what to say about your proposed Native Land Court of Appeal. I think one tribunal ought to do the whole business.

Sir ROBERT STOUT, K.C.M.G., examined.

2188. *Mr. Rees.*] You have twice been Attorney-General of New Zealand, have you not, Sir Robert Stout?—Yes.

2189. Irrespective of your position as Attorney-General, have you ever, in the practice of your profession, examined into the nature of the Native-land laws of the colony?—Yes; and I have been concerned in a great number of Native cases. I was concerned in several as far back as 1878 and 1879, and of course I have been concerned in many others since then.

2190. Generally speaking, what is the condition of the Native-land law at the present time? I mean, is it in a simple and easily-understandable condition, or is it in a condition that is complex and difficult to understand?—It is in an exceedingly complex—in fact, an almost chaotic state.

2191. Do you think that at present that portion of the Native-land law which refers to the alienation of land from Maoris to Europeans is such as to enable them to deal easily and safely?—No; it seems to me that at present the only portion of the community that really can deal in

respect of Maori lands are the capitalists, who can afford to run some risk and manage to make it up in the form of speculation.

2192. Is that owing to the difficulty and complexity of the law?—It is owing, in my opinion, to the whole way in which Maori lands are treated. I might explain what has come before me, as showing how the thing goes. I find that in many cases something like this happens: A hapu or section of Maoris say that they are entitled to a certain piece of land. Some speculators or others, perhaps intending settlers, go to these Natives and make a bargain with them that if they succeed in getting their land they will sell it to them. Then these people often assist the Natives with money, and sometimes even they have assisted them by employing agents, interpreters, or lawyers to help them prove their title in the Court.

2193. Before they proved their title with the Court in the first instance?—Yes, in many cases. The cost to the Maoris connected with the ascertainment of the title in the Court is, to my mind, enormous and disgraceful. I had this fact brought very forcibly under my notice a month or two ago in connection with the Awarua Block, which is now being investigated at Marton. Some of the Natives who were interested in that block, and one of the agents, told me the cost, and it was simply, to my mind, a disgrace to our laws that such a thing should be possible. One case that I know of in the Waikato well illustrates what frequently happens in connection with these dealings. There the Natives obtained advances from certain people on the faith of their land, and before they got a title to the land they required further advances, the consequence being that they had to dispose of a second block in order to find the means of proving their title to the first block. This means that the Natives will be bound in honour to sell their land to these speculators, or, it may be, intending settlers, and in this way only those who are possessed of capital, and who choose to risk their money for the chance of succeeding in their negotiations, are able to buy Native lands. That is one thing that is radically wrong. A second thing that is wrong is that, even when the title has been ascertained, you have to get the large number of Natives who are interested in the block, perhaps, to consent to the sale. It would cost an enormous sum of money to get the land individualised in these cases, and some of the Natives object to the titles being individualised, and, if individualised, it might be split up into such small sections that, if not first-class land, it would be difficult to deal with it. Well, perhaps a large block is individualised to a certain extent—that is to say, into areas, each of them belonging to a large number of Natives, who hold it as tenants in common. Here, again, one can only deal with more than considerable difficulty, and even then the man who does so runs considerable risk, because he must get all the Natives interested to sign. If that is not done he must go to the Native Land Court, and apply for subdivision. As the lots of the Natives partitioned off are not uniform in size he may run the risk of losing his money, and, at all events, it puts the other Natives to very great legal expense in order to have a big contest before the Native Land Court. These costs that the Natives are put to in getting their titles individualised run away in some instances with fully half the value of the land, and sometimes even more than that. This, I consider, is a great disgrace to us. Another thing that came before me is the way which the Native Land Courts have of dealing (I am not making the slightest charge against the Judges, my remarks being directed against the system) with Native titles that, after all, it becomes a mere haphazard arrangement, and great wrongs are done the Maoris in consequence. I feel this so strongly that, perhaps as you are aware, when I was last in office Mr. Ballance introduced, in 1885 and 1886, a Bill to Parliament which made all alienations take place as from the Government, and all these transactions to come before the Auditor-General. In my opinion that was the only safe way of getting justice for the Natives and at the same time making all the people in the colony to stand on a level in the acquisition of Native land. So essentially different is our modern civilisation from the usages and customs to which the Maoris have been addicted that I am convinced that unless we adopt some uniform method of administering their lands for them by means of a Board or Commission, or in some other such way, it will be quite hopeless to get justice done the Natives. I think, moreover, that in the interest of both Natives and Europeans the present system ought to be entirely altered. There ought to be some simple way of getting all these titles perfected. Taking a large tract of land, I think the first thing is either to allocate that to the different tribes or to different hapus. When this is done, then the hapus amongst themselves can get it still further divided. If they cannot accomplish that by agreement then it would be within the right of any one of them to apply to some Court to settle their disputes. If they wished to alienate it ought to be done through a Government officer, and on certain conditions, and it should be strictly seen to that the moneys accruing to them from the transaction were not wasted or destroyed. It should also be seen to with equal care that the Natives had ample reserves for their maintenance, and, as I said before, that the money was not wasted. The Government should either give it to them in the form of annuities, or else see that it is not dissipated in drink, gambling, or in debauchery, as in some instances is the case. The Natives in some cases are able to look after themselves, and the State should recognise in dealing with this race that they are a people not yet sufficiently accustomed to our modern civilisation as to be able to derive from it the benefits which it confers on Europeans. They have been, and are, a communal people, not trained in that individual struggle for existence in which Europeans have been engaged for hundreds and thousands of years, and they cannot therefore, be expected to struggle with our own race on the same plane. That is my general outline of what I think ought to be done. I may give instances. There are hundreds of instances in which the Natives have been disgracefully treated. There is one case just now before two Native Land Court Judges—that of the Horowhenua Block—which exemplifies this disgraceful state of affairs. Papers were before me in which two Natives were practically made trustees for a sub-tribe or hapu—the Muaupuku—and now one of them repudiates his trusteeship. This means litigation or Parliamentary interference, and the poor Natives will have to bear the cost of this, or else be driven out of their homes. There are instances coming forward every month of this kind of thing, and whenever I happen to be in the North Island there are always Natives coming to me showing how badly they are treated. Sometimes I offer them advice; sometimes I find it hopeless to attempt to do

anything in the way of help, as it would only have the effect of plunging them into litigation,and I have therefore advised them to refrain from going to law in many instances

2194. In cases such as that you have mentioned in connection with the Horowhenua Block, do you think it would be advisable to have some central Board created? I may tell you that the mind of the Commission is strongly directed towards recommending the establishment of a central North Island Board of three members, some of them appointed by the Government and some to be elected by the Natives, the duties of this Board being to give titles when the true owners have been ascertained. Do you think that all questions of undisclosed or inferential trusts should be added?—So long as the Natives of the block wish it, and so long as they have the power of giving directions as to how they desire the land to be administered. For example, take this question of the West Coast lands. The way in which these have been dealt with is most monstrous. Leases were confirmed by the Government under the West Coast Settlement Reserves Act; and yet in defiance of these contracts the Government of the day come to Parliament with a Bill giving rights of renewal and lowering for a time the rents; all this being done through pressure brought to bear by the tenants, and without the slightest reference to the Natives concerned. Now, if the State has the right to do that in respect of Native land, they have the right to do the same in respect of lands held by individual Europeans; but that would not be conceded for a moment. It seems to me, therefore, that the Maoris on the West Coast are simply being plundered.

2195. You were speaking of the legislation in respect of the West Coast leases?—Yes. I think it is absolutely necessary to give the Natives justice. Some of the late Acts, however, step in between landlord and tenant, and give the tenants rights which they never bargained for, and which are most unjust, and in respect of which the landlords—who are the Maoris—were not consulted. I would like to see how Europeans similarly treated would act. No one need wonder that after this the Natives are in a state of semi-rebellion when such things are done without their consent or knowledge.

2196. *Mr. Carroll.*] This was done under the Act of 1887?—Yes. I think when you appoint a Board such as you have mentioned there are two things which you have particularly to guard against. You must first of all pay attention to the fact that the Maori land is communal land, and that the Maori owners are tenants in common. They should, in the first place, appoint a committee to deal with the Board, and the Board ought not to deal with their land without consulting them. The Board ought always to obey their directions so far as sale and lease are concerned, but I do not know whether they ought to be obeyed as to the rents and the other terms of the leases, because the land ought to be put up to public competition under regulations, just the same as Crown lands are. I think the appointment of a Board is the proper thing to do. Of course we thought in 1886 it might be done by the ordinary Waste Lands Boards; but the Natives may not like to have their lands mixed up with those of the Crown. The point you have to guard against—and of course you know the facts better than I can tell them to you—is that you have to deal with a different civilisation from that which is familiar to Europeans, and a civilisation, too, that has been greatly altered and modified by the Europeans. Now, in the olden days the Maori chief was powerful because his word was practically law, while in later days the chieftain's power has greatly waned. It has not altogether gone. And, in addition to this, individualism has spread amongst the Maoris to a more considerable extent, I may say, than is now recognised, thus giving them the privileges of individual rights and individual ownerships; and you must therefore allow the right of appeal in these various matters from the committee, or amongst their hapus, to this Board, in case the majority might have, to use an expressive vulgarism, a "down" upon any particular Native. You must recognise to some extent the individual rights; and the difficulty the Board might have to face in dealing with all questions of title would be in the apportionment of the exact quantity of land, or in the apportionment of the money accruing from the land, that would belong to the individual Natives. That seems to me to be the only difficulty. Of course, in these matters the Board will have to take up duties which the Native Land Court Judges have been performing, and in respect of which, judging from their decisions, it seems to me that they have been acting on a rule of thumb. I do not blame the Judges on that account, for they have certainly a most difficult duty to perform in saying that this particular Native shall have 50 acres of the land and that other particular Native only 20 acres.

2197. We propose that the Native Committees shall do all this, subject, of course, to appeal on the part of any individuals who may think themselves aggrieved?—If it is made subject to appeal I do not object, because you must admit individual rights, and you cannot recognise communal rights as everything. The next thing you will have to guard against is the question of finance, and, in my opinion, all accounts ought to be audited by the Audit Department, which ought to report every year to the House on the Native accounts. Take, by way of illustration, the case of the West Coast Settlement leases. Very many of the people who were interested in the various blocks so dealt with understood that the result would be a matter of some pounds sterling per annum coming to each of them out of the different blocks. They have been disappointed in this hope, and they have really come to look upon it that their land has gone from them, because they are deriving so little advantage from it; and you will have, therefore, to be very careful in dealing with these lands, in seeing that, when you are cutting up individual lands for lease, there will be something appreciable coming to them out of the transaction. There should be a few pounds every year at least for each Native; otherwise the Native gets careless, and finds that he has nothing to get. You must be exceedingly careful also in the collection of your rents. There is another rock of difficulty ahead. These Native lands have to be made suitable for settlement. The Crown, in dealing with lands, has to pay for surveys, and has to make roads. If the Maoris are to have their lands alienated they ought to be so dealt with as to make provision for defraying the cost of surveys and road-construction, and that will be a great difficulty, because in many instances so many Natives are interested in a block that if you take away from the proceeds at one swoop the money required for these surveys and roads, several years must elapse before the

Natives will get any return for their lands. Either the Government ought to advance a certain amount of money on loan for a term of years to the central Board, for the purposes of surveys, or they could lend it out under the Auditor-General's control as it was required. Then, when the land was sold, the first charge would be the return of this money. The money could also be utilised to help them in the making of roads, and the cost of making these roads should be deemed to be a lien on the block, to be satisfied after it was sold. If you leased under perpetual lease, or some other form, a block, say, of 20,000 acres, you might need £5,000 wherewith to make roads. That £5,000 would be a lien upon the 20,000-acre block, and would have to be repaid by the people occupying it within ten or fifteen years. That would not affect the price to the Natives at all. I apprehend that that is the only way to do it: that would be to get the Government to lend the money on some security—of course, the land itself would be sufficient security—and I have no doubt that the Trust Office would only be too glad to be paid 5 or 6 per cent. on money invested in that way. That is the financial difficulty you would have to face in dealing with the settlement of the lands of the Maoris. You have also to provide for seeing that they get sufficient reserves for themselves, so that they should not be pauperised; for many of the Natives, just the same as among Europeans, are improvident, and would be inclined to sell or mortgage all their lands if they were allowed to do so. These reserves I would absolutely prohibit their mortgaging. Their land should be kept entirely inalienable; and, with respect to the lands that were dealt with by lease, your Board would have to see that the rents were properly collected, and paid to the Natives entitled to receive them. I believe, if that were done you could, on the one hand, save enough to defray the cost of administration, and, on the other hand, reduce proportionately the work of the Native Land Court Judges and the Native Land Department. Of course, this object that you would provide for, of having a proper system of control kept, would cost a considerable sum of money; but, on the other hand, the saving effected by the economical administration of the Board would make that up. I think, therefore, that some system like that would have to be tried. Of course, the Government would have to see that suitable men were selected for the purpose, and they would also have to see that the Natives would go along with them. The Natives, I think, recognise now that the past system of dealing with their lands has simply been ruin to them, making wealthy a few settlers, but securing no real settlement, and that it has been tending to kill off the face of the earth their own race. That is my own opinion of the result of our past legislation, and I have never ceased to speak against it. Nor have I ever seen cause to alter that opinion. That is why I wish the Government to have control of it, and in this way that I have described. I think it is the only safeguard against the rocks ahead, and that it is the only just one also, in so far as the European settlers are concerned.

2198. *Mr Rees:* I do not think it necessary to ask you any questions, inasmuch as what you have been saying runs exactly on all-fours with the results, based upon the testimony of Maoris and Europeans alike, that the Commission has arrived at so far. Of course, from those witnesses we have not got so clear a statement of their views as the statement you have given us to-night.

Mr. Mackay: Nor so succinct a statement.

Mr. Rees: But from all sides, where their opinions touch the lines of what you have said to-night, the testimony is strangely unanimous, both of Maoris and Europeans.

Sir R. Stout: It was said in 1886 when I advocated this plan, "Oh! the Natives will never consent to the mode of alienation which you propose. They are just as competent as Europeans to look after themselves. Give them titles to their land, and let them deal with it as they please." Now, I declare that idea to be entirely wrong. The Natives cannot equal the Europeans in buying, or selling, or in other things. They have not gone through that long process of evolution which the white race has gone through. That race has attained its present position through individual struggle. It has left the communal habit behind it some thousand years. The Natives have not emerged from the communal system fifty years, and it is absurd to say that they can compete with Europeans. They have not had the advantage of the experience which our race has acquired in a long process of evolution to enable them to compete with Europeans. All these things have to be looked to, and I say, therefore, that the State, as a State, has, so far as the Maoris are concerned, to be a paternal State. It has got to look after their interests. It is its highest duty to preserve their race, and it can only do that by preserving their lands for them, so that they are not left landless. The old notion entertained by some men of our race in this colony was that which I have heard thus expressed: "The best thing that can happen to the Maoris is to deprive them of their lands, so as to force them to pass through that same individual struggle which we, as a people, have successfully come through." Of course, that simply means the extinction of the race. If they are to compete with our race, I say that they cannot do it in face of the fact that so many other races have tried, and failed. I wish to see our race—I think it is our duty as honest, righteous men—do what it can to preserve the weaker race, and we can only do that duty by recognising their communal system, and by the Government stepping in and preventing them from parting with their means of subsistence recklessly. At the same time that they do that, they will only be doing that which is just to the European settlers in taking the useless waste lands of the Maoris, and offering them to all people on the same conditions, so that the man of wealth has no advantage over the poor man, or, at all events, over the man who has sufficient money to use the land properly. There are many men in this colony who have made huge fortunes out of Native land, and that is because they had capital at their back, with such a knowledge of the Natives as enabled them to acquire large tracts of land. It is not a righteous system, and yet the Government have allowed it to continue year after year. I have always held that the only chance for fair-play towards both races is for the Government to step in, and by means of a Board or Commission, with properly-audited accounts, do something to preserve the Natives and their land.

2199. *Mr. Rees.*] With regard to disputes between Natives and Europeans in relation to titles, do you think it would be a good thing to create by statute a Commission to finally determine all such matters?—I think that is the only chance. The only thing is this—and it happens in connection

with every Native Bill that comes before the House: You are led to introduce a Bill on the representation that certain titles should be made good on certain conditions. What follows? One man sees that some title cannot be made good except under this Act, and he has an amendment made so as to enable it to be included. Another man has in view a similar purpose, and takes the like action. The result is that the scope of the Bill is considerably widened, and three-fourths of the titles that are made good in this way are such as should not be made good at all, because these alienations, and the bargains made in connection with them, have been made in violation of the existing laws. I say that three-fourths, and perhaps more, of these validations are of that class. In some of these cases it may be that Europeans have entered into them not knowing much about the law; but I do not know that it is wise of the Government to help Europeans, who have knowingly broken the law, to get their titles made good. Three-fourths of the cases are of that class. There may be some small number of cases in respect of which there may have been some technical mistakes, and no wilful intention of defying the law—no intention of making bargains with the Maoris outside the law. In such cases the Commission would recognise and give due weight to such reasons. But if you are to open the door wide enough to cure all titles, you would virtually be passing an Indemnity Bill to validate all transactions that have taken place during the last forty years; and I do not think the Parliament of the colony should do anything of the sort. If people have chosen to risk their money in the nature of a gambling transaction on the chance of the Natives thereafter getting the power of sale, they should have to put up with the results of their gambling. They have staked their money, and lost, and they have no right to ask the State to make good their speculation. There may be cases in which there are really equitable considerations. In respect of such cases, I think it would be far better if this central Board were simply to report on the case, and have power to stay all proceedings in connection with the land in question until they had reported to Parliament. And if Parliament approved of it let the man who is aggrieved be named, and let the blunders that have been made be rectified by Act. That brings the thing before Parliament in a direct manner, and if Parliament finds that technical blunders have been made, and that the transaction itself is a good and righteous one, it may validate it. But it would be quite wrong to allow the Board to perfect all the absurd bargains that have been made between Natives and Europeans. There are some cases of dealings with Natives in respect of which I believe the Europeans knew that the Natives had no proper title to sell, but they went into them nevertheless as a kind of gambling transaction, and now, when they find that they cannot succeed with their speculation, they want the State to step in and relieve them of their risk. I do not think the State has any right to go and do anything of the sort.

2200. Then, the only cases that you think may be validated would be cases in respect of which there are technical omissions only, but not cases involving contentious matter?—Yes. If there is contentious matter I would leave the Commission to report upon it. Take Case A, for instance. Let it set out all the facts. Then, if the central Board think this is a case in which there should be validation, they should have power to approach Parliament, just in the same way as the Auditor-General does, and their report should be laid on the table of the House at the opening of the session. The Ministers then would say, "We propose to take up Case A, and to introduce a Bill for the purpose of affording relief." And the preamble to that Bill should recite all the facts of the case. This would prevent people going before either the Commission or the Board with cases which cannot be amply justified in any way. It will restrict the number of applications, to begin with. Then, I would give power to the Commission to fix a penalty, so that in case of making good all these things it may be recognised at the outset that it will be done on condition of paying so much to the Government in the nature of a fine. We will suppose a case involves something more than mere technicality, but is not tainted with fraud as between the two parties. In such cases as that I would have the Commission report the facts to the House, and say that "So-and-so has made out a good case, that it is not tainted with fraud, but as it is non-compliant with the statute we think £500 should be paid to the State." That should go towards defraying the expenses of the central Board, and if any balance should remain it could be applied towards helping to make roads, and so on, for the benefit of the Natives. But to go further than this, and say that a Commission should be set up to cure people's titles, when those persons have been acting in violation of the law in negotiating for them, is monstrous, and I would not recommend it. In fact, I stated when I was in office that if these people were made to realise that they were playing a losing game—if they once knew that these mistakes were not going to be rectified—they would take care not to pledge their money until they had good titles. These cases have simply resulted, in my opinion, from attempts made from time to time to evade the law. That is my very strong view. I do not say that these things should not be remedied in some cases, but they should be remedied only by special Bill, and therefore brought before Parliament for the purpose.

2201. That is, with respect to cases which involve more than mere technical matters?—In technical matters blunders may be committed—not by the fault of Parliament—which blur the title. That kind of case also should be presented to Parliament. I would do that for the purpose of bringing these things into the utmost publicity, so that all the people in the colony should know what is being done.

2202. We propose a Commission different from the Board?—I do not think I would have a Commission; the Board can do the whole thing. The rectifying of all these mere technical things should be done by Parliament, by means of special Bills, with ample preambles setting out all the facts. If it can be shown in any case that the people concerned had been acting in a *bonâ fide* manner, and had complied with the law, but were nevertheless prevented from completing the title by some accidental circumstance, then, of course, the law might come to their relief. For example, before their negotiations had closed, a Bill may have been passed by the Legislature preventing them completely from proceeding further with the transaction. Cases like that should be remedied, and, if they were presented to Parliament, would no doubt be remedied when the facts were properly set forth. That is my view. Then you do not want a special Commission at all. The

central Board—if you appoint good men to it; and I have no doubt that suitable men could easily be obtained—would do all that. Another thing that I hope you will do in drawing up your recommendations is that you will recommend that ample salaries be paid to the men who are chosen for appointment to this Board. This is absolutely necessary in order to get the proper men to do this great work—this heavy and responsible work. In my opinion you ought to have them appointed either for a term of years, or so appointed that they could not be removed at the will of any Ministry of the day. You ought to give them some status—some position—and that would make Parliament more careful in its selection. Appoint them for five, seven, or ten years, at any rate, and provide that they shall not be removed from office except Parliament itself removes them. Of course that necessitates the concurrence of both Houses. Then give them ample salaries. I do not wish to see, either in this colony or in the other colonies, anything like luxurious salaries, but I wish to point out this: that if you so belittle the services of the State—as you are doing in respect of Ministers' and Civil servants' salaries—as not to pay salaries equal to those obtained in commercial establishments, in banks, in insurance offices, and in other walks of life, the result must necessarily be that you will only get inferior men. The law that regulates these things is perfectly plain—if you do not pay men adequately for their services they will go to the professions or places where there is the most pay to be got. The reason why the Civil Service has often attracted men, in spite of small pay, is, in the first place, that it was looked upon as a permanent appointment; and, secondly, because there was a pension attached to it. The permanency of the appointments has now practically gone, and the pension has also been swept away. If we do not guard it carefully, the Service will deteriorate; and I do not know anything that could happen which could prove more injurious to a democracy than that. Unless you have able, wise, and righteous men directing the functions of the State, democratic government must necessarily be a failure. Therefore, in thinking of the establishment of a Board for the purposes you have in view, I hope your recommendations will have the effect of securing for the members of that Board some degree of permanency, and a proper status.

WELLINGTON, 14TH MAY, 1891.

Mr. JOHN CURNIN examined.

2203. *Mr. Rees.*] You are parliamentary draftsman of the General Government, are you not?—Yes.

2204. How long have you been acting?—Since 1877 in that capacity.

2205. Before that time had you anything to do with the drafting of Acts for the General Government?—No. I was in the Crown Lands Office before then, and I had also charge of the old land-claims.

2206. Do you know anything at all about the drafting of the Native Land Act of 1873?—Yes; I did that for Sir Donald McLean. I was then in the Crown Lands Office, but I did that for him. I used to draft occasionally for the Ministers in that way. My present office was not then constituted.

2207. I suppose that from time to time, as you were requested, you drafted for Ministers?—Yes.

2208. Can you remember whether any definite instructions were given by Sir Donald McLean as to the principle of the Bill?—Oh, yes! The definite instruction was to ascertain all the titles, and have them passed by the Native Land Court.

2209. To the Natives?—To the Natives. And, in order to avoid confusion with the word "certificate" which obtained under the Act of 1865, I invented the new term "memorial of ownership," signifying a title to the Natives. It was an English title to Native lands, issued to the Natives themselves, certifying that the title to such Native land had been ascertained.

2210. The ownership, in fact, to be determined by the Court?—Yes; and thus there was a broad mark of distinction between memorial of ownership and certificate of title under the Land Transfer Act, which was recognised as distinctly an English title. There was then too much confusion between the old certificate of title under the Act of 1865, and a certificate under the subsequent Land Transfer Act, 1870.

2211. That was the origin of the term "memorial of ownership"—to prevent confusion between the common term "certificate of title," then in use?—Yes; and it was limited to the Native Land Court until it had issued an order to hold as a freehold, when a Crown title would issue. That was the more necessary inasmuch as at that time the Land Transfer Act was in full operation, and the new titles issued in respect of Native sales coming under the Crown would be certificated under the Land Transfer Act. So you would have a certificated land-transfer taking the place of a certificate under the Native Land Acts. Therefore the memorial of ownership was invented.

2212. Do you know whether Sir Donald McLean considered the effect of compelling each individual of the many owners of tribal lands to sign all necessary deeds?—He was in hopes that they would have partitioned, and he was anxious to encourage partition among the true owners.

2213. Individualisation, in fact?—Not so much that. He aimed at the tribes partitioning their land in blocks, and subdividing their lands, as an initiatory step to their individualisation. What he wished to arrive at was to give a title to a limited number in the Crown grant of absolute freeholders without any trustees—without any declaration of trusts. It was found that the idea which obtained first of all of putting certain names in the grant was not happy.

2214. You say they were not made trustees in the grant. Yet these grants gave those whose names appeared in them an absolute and indefeasible title?—Yes; that was very bad. They looked upon those whose names appeared in the grants as their patriarchs, who would have been, and morally were, trustees; but they were disappointed.

2215. Are you aware whether any case was ever planned or projected to test the legality of vesting the tribal land in the ten?—No. There was a case afterwards. I do not recollect the

incidents of it absolutely, but I think t ere was a case before Judge Richmond as to the effect of the memorial of ownership.

2216. The memorial of ownership, too, would appear to be intended only for the ten, as in the Heretaunga land under the Act of 1865?—No.

Mr. Rees: Renata Kawepo proposed a case at one time to his tribe, as the Natives would not give the necessary agencies. Dr. Buller was to take it up, but he went Home. I drew the declaration for Dr. Buller, who was acting in that particular case for Renata Kawepo. I remember Dr. Buller asking me to draw the declaration, and I remember drawing it in his office.

Mr. Carroll: Dr. Buller was the solicitor on the record, and Mr. Bell was the counsel.

2217. *Mr. Rees.*] Then that never was tested?—No.

2218. Did Sir Donald McLean anticipate the confusion which would arise by getting the individual Natives to sign the deeds—having immense numbers of people to sign them?—No; because his aim was to arrive at partition, thereby producing limitation of numbers: and this was avoided. In fact, I think the Act of 1873 was not done justice to—that is to say, that the partition under it was not encouraged as was intended by Sir Donald McLean. That was the whole aim of the Bill.

2219. *Mr. Carroll.*] Was it in consequence of that aim that he placed the checks on alienation which do appear in the Act?—Yes. He wanted absolutely to get all blocks of Native land reduced into some practicable size before he would allow any person to interfere.

2220. But European purchasers seem to have got underneath the Act, and they went on purchasing individual shares, waiting until they got a majority of them, and then applying to the Court for partition?—Yes, but that was not the intention.

2221. *Mr. Rees.*] Sir Donald McLean's intention, I suppose, broadly, was to compel the Natives by that species of coercion to deal as individuals?—In the first instance, if I may say it, to deal as sections, and then as individuals. He wished to avoid the old state of things—as the issue of grants in trust had shown that the Natives whose names appeared proved to be greedy—and yet not to compel the insertion of more than a certain number of names in the grant.

2222. Ten was nearly always the number fixed?—Not by Sir Donald McLean: he wanted partition so as to get a reasonable number in each section.

2223. *Mr. Carroll.*] In fact, he had in his mind hapu holdings or family holdings?—Yes.

2224. *Mr. Rees.*] The policy was to issue the deed to a section, but making the assent of every individual necessary?—That was imperative in order to avoid litigation. If his scheme had fructified, there would be no difficulty in obtaining the names and signatures of the twenty persons in a block, and then in the testimony of living men you could have passed a title that it was not possible to destroy. That was his aim—not to leave any unascertained title for future question.

2225. *Mr. Carroll.*] You say that Europeans set the law at defiance?

Mr. Rees: No; they hardly set the law at defiance. The principle was wrong, and it could hardly be made good.

Mr. Carroll: It was never intended that Europeans should purchase individual shares. But to make it complete it was necessary that the people, or a majority of them, should assent to the sale.

Mr. Rees: It wants more than that—not only that a majority should assent, but that every one of the majority must sign the deed after subdivision, or else you must have another subdivision.

Mr. Carroll: I think, under the Act there is provision for tribal assent.

Mr. Rees: That is, after subdivision.

Mr. Curnin: On the question of the selling of lands under the Act of 1873, the assent of so many being ascertained, you could apply to the Court, and then the Court would make an order for subdivision of the dissentients' part.

2226. *Mr. Rees.*] Two orders, one for those who assented, and one for those who dissented?—Yes, and those who assented got an order for a freehold.

2227. They had afterwards to sign again. The Kotarapaia case seemed to favour that, but Judge Richmond afterwards said he did not intend that. However, that was the view Sir Donald McLean held which you now mention?—Certainly.

2228. The course of recent legislation—from 1873 onward—has been what is called free trade in individual Native interests—the purchase of individual interests everywhere?—With the legislation since that time I have had nothing to do.

2229. You have not been conversant with the principles of these recent Acts?—No; I have not had to do with them. I always thought that the principle of the Act of 1873 was an equitable one, and ought to have worked well.

2230. Then, Sir Donald McLean did not hold the belief that under tribal titles you could go and deal with every individual?—Oh, no! His first aim was partition amongst the tribe. I judge that from his instructions to me in drafting the Bill.

2231. Then, do you consider from what took place between Sir Donald McLean and yourself in relation to that law that he held the belief that the dealing between Natives and Europeans in respect of Native land should be either by the tribe or by the hapu?—He did not think it practicable, and therefore vetoed, the bringing of the tribe and the individual European purchaser face to face.

2232. He did not think tribal dealings were practicable, but that hapu dealings were?—Yes.

2233. Then, regarding the Native Acts passed since 1873, you do not know, Mr. Curnin?—No, I do not know anything about them.

2234. *Mr. Mackay;* There are those questions with reference to surplus lands that Hone Peeti mentioned at the Bay of Islands. Perhaps Mr. Curnin can give some information relative to those points.

2235. *Mr. Rees.*] Great complaints were made to us in the North as to the Government having injured the Natives in two ways: first, by taking what were called "surplus lands"—that is to say,

lands cut off from any private purchases by the Commissioners; secondly, as to overlapping surveys. The Government used to make surveys which overrid the old surveys, and took off large slices of the Natives' land. Do you know anything in connection with those matters?—With reference to the surplus lands, I went to Hokianga instructed by the Crown to protect the interests of the Crown in the Motukaraka lands.

2236. When was that?—About the year 1885. It was an old purchase of Captain McDonnell, which, with several others of his purchases, had been before the Commissioners in the early times; and they determined that *bonâ fide* purchases had been made. A certain quantity of land in such purchases was surveyed and marked off for Captain McDonnell, and the remainder became land of the Crown. The Natives having parted with their title before 1840, it consequently followed that these lands were never Native lands within the meaning of the Treaty of Waitangi. If Her Majesty only gave Captain McDonnell a certain acreage in that area the remainder vested in Her Majesty by right of her Crown. And it was only a question between herself and Captain McDonnell, how much he was entitled to hold under the Crown. That was limited to 2,560 acres. All the surplus became vested in the Queen as demesne lands.

2237. Was that the only ground on which the Crown took the lands—no other claim than that?—No; but those were the instructions of the Secretary of State for the Colonies, Lord Stanley.

2238. No doubt the argument of Earl Grey was much stronger even than that—that the Maoris had no right to any lands that they did not cultivate; but Sir George Grey, Sir William Martin, and Bishop Selwyn knocked that on the head?—In this case the point was how much of the land purchased by him from the Natives before 1840 a private individual could hold under the Crown.

2239. That was the ground on which the surplus land was taken?—Yes. It was never disputed that that was the ground, and the surplus lands in the North have been sold as Crown lands.

2240. I suppose there were large areas altogether?—Yes, but they were much scattered. The early settlers bought here and there, and concentrated the awards made to them when they wished to obtain a Crown title, so that the first outlying people held under the Crown.

2241. Do you know anything about the overlapping surveys?—No.

2242. There were some cases alleged in which the Crown had allowed the land was the property of the Natives, and yet took it and sold it. Do you know anything about such cases?—I never heard of that. When I was in Auckland at that time I arranged with the Surveyor-General that all the land taken by the Crown as surplus land should be marked on the plans with the letter "S." There have been several cases in the Bay of Islands where the Natives disputed the boundaries on the old records of the Land Claims Office; but the old landmarks are indicated in these records, and they are pretty accurate. I may say that the appointment under section 21 of the Act of 1873 of District Officers was entirely ignored. That was a great scheme if it had been worked.

2243. *Mr. Carroll.*] The scheme was to parcel out the colony into Native districts, and for each a District Officer was to be appointed, whose duties were:—"(1.) To prepare for record a general skeleton-map of the district assigned to him, distinguishing the different tracts of country in possession of the various tribes or hapus of the Natives at the date of the signing of the Treaty of Waitangi, and the nature of the tenure thereof. (2.) To compile, with the assistance of the Assessors, and of the most reliable chiefs of the district, or with the assistance of such other person or persons as he may consider to be trustworthy, accurate and authentic information relative to the district aforesaid, defining the intertribal boundaries by their Native names, giving the estimated acreage of such tribal land, with a description of the course and direction of the principal rivers running through such land, and the names and positions of the various mountains, lakes, and other salient points in the general features of the country. They shall also supplement the information by tracing the genealogy and names of the various families or hapus to which the different portions of the original tribal land shall have descended." You could not have got in more complete detail the working out of a Native-land policy than that?—No.

2244. And that was totally ignored?—It was.

2245. *Mr. Rees.*] Then, Sir Donald McLean's idea was to have all these inquiries made, districts formed, and for each district a District Officer, who had to carry on the duties specified in that clause, in his inquiries being aided by the chiefs?—Yes; he contemplated a Domesday Book, to be prepared while the chiefs were alive who could give the required testimony.

2246. *Mr. Carroll.*] If that had been done there would be no disputes in the Native Land Court as to the ownership of Native lands?—No.

2247. *Mr. Mackay.*] It would have been the standard book of reference?—Yes.

2248. *Mr. Carroll.*] In the present day any Native Land Court Judge dealing with these matters could have referred to this book of reference, and could see at once whether any witness appearing before him was correct in his account of the family history?—Yes.

2249. It would have saved the Natives and the Government a lot of money, time, and trouble?—Yes.

2250. Sir Donald McLean did employ Mr. E. F. Harris to work up the genealogy of the East Coast Natives, but discontinued his services after a time. He was one of the most able men amongst the Maoris to acquire such information. Here, again, in this Act of 1873 is your idea brought out, Mr. Rees. Section 24: "It shall also be the duty of every District Officer to select, with the concurrence of the Natives interested, and to set apart, a sufficient quantity of land, in as many blocks as he shall deem necessary, for the benefit of the Natives of the district: Provided always that no land reserved for the support and maintenance of the Natives, as also for endowments for their benefit, shall be considered a sufficiency for such purposes unless the reserves so made for these objects added together shall be equal to an aggregate amount of not less than fifty acres per head for every Native man, woman, and child resident in the district. In each case of land so set apart as aforesaid the District Officer shall transmit a report of the particulars of each such reserve for the approval of the Governor in Council." Well, that has never been done?—No.

2251. *Mr. Rees.*] Then, that was the purpose of Sir Donald McLean in preparing the Act of 1873?—Yes. I drafted that Bill at my private lodgings, and I took it to Sir Donald McLean himself. He exclusively gave me all the instructions with regard to it.

Mr. Henry Howorth examined.

2252. *Mr. Mackay.*] You are a barrister and solicitor practising in Wellington?—Yes.

2253. You have had your attention directed rather particularly to these questions of Native-land legislation?—I have. For six years I have made them a special branch of my business.

2254. Are there any particular points with reference to which you wish to invite the attention of the Commission?—I particularly wish to direct the attention of the Commissioners to a Bill which has been twice introduced into Parliament by the late Mr. Taiwhanga. I prepared the Bill after consultation with nearly all the tribes in the North Island—the Ngapuhis, the Arawas, the King people, and Te Whiti people. It was first brought under the notice of these tribes in the form of proposals which were printed in pamphlet form in English and Maori. [Copy of pamphlet produced.] Copies of this pamphlet had been circulated amongst them for some time before I visited them and explained the nature of the proposals. Part I. of the Bill provides for securing a small area of inalienable land to every Maori. Part II. provides for throwing all the rest of the Native lands open for sale and settlement under the ordinary land-laws of the colony. As nearly as possible they are to be dealt with as Crown lands are dealt with; but the money or revenue accruing therefrom, instead of going into the Government Treasury, will go into the "Maori Treasury." These lands, which in the Bill are called the "Maori estate," are to be vested in a Board or Council similar to the Waste Lands Boards of the colony. The Council would be a corporate body, with whom the Government would communicate in all matters concerning the Maori estate. Part III. provides for the mode of electing the Council. The Maori estate would be divested of all Maori usage and custom; and the only interest that the Natives would have would be the division of the money after the realisation of the land in open market, the same as Crown lands. The object of the Maori Land Board or Council is to provide a corporate body, in which the Maoris will have confidence, to hold these lands in trust, and to give them a voice in the management of their lands. The voice, I admit, is a small one, because they are quite willing that the lands shall be compulsorily open for sale and lease on application under the ordinary land-laws of the colony. When it has been determined to bring land into the market it must be surveyed in the ordinary way by the Government, and, upon the map being submitted to the Board—probably with the recommendations of the Minister of the Crown—the Board would determine under what regulations the land should be dealt with—that is to say, whether for absolute sale or for perpetual lease, or for sale on the principle of deferred payments, according to land regulations in force for the time being.

2255. How would you propose to constitute this Native Land Board?—It should consist of twelve members, to be elected in the same manner as members of Parliament are elected, three members being allotted to each of the four Native electoral districts. These twelve members, with a Commissioner, would constitute the Board. All the Maori lands excepting the inalienable portions would be vested in the Board. The Board would communicate with the Government in respect of all matters connected with the administration of the estate, and the Maoris, having by these means got rid of all the cumbersome investigation of Maori usage and custom, would apply themselves, under the advice of a European Commissioner, to the disposition of the Native lands to the best advantage for themselves and for the public. In my opinion, large numbers of the Maoris would take up land for independent settlement. I will read the provisions proposed for the management of the Maori estate: "The Maori estate shall be managed and administered by a Council or Board, consisting of members. (*a.*) The Council shall be elected in the same or similar manner as Maori members of the House of Representatives are now elected under 'The Maori Representation Act, 1867,' and for the purposes of this subsection the said Act shall be deemed to be incorporated herewith; but, in lieu of each district returning one member, each district shall return members. (*b.*) The first election shall be proceeded with as soon as conveniently may be after the coming into operation of this Act. (*c.*) The Council so elected shall appoint a President, who shall be a European, and shall hold office during good behaviour, or until removed by the unanimous decision of the Council. (*d.*) The Council shall be styled 'The Maori Council,' and shall be a corporation, and shall have a common seal, and may sue and be sued in its corporate capacity. (*e.*) The functions of the Council, when dealing with Maori lands, shall be analogous to the functions of the Waste Lands Boards of the colony. (*f.*) The offices of the Waste Lands Boards of the colony may, by consent and agreement with the Minister of Lands, be the offices of the Council, and the principal office shall be in the City of Wellington. (*g.*) Regulations shall be framed by the Council for the proper conduct and management of business, and all proceedings shall be open to the public, and all plans and other records shall be public records. (*h.*) The President and Council shall receive such remuneration for their services as the Council may decide upon. (*i.*) The Council shall have jurisdiction to hear and determine all applications and questions arising under this Act concerning the administration of Maori lands, and in cases of doubt or difficulty may state a case for the opinion of the Supreme Court, and, subject thereto, all decisions of the Council shall be final and conclusive." Part IV. of the Bill provides for surveys and the issue of Crown grants, leases, licenses, &c. Part V. relates to "Finance"—viz.: "16. The proceeds of all sales, and of all rents and income derivable from the sale, letting, and disposing of Maori lands, shall be paid into a bank to the credit of 'The Maori Estate Account,' and all compensation to which the Maoris may be or may become entitled shall form part of the same fund. 17. Subject to the payment of the cost of surveys, salaries, rent of offices, advertising, travelling, and other expenses pertaining to the administration of the said estate, the fund from time to time available shall be distributed half-yearly on the first days of January and July in each year, between and amongst the chiefs and Maori people, in accordance with share-certificates to be issued to them

respectively as hereinafter provided. 18. The Clerk of the Council, who shall find good and sufficient security for his intromissions, shall be Receiver of Maori Land Revenue. 19. Until the said account shall be in funds from the sale, letting, and disposal of Maori lands, the Council may from time to time obtain advances in cash to defray the cost of survey and general management of the Maori estate, and the Maori estate shall be a security for the due payment of such advances. 20. The accounts of the Council shall be audited by public auditors, and published in the *New Zealand Gazette* in the Maori and English languages." In order to ascertain who the Maoris are, Part VI. provides that a Maori census should be taken. "21. As soon as conveniently may be after the passing of this Act a Maori census shall be taken in such manner and form as may be prescribed, distinguishing the chiefs from the common people, the chiefs being divided into two classes—that is to say, chiefs of the first rank and chiefs of the second rank. (22.) Chiefs of the first rank shall be entitled to participate in the Maori Estate Fund in the proportion of pounds to one pound, and chiefs of the second rank shall be entitled to participate in the said fund in the proportion of pounds to one pound, of the common people. (23.) All errors and omissions in the said census may be corrected and remedied by the Council as the justice of the case may require." Probably the greatest difficulty in dealing with the Maori lands is the division of the money, and to bring all to one common agreement. The same difficulty exists in every scheme that may be propounded; but I have found the proposal to give a larger share to the elder chiefs—say £10 to £1—meets with general acceptance. I remember, in one of the election speeches a member said he would buy all the Maori lands with debentures, handing the debentures over to the Public Trustee, and then leaving the Maoris to fight out their claims to the moneys in the Public Trust Office. The Maoris are not likely to be satisfied with any such arrangement as that; at any rate, I could not advise them that it was a fair and equitable mode of dealing with their property. I have endeavoured to persuade them that it would be better for all to take equal shares than to be fighting over the division of the money according to Maori usage and custom. On the whole, I think it will be better to humour the chiefs to a small extent by giving them a larger share than the common people. The chief retains his *mana* and dignity thereby to a certain extent, and as the old people die off the thing will regulate itself, for they will not increase in numbers. I propose, then, that there should be a share, or certificate—call it what you please—issued to each Native, the chief's share being larger than that of the common man. As soon as the rank of each chief has been determined by the census his share would be fixed in accordance therewith, the Board having power to rectify errors. Assuming the census to be complete, then there would be a certificate issued to the first-class chief, a certificate to the second-class chief, and a certificate to the ordinary Maori. I propose that these certificates of shares should be issued as defined in Part VI. of the Bill—viz.: "(24.) Certificates of shares shall be issued to the chiefs and people of the three classes specified in Part VI., as representing the proportionate share to which each holder shall be entitled to participate in the Maori Estate Fund and every distribution thereof." Supposing there are forty thousand Maoris, and that the revenue for the first six months amounts to, say, £40,000, this is £1 a share. Each ordinary man gets £1, while the principal chiefs get £10 each, and the second-class chiefs £5 each—if those are the amounts they agree upon.

2256. *Mr. Rees.*] You do not allocate the claims of the Maoris upon the basis of their individual lands, but upon the total amount of the funds?—Upon the total amount of the funds? No scheme for individualising the tribes on their lands will be satisfactory. To participate in the benefits of that proposed measure the Maoris must adopt it as a whole; and, in my opinion, if there are dissentients on account of some being more wealthy than others, they must be instructed in order to convince them that it is for their good. I know that the Arawas and the Ngapuhis are determined to adopt it if possible. I have a letter here telling me of a large Native meeting at Kaikohe attended by seven hundred men and four hundred women, and that they have appointed a Committee of six to go to Wellington in order to direct their member, Te Mutu, to work for the passing of this Bill. It has been before the country for the last two years, and it has been my endeavour to make it as practicable as possible both for the Maoris and Europeans. I ought also to point out that under this Bill the Maoris cannot waste their estate, or, so far as their estate goes, that they cannot become paupers. Express provision for this is made in section 25: "Such certificates shall not be transferable or assignable, and shall not be available in bankruptcy." If, therefore, credit is given to a Maori, it must be outside the certificate, and upon the strength of other property which he may acquire. I wish to impress upon the Commission that this Bill emanates from large sections of the Maoris; so that if the mode of acquiring the Maori estate for settlement is acceptable to the people, the people should yield to the Maoris the provision for securing their estate for their benefit by the simple process of equal division. I have pointed out to them that the provisions of this Bill are analogous to the formation of a company of forty thousand shareholders for the working and bringing into settlement twelve millions of acres of land, a Council or Board of their own people constituting the directors. Those who have given attention to the matter will understand and appreciate that it will be for the benefit of both races. In proof of this, two years ago there was a large meeting held at Orakei, at which four Ministers of the Crown were present, and resolutions were passed in favour of "union of the laws"—that is, the same laws for the Maori lands as the European lands. What stronger evidence can there be that the Maoris are prepared for this change? I was present at the meeting, and saw the resolutions handed by Major Kemp and Paora Tuhaere to the Native Minister. But what has become of them? I believe that many of the difficulties that now exist between Europeans and Maoris regarding subdivision can be readily settled by the Maori Council. The question of tribal interest will no longer be an element of disagreement, the simple object being to ascertain the portion to which the European is entitled; and the remainder will vest in the Council. I do not propose to interfere with the Native Land Court at present. Probably a standing Commission would be better to determine cases in which the Maori Council cannot agree. In any event, by abolishing Maori usage and custom the principal work of the Native Land Court will disappear, and, of necessity, the Court will disappear also. I consider that the Native Land Court has failed in

its object to individualise Native title, except so far as to determine tribal rights and boundaries of blocks: after that the work of the Court is practically a dead-letter. I know of no instance where a block of land has been subdivided into allotments showing each owner's portion. Use is, of course, made of the Court by land-purchasers who have acquired shares, and I am quite aware that in many instances portions of blocks have been acquired; but, as to the remainder of the block, belonging to the non-sellers, no individual allotment has ever been made, and, except that the land is no longer under the Treaty of Waitangi, the land is held in block by the owners. I also consider the system of Native-land purchase is degrading both to buyer and seller, and I regret I cannot make exception in favour of the Government. Since public opinion has been enlightened on these matters, mainly owing to the number of cases brought under review of the Supreme Court, the system is doomed, and the question is, what system except such as I have presented to the Commission is to take its place.

2257. I may tell you that the irresistible conclusion which the Commissioners have arrived at, after seeing and hearing both Europeans and Natives—and I use the term "irresistible" advisedly —is, that the principle which you have there laid down must be carried out—that is to say, the corporate action of the many in respect of their lands, for the individual dealings of the Maori have been the root of all the evil; therefore the evil must be dealt with in that way. The details of our plan I am not at liberty to state; they are somewhat different from yours. Nor do we propose to put the whole of the Maori estates in a "pool," as it were. We propose that a separate account shall be kept in respect of each large block, getting the Natives interested therein to define their interests, and, if they do not do that, leaving the duty to another body—that is most important, although there may be some slight dispute.

2258. On the principle of dealing with the land as if it were for absolute sale?—Of course I am putting myself in the position of adviser to these people. I have thought it my duty, in drafting this measure, to see that there is no complication after they have parted with their lands for the benefit of the colony—not merely for the special benefit of the Maoris, but for the benefit of the Europeans—I consider it my duty to see that there is no complication in the division of the money. If they have, in dividing the money, to determine first of all who has a right to it, it will simply be put into Chancery. I have told them that, if they refuse to agree to an equal distribution of the money, that then it will be locked up, and remain in dispute. I ask the Commissioners to try and help me in that direction. I am willing to assist the Government in every way possible to get the Maori lands opened up for the use of the public, but it is my duty to see that the revenue from the Maori estate is available for distribution and free from all complication. As far as the Ngapuhi are concerned you can deal with them as one united tribe.

2259. They have very little land left?—Then, there are the Arawas.

2260. They have not much good land; but when you go to the East Coast, to the Natives of the Ngatiporou and Ngatikahungunu Tribes, they would be likely to oppose that mode of administration?—I suppose you will have a return showing what proportion of land each tribe has.

2261. What we shall try to do will be in the same general direction that you have gone, although the details may be different. We want the lands thrown open for profitable settlement on the one hand, and for the advantage of the Maoris on the other hand?—And the division of the money without complication.

2262. I do not anticipate much difficulty about that. We have put it to the Natives very strongly and straightforwardly. We do not anticipate either complication or delay?—I think there should be a periodical distribution of the money.

Mr. Rees: We think that also, and it should commence when the money falls in.

2263. *Mr. Mackay.*] And that it should not all go into one hotchpot. Each tribe and hapu shall have its own money distributed among its own members?—There are many tribes and hapus that overlap.

2264. *Mr. Rees.*] In that case there must be some arrangement. We desire to have a reserve force behind sufficient to carry out operations, though we want the Natives in the first instance to take the initiative themselves. The reserve force will be utilised when they will not come to an arbitrary and amicable arrangement amongst themselves?—If this were supported by the legislation which I have indicated it would carry all the Natives behind it. Those for whom I speak, and for whom I speak with authority—I am quite certain there is no difficulty; and the influence of these will influence the whole. Sydney Taiwhanga would not have a separate fund for each, nor a separate mode of treatment. He said, "Are we not all Maoris, and should we not therefore act together?" His idea was that they should not go into it unless they all brought their lands into hotchpot. I feel pretty certain that they will agree to it as a whole, but if they get the idea that certain sections and portions of them are to keep their rights and possessions separate from the others, then there will be the same difficulty in acting as in the past. I earnestly ask the Commissioners to try and pool the whole of the Maori lands, and deal with them *in globo*. That is what is wanted—one law for the whole, and not separate laws for particular tribes and hapus. So long as they have a voice in the management they would be quite satisfied to hand over their lands for profitable settlement. That brings me to another subject I wish to speak about, and that is the Thermal Springs Act, and as to the leasing of those lands at Rotorua by the Government. It has been proposed, I understand, that the Maori lands might be taken over by the Government on a system of a sort of perpetual lease, the Government accounting to the Maoris for the revenues arising therefrom. That experiment has been tried under the Thermal Springs Act, and found to be absolutely wanting—in fact, a perfect failure. To give the Commission an idea of the state of things, I may mention that 600,000 acres were brought under the operation of that Act, and the only portion of these 600,000 acres that has been dealt with is 3,200 acres forming the Township of Rotorua. That is the whole extent that the Government has dealt with. The Government certainly brought that portion of the estate into the market under flying colours. These first leases that were sold brought a rental of £2,740 per annum. Under Government management, in three

years that rental became reduced to £159. About three divisions of money were all that was made, and the result of the management of the remainder is very little better. Litigation has resulted, and is still pending. I do not want to trench upon what is going on, but I consider that the Thermal Springs Act ought to be repealed. It is an injustice to these unfortunate people to keep 600,000 acres of their land locked up. The Government, apparently, cannot deal with it, and no one else can. It is a grievous thing that such a state of things should still be existing. I presented a petition to the Government signed by two thousand Natives—nearly all the owners—asking the Government that these lands should be withdrawn. It has not been acted upon. There is power under the Act to proclaim any of the lands out of the Act; but that provision remains a dead-letter. This, I think, is a grievance that the Arawas have a right to ask the Commission to remedy.

2265. Supposing that land were thrown open for settlement, with titles to be given by a Board, is it likely that it would be taken up?—Yes; I have not the slightest doubt about it. The land around it is mostly all taken up.

2266. At any rate, you can safely say there would be a large revenue from it?—Yes.

2267. There would be an annual revenue, and the settlement of the country would at the same time be advanced?—Yes.

2268. *Mr. Mackay.*] The right thing to do is for the Government to buy it up, and constitute with it a Government park, as Rotorua will in time become a large township?—I have been negotiating in that direction. Something, at any rate, will be done if I can get the Government to buy the springs. To the action that is pending the Crown Suits Act has been pleaded in bar of the claim; and, although these Maoris claim something like £20,000 against the Government, they are unable to get their case into Court, owing to this 39th section of the Crown Suits Act. If it is within the province of the Commission to make any recommendation upon that point, I should say it ought to be done.

2269. *Mr. Rees.*] I think it is open for us to make report upon that, and a recommendation?—Probably that would obviate the necessity for petitioning Parliament. At any rate, I would ask the Commissioners to report upon the justice or injustice of the case. I submit that it is a monstrous thing that the Government should set up this technical clause of the Act in order to prevent the case being heard upon its merits.

2270. *Mr. Carroll.*] And yet the feeling is strong to place all the Native land under the control of the Government—that is, if a great many people are to be believed—in the face of all this?—Yes, and in the face of a great many other things. Gentlemen of great wealth and position in New Zealand who bought leases at this Rotorua sale have been excused from the performance of their contracts, and then the machinery of the law is used to prevent inquiry into these transactions; and, in order further to hide the defects of their management, the late Government, although trustees for the Maoris, set about purchasing the shares in the township, and have acquired the greater part of them; but a few, who are parties to the litigation, will not sell unless upon a fair settlement of the past dealings with the land. The admission is on the pleadings that the rentals of £2,740, representing the first day's sale, have become reduced under Government management to £159, and that contracts amounting to many thousand pounds have not been enforced.

2271. *Mr. Rees.*] The Government on their part violate the law. They were declaring these people to be acting in a fiduciary position, and yet they bought the interests of the *cestui que trustent?*—That appears to be so. Another matter I have to bring before the Commission is in respect of a block called the Ngarara Block, near Waikanae. Section 13 of "The Native Land Court Act Amendment Act, 1879," was passed, I believe, to provide for cases where there had been an error or omission in any order of the Court. Some cases were brought under that section in respect of which it was held that there had been an omission or error of the Court, and they will obtain relief; but there are others whose names were omitted from the list of owners. Wi Parata was appointed by the Court to furnish the names of the owners, and I have read his evidence, which was given before the Commission set up for the purpose of making due inquiry, and it states that he only furnished the names of those who were residing on the land. This block is called Ngarara, but it is really the Waikanae Block, and all these people say they were deceived by the name under which it passed through the Court. If it had been styled "Waikanae," they would have understood what block was meant; but "Ngarara" they could not understand, as Ngarara happens to be merely the name of a small stream passing through the block. At the time of the settlement of New Zealand by the English, William King was living at Waikanae, and he interviewed the Governor when he came here, and told him, "I am living at Waikanae now, but I intend to live at Waitara. Therefore," he said, "don't you buy any of the Waitara land from Taylor (Teira), because I intend to make that place my home; but you can buy all the rest of the land right up to New Plymouth. Do not, however, buy that little bit at Waitara." However, we know that the Government did buy that little bit. William King lived on the Waikanae land as principal chief of the Ngatiawa Tribe; and yet in this list of names furnished by Wi Parata his name and the names of all the members of his family are ignored, because he was not living there at the time. I submit that is an injustice, because our law recognises the Maori land rights as they were established in the year 1840; and, as these people lived there up to 1848, it is clear they had no right to be excluded from the list of owners. That is the position of these people, and yet they cannot come in under section 13 of the Act of 1879. Their application has been dismissed by the Native Land Court.

2272. You say that section 13 is not wide enough to meet the case?—Yes. It is not wide enough to allow these cases to be heard on their merits. There is another class of cases, but I think it only applies to one family—viz., to an old Maori chieftainess named Ihipera Nukaihu and her children and grandchildren. She received no notice of the sitting of the Court, but she came to Wellington shortly afterwards, and she left a letter with Sir Donald McLean, saying how she wished the block to be divided. At that time she had some small pieces surveyed in the block for four of her children, of which I produce a plan made at the time by an authorised surveyor.

And yet both she and they are absolutely excluded, although she was living on the land at the time of the sitting of the Court.

2273. Do you not think it would be a good thing that any central Native Board to be created should have the power, on evidence, to rectify anything of this sort?—It depends a great deal on the *personnel* of the Board. If they are vested with large powers they should be men of large experience.

2274. Do you not think it advisable to have that Board a mixture of Maoris and Europeans—a Board partly appointed by the Government and partly elective by the Maoris—and accountable both to Parliament and the Maoris?—I see no objection to the Board being accountable to Parliament, but it should be entirely free from the control of the Government. The Government should not have any power of appointment.

2275. You think that the Board ought to be independent in that sense, even if there be any European element; that its success largely depends on the persons who are managing; and that it should have vested in it plenary powers for the remedying of any abuses such as those you are now bringing under our notice?—Just so. Many of these disputes, if dealt with by the Board amongst the Maoris themselves, would, in my opinion, be speedily and satisfactorily settled.

2276. Questions in which the Maoris themselves are interested?—Yes. Many of the Maoris are ashamed to look at one another in the Court over this very same transaction of Ngarara of which I have just spoken.

WELLINGTON, 15TH MAY, 1891.

NGARANGI KATITIA (GEORGE BROUGHTON) examined.

2277. *Mr. Carroll.*] Are you one of the owners in the confirmed leases on the west coast of this Island?—Yes. I am one of the owners in those lands which were originally leased by the Maoris themselves to Europeans, and which leases were afterwards confirmed under statute. Those are not the lands originally leased by the Public Trustee.

2278. Did they not form the subject of several petitions to Parliament in which the Natives prayed for redress?—Yes: we commenced petitioning Parliament about these lands in 1887, and we continued petitioning until June of the year that has just passed away.

2279. Can you state shortly the grievances the Natives suffer from in connection with these lands?—Yes. The great evil with which the people are afflicted I shall instance by mentioning one particular case. The name of the person concerned is Marino. I produce his grant to a block of land containing in all 303 acres. [Crown grant produced.] It was granted to myself and sixteen others. The whole of this land was included in a lease. No portion of it was left out. Marino is the grantee of this land. He is also the grantee in another block called Putahi, the whole of which was also leased. Haututu is another block of land of which this same person is grantee, and the whole of it likewise has been leased. Those are the only lands in which Marino holds any interest. He has absolutely no land outside of those blocks for his own occupation. There is another of the grantees—a woman named Mata Riri—who is in the same position with regard to her land. The only land in which she has any interest is in this block. It is all leased. Mr. Rennell has given her 5 acres in the Hawera district to live upon. That is not sufficient for her wants.

2280. Are there many of the Natives in the same position as those you have mentioned?—Yes, there is a great number.

2281. What do they do when they have no lands, apart from those which are leased, to occupy and live upon?—They simply have to depend upon the kindness of their friends, and they go here and there, sometimes depending upon Europeans for work. These leases were granted by the Natives to Europeans in 1877, and confirmed by Sir William Fox and Sir Dillon Bell when they were sitting as Commissioners on the West Coast in 1880; but the Commissioners did not go so far as to reserve from these leases a sufficiency of land for the occupation of all the owners. I can mention about a dozen Natives who are landless in this way, their lands being leased, and none left upon which they can squat at the present time. They have to go about among the Europeans looking for work, and squatting upon places parcelled off for other persons.

2282. At the time that these lands were leased by the Natives to the Europeans were there any stipulations as to the improvements?—No, there was no provision that the European was to be accounted to for his improvements; but the provision was the other way—that the improvements which were made were to go to the Maoris at the end of the term for which the land was leased. It was on that account that the consideration accepted by the Maoris and offered by the Europeans was made small. For the first five years of the lease the rent was to be small in consequence, and after the first five years the rent was to be increased; but the reason why it was to be low for the first five years was because the Natives were to get the improvements at the end of the lease. But after these contracts were made the law intervened and robbed us of our rights. That is the reason also why we are in such great trouble, and why we have petitioned Parliament repeatedly to grant us redress. [Lease produced.] The provisions of this lease show that improvements are to be made upon the land, and are to be left upon it at the expiration of the lease without payment to the lessee. Then the Commissioners came after these leases were made, and confirmed these leases as they stood. Then, subsequently, Parliament passed a law robbing us of those rights, and transferring the improvements to which we were entitled to the European lessees, besides giving them a renewal of the lease for an extended term of thirty years at reduced rentals. I would add this: that myself and people never took up arms against the Queen. My father, Mr. Broughton, was killed by the Hauhaus while he was performing duty under the Government as interpreter attached to the forces, and his name may be seen inscribed on a monument erected at Wanganui. I have repeatedly applied to the Public Trustee to exclude from his administration these lands; but he would not agree to it. Yet the Commissioners—Sir William Fox and Sir Dillon Bell—declared that 50 acres would be excluded from the operation of the West Coast Settlement Reserves Act for

each person among the Maoris to live upon—that is to say, for the personal occupation of my people. This has not been done. I do not know any of us who has 50 acres to use. Because we could not get any attention paid to our application for redress we commenced a suit in the Supreme Court, and I am at present in Wellington attending the Court as a witness.

[Mr. Mackay having arrived, the foregoing evidence was read over to him.]

2283. *Mr. Mackay.*] What leases are these you refer to? Who are the lessees?—F. Gower is the lessee.

2284. What is the name of the reserve or block that he is tenanting?—Patere. Pukorakora is another name for it.

2285. How many acres has he got?—Three hundred and three.

2286. What is the gross acreage of that block?—Three hundred and three acres is the area included in the grant.

2287. Then, the whole block is leased to the one person?—Yes.

2288. That was leased in 1877 by the then owners?—Yes.

2289. They seem, then, to have, in fact, leased the whole of that land: had they interests in other lands on which they resided?—The land they were occupying at the time they leased this block was subsequently leased also.

2290. Why did they lease the land on which they were living?—The chiefs who were the principal owners of the other lands on which they were living leased them. The reason why these lands were so leased was because they understood that the terms of the leases were short and would soon come to an end. Expecting, therefore, these lands to revert to them at the expiration of the term of the leases, they leased the other lands as well.

2291. How did they subsist, the whole of these two blocks being leased?—They were occupying some other land.

2292. Did that land belong to them?—When that land became Crown-granted it was found that they were not the owners of it, and that therefore they had no right to it.

2293. Where are they living now?—Some are in European employ, and others are occupying land owned by my wife. Marino is living at Otaki—working for some European there. He is married, and has two children, and he has no means of making provision for them.

2294. Why did they not represent to Sir William Fox at the time that the whole of these blocks were leased, and that it would be necessary to reserve land for their occupation and use?—We explained the matter to Sir William Fox, and Sir William Fox said, "The best thing to do would be to have your lands Crown-granted, so that no person can come and interfere with your title." We then consented to this, and no sooner was the Crown grant issued than the law was passed that robbed us of our lands. Sir William Fox told us that when the Crown grant was issued no one would be able to come and disturb our ownership. He did not say anything about the leases. Some of the Natives pointed out to Sir William Fox that great hardship would be inflicted upon a portion of their number; but he said they would soon get over that, as the leases would shortly expire. After the Commission went to Wellington the news came back to the Natives that the Commissioners had decided to reserve 50 acres for each individual; but that has not been carried out.

2295. That is what I wanted to get at. On what reserve are you living yourself, Broughton?—I am living on land belonging to my wife.

2296. What is the particular reserve?—Pukorakora, containing 509 acres.

2297. What is your post-town?—Patea. The land we are speaking about is situated between Patea and Whenuakura.

2298. Is it near Mr. Percy Wilson's?—That, perhaps, is at the Wairoa?

2299. No; Okututu. Did you give evidence before the parliamentary Committee that sat on the West Coast Settlement Reserves petitions from Natives and others in August last?—Yes; but I spoke there on another subject. It was in reference to some of the land that was wrongly taken. I spoke on the general question, and did not particularise any case.

2300. *Mr. Carroll.*] Did you tell that Committee that certain Natives were landless?—Yes; I said that the reason why arbitration would not be agreed to was that some of the Natives were altogether without land. You will be able to see from the printed record of my evidence what I stated.

2301. *Mr. Mackay.*] I have looked over your evidence, and I do not see that you made any remark as to any of the Natives you have now mentioned being landless?—I did not mention any Natives, but I said that that proposed arbitration would not be agreed to because some of the Natives were suffering great hardship through not having any land at all. I did not mention any particular names, because I expected that the examining lawyer would put the question to me, and ask me if I was able to mention any names. Had he asked me that I could then have furnished the names.

2302. You are aware that after the West Coast Commission sat I was appointed West Coast Reserves Commissioner; and I have never received any intimation of that promise by Sir William Fox. If I had I should have attended to it?—When the Europeans said that Mr. Mackay controlled their leases the Natives said among themselves, "Why does not Mr. Mackay come and see us?"

2303. There was no injunction on me to do so in any way?—That is what I mean when I say we are robbed of our lands. We were dealt with unjustly in that manner. We were not consulted on the subject, and the terms of the leases were not discussed with us.

2304. The terms of the Act under which the Commissioners acted were simply that they were to investigate and ascertain whether at the time the original leases were granted they were granted *bonâ fide*. Section 18 of "The West Coast Settlement Reserves Act, 1881," says,—"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 in which it has been made, notwithstanding anything contained in section 11 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.'" That is all we had to inquire into?—I am not making any complaint with regard to the Commissioners, but I complain of the law that was passed which robbed us.

2305. Yes, but it is a complaint of the Natives being left landless. If the persons whom you consider are landless will send in a statement to me through you, I shall endeavour at any rate to provide them with land sufficient. But before doing so I must refer the matter to Sir William Fox in order to get his confirmation of the promise the Natives state he made to them?—Supposing Sir William Fox conceals the truth, what then?

Mr. Mackay: I do not think Sir William Fox would conceal the truth.

2306. *Mr. Carroll.*] After the Commissioners came to Wellington, word went up to the Natives that it was the expressed intention of the Commissioners to recommend that 50 acres should be set apart for each individual Native as occupatory land. Then they saw afterwards that no 50 acres had been given them by Sir William Fox?—Yes. I think all these lands should be administered by Maori Committees, in order to save all this confusion that at present exists, and so as to avoid the necessity of petitioning Parliament, and so that no troubles would arise for the future.

MINUTES

OF

MEETINGS WITH NATIVES AND OTHERS

AND

CORRESPONDENCE.

MINUTES OF MEETINGS WITH NATIVES AND OTHERS.

CAMBRIDGE, 24TH MARCH, 1891.

Messrs. W. L. Rees, M.H.R., and Thos. Mackay (Native Land Laws Commissioners) met a large gathering of Natives in the Public Hall, at 7.30 p.m. on the above date, for the purpose of eliciting their views with regard to the subjects into which the Commission had been appointed to make inquiry. Printed circulars, in Maori, detailing the orders of reference, had previously been distributed amongst them.

Pepene Eketone opened the proceedings by saying: This Commission is a new arrangement and the Commissioners are strangers to the Native chiefs that are assembled here this evening—that is to say, chiefs of the Ngatiraukawa, Ngatimaniapoto, and Ngatituwharetoa; and it is in accordance with Maori custom that the chiefs should greet the Commissioners first. It will not be a long proceeding; it will just be of a formal character.

Mr. Rees: We shall be glad to receive the greetings of the chiefs.

Arekatara Rongowhitiao: Welcome to the Commissioners who have come here to meet the people who are assembled—the tribes of Ngatiraukawa, Ngatimaniapoto, and Ngatituwharetoa. My request has been acceded to, in the fact that the Commission has been appointed to inquire into matters affecting the people in this Island. Here are the people of the Island to welcome and greet you. That is my greeting to you. [The speaker then sang a *waiata.*] You have come in the hope that satisfaction will result from your labours. Here we are burdened with troubles and difficulties. From the old times to the present time the trouble has been upon the people. Welcome, and salutations to you.

Hemopo Hikarahui: Welcome the Commissioners, you who have come here in connection with that work that affects the colony. We, the Natives of this colony, are working the work. We are doing things that are good and work that is difficult. We are glad indeed that you, the Commissioners, have come here, because you can show to those who are blind a proper road to take. That is the reason we greet you, you that can lift up the things that can do good to the colony. During many years we have been working our works, and the burdens now are heavy upon us. And you, the Commissioners, may have light thrown upon the way that will do good to the tribes of this colony, and so that prosperity may result to all, and that the good so accruing may be joined on to the benefits that are already past. Long may you live!

Karanama te Wharaheke: I belong to Ngatiraukawa. Welcome to you, the Commissioners, who have come here—you who are sent by the great representatives of the Europeans—you who have to look into and investigate the wrongs of the pakehas and the Maoris. The Maoris to some extent possess a knowledge of what is proper, and they hope that what you may suggest will be joined on to the works that the Maoris themselves do. In those years that have passed away no Commissioners came amongst us like you who are sitting there. Now, indeed, our hearts feel glad that you have come here. Welcome. Come and put things straight, that the works of the law may be strictly and properly carried out. That is all I have to say, for there are many chiefs who wish to greet you.

Okiwi Ngatara: Welcome you who have come amongst us, the Natives—you who have come in these days to bring relief to the people. In the beginning the affairs of the Maori people were not clear. In the days that are past the actions of the Government were not good to the Maori people. The Government in those days trampled on the Maori people. I wish to sing a song to you, but it need not be translated. [The speaker concluded by singing a *waiata.*]

Aperahama Patene: I stand up with regard to Waikato. I greet you, the Commissioners, who have come here under the authority of the Governor. My heart is indeed gladdened, because you have come to inquire into the things that have caused the hearts of the Natives to be darkened—that is, the troubles that have arisen in regard to difficulties in connection with sales; and to inquire also into the effect of the administration of the Native Land Court, and with regard to all those difficulties connected with land-dealings. All that I need do now is to express my joy at your being here. But if I am asked I shall be pleased, on behalf of myself and my hapu, to lay before the Commissioners our views with regard to matters that pertain to our interests. I wish to know if the Commissioners will be able to go to all Native places, in order to carry on their investigations. An important Native Land Court, in which we are concerned, will sit at Raglan next month. There, in presence of my hapu, we shall be glad to lay before the Commissioners our views with regard to what they are inquiring into. This concludes my greeting to the Commissioners, who, I am glad to see, are inquiring into the best means for dealing with the matters affecting the Natives so that the good may lie equally between the two races, the Maoris and the Europeans.

Tureiti te Heuheu: Salutations to you, the Commissioners, who have come here under the authority of the Governor—that is, the chief man of the colony, who is the representative of Her Majesty the Queen. There have been many Governors during the years that are past, and who have had control of matters in which Parliament is concerned, but this is the first time that this plan has been adopted of appointing Commissioners under the authority of the Governor to inquire into these matters. That is, according to my observation. This appointment of Commissioners is entirely new, and did not take place in the times of past Governors. Still, I am but a young person, and I may not be clear perhaps as to the proceedings of Governors in former times. So far as I am able to judge, the subjects upon which the Commission is going to inquire under the

direction of the Governor are proper subjects indeed for inquiry, so that a careful and judicious scheme may be arrived at for dealing with the affairs pertaining to the Natives of this Island. That is, that in the approaching time the things that pertain to the Natives may be carefully inquired into, in order that benefit may result and that the advantages generally may fall upon both Europeans and Maoris—for who can tell whether good or evil may come? I desire to express my keen regard for the action taken by the Governor in so far consulting the wishes of the Natives as to take their views upon matters which relate to them—that is, the administering of affairs in relation to their lands, together with all other matters affected by the laws which bear upon the Native people. That is all I have to say upon this point. Here is another matter that I wish to speak about. I may not be able to-day to lay the whole of my views before you, and perhaps it would be better that I should return to my people at the southward end of Taupo should an opportunity again present itself of seeing the Commissioners. If such should be the case, I would reserve the main portion of what I wish to lay before the Commissioners until I have an opportunity of consulting with my people, but in the meantime I have a few remarks to make to the Commissioners. That would be after I have seen those of my people who are here, and then I would be able to lay fully before the Commissioners our views on matters with which we are concerned. That is all. Salutations to you.

Hitiri Paerata: Welcome the Commissioners, representatives of Parliament. Salutations to you. We, the chiefs and people who are assembled here are gladdened in heart at the presence of the Commissioners. Welcome, you who bring hither with you the light, so that you may be able to see into all the corners—that is, into all the affairs of the Native people. Welcome, welcome, you who come from the seat of knowledge. Welcome, you who come from Parliament. Show and make known to us the proceedings of the House. Our hearts rejoice at your having come here. That is all I have to say. Salutations to you.

Te Rangikaripiripia: Welcome, the Commissioners who bring with you that which will enable us to see what is good and what is bad—you who bring with you the means whereby good may be done. If you will be able to deal with what is good and what is bad I shall indeed be glad.

Pepene Eketone: Welcome, the Commissioners who are here under the authority of the Governor and our Queen. I am glad that you have come to this part of the country to see the Natives assembled. We heard some time ago that the Commission was appointed, but we had no distinct idea as to the nature of its work. I am extremely pleased with this new Government that has adopted this principle of appointing the Commissioners. All the past Governments were clearly aware that there were great difficulties bearing upon the Maori people. But none of those past Governments gave vent to the idea or took such steps as have been taken by the present Government in appointing a Commission to inquire into the Maori grievances. I knew from seeing the terms under which the Commission was to act that that would be the best means of finding out what the Maori grievances are. In relation to all the laws that have been passed by the Government in regard to Maori matters, there have been only four Natives to speak up in the House—that is to say, four Maori members to speak with regard to those laws; and that is why I approve so much of what the present Government has done in sending people amongst the Natives to ascertain their views. I say it is undoubtedly an excellent work of the present Government. This is really the first valuable thing that I have seen done by the Governments. Innumerable petitions have from time to time been presented to Parliament by the Natives in regard to their grievances, and, because the Natives sending them were unable to attend Parliament and represent their cases there, these petitions received no consideration from the Government. That is why I am glad that the Commissioners are here, because we shall be able to explain to them the portions of the laws affecting the Natives of which we disapprove. Perhaps I may explain with regard to a certain law affecting the Natives—that is to say, a law passed by the Government that has recently been defeated—viz., the 15th section of the Act of 1888, which imposes restrictions upon Native lands included within the Rohe Potae. A petition had been forwarded to Parliament protesting against that law, but the Government gave no consideration to it. I shall not detain you very long in saying anything about that. Another thing is with reference to the area for the North Island Trunk Railway. Under the Act of 1889 a vast area of land was placed under restriction as to sale. I say these laws are bad. Let me point out where the evils are. The evil in that law is this: that the Government will not allow the Natives to lease or sell or deal with land with private parties. The Government assume the absolute control of those lands. The evil to the Natives in that is that the Government will offer but small sums of money for that land. The Government will not allow private individuals to lease any portion of that land. The Government, then, has assumed to itself the right of paying for the surveys of those lands, and after they have done that they demand a portion of the land to recoup themselves for the survey outlay. There are many laws that are falling with equal hardship upon the Maoris, but I will speak of them when the time comes for the Commissioners to put questions. That is why I say that there are great evils in those laws; and why I am expressing my regards to the Commissioners is that the Natives will have an opportunity of laying their grievances before the Commissioners, after which the matter can be referred to the Parliament. But if we, the Natives, were left to our own way of laying our grievances before Parliament the cost and expense of so doing would be very great indeed; and that is why I regard the work of this Commission as most important. I shall, however, go further into details when I am giving evidence before the Commissioners. The Commissioners have heard the expressions of regard made by the chiefs, and they are all of one mind in greeting the Commissioners for having come.

Huirama Tukariri: I belong to a different part of the country. I desire to express my admiration at the Commissioners coming here. I am surprised and glad at the Commissioners coming here and going into these matters affecting the Natives. We will see what the result of your labours will be. If you have come with regard purely to Native matters it is well. The reason why I say this is that in all past years there have always been difficulties in relation to the Natives. From year

to year the Natives are petitioning Parliament, but this, of all things considered and required, is the most estimable. Although I am speaking here now, my remarks will have yet to be made with regard to my own part of the country. I am speaking here now in accordance with Native custom. With regard to our own troubles, they will be dealt with in our own part of the country. I do not know whether I shall see you when you are at the Bay of Islands. Let me therefore explain where the difficulties are with regard to my own district. The trouble with the Ngapuhi arose when they permitted the surveys of their land in its native state. This is what arose out of the fighting we had with the Government. This was in the newspaper. When near Whangarei the surveyor went upon the land and trouble arose out of it. At a meeting held in the following March with regard to the Treaty of Waitangi, we had present a representative of the Government. I think it was Sir Frederick Whitaker. He went there, and when they began to speak about the Treaty of Waitangi Mr. Clendon (the interpreter for the Government) said to me, "Go and get that person who has been in trouble about the fighting," and Mr. Clendon said to Taurau that he would take over the trouble with regard to the survey and settle it. Taurau said he was not satisfied; he would adjudicate upon his own trouble. Clendon persisted in what he wanted, but the Government would not consent. Afterwards the whole trouble was adjudicated upon, and the Maoris were the sufferers. It is that sort of work that makes the Natives dread the law. Then he came down here, and some more trouble arose with regard to the land. I told the people they should be careful lest anybody should be killed in that trouble, and in December last I saw the people who wished to fight and prevailed on them to desist. I say that these fightings over surveys should not be allowed to take place. These are evils that afflict the people. That is all I have to say about that, but there are other things, and the people here will know how to deal with them.

Hauraki Tonganui: My heart is very glad at your coming here to see the people who are sitting before you. Salutations to you. Your coming here to attend to those things in which we are concerned as well as the Europeans is excellent, because you are the root of the work. Salutations to you, the people who possess sufficient knowledge and are able to deal with these questions. You may be able to lift up the Maori people, who have been in the mud. Salutations to you.

Mr. Rees: The Commissioners are pleased at the welcome of the chiefs and people who have assembled here this evening. As many of the speakers have said to-night, this is a new work. For many years all the winds from all parts of the colony have brought to the Parliament many complaints. Petitions without number have come down to the House of Assembly and been considered by the Native Committee. In the Parliament itself very few of the members know anything about Native matters. Some of the members are merchants, who buy and sell goods in the towns. Some of them are shopkeepers, some farmers, and all these people know really little or nothing about the Natives; so when these petitions come before them some say one thing and some say another, because they know but very little of the truth or falsehood of what is contained in the petitions. Then they proceed to make laws—to make fresh Acts of Parliament. Here, again, knowing very little of what they are making laws about, they commit great mistakes, and, generally speaking, the Maori members are divided—two are on one side and two are on the other. So the Europeans do not know what to do, what to say, or what to believe, At last, however, they have asked the Governor to appoint a Commission to go amongst the Maoris—a Commission from the Parliament, appointed by the Governor, to go before the Maoris to meet them face to face and then come back and tell Parliament the truth of these things. Then, when the Commissioners have examined the Maoris, and examined those Europeans who have been working with and amongst the Maoris ever since New Zealand has been a colony, they will report to Parliament, and Parliament, when it gets that report, will at once say, "This is the truth, and we will act upon this." Now, the Commissioners have already examined the first three Judges of the Native Land Court—Chief Judge Fenton, Mr. Mackay, and Mr. Rogan. Then, we have examined gentlemen who were land-purchasers and surveyors back in the early days of the colony, even before Governor Grey's time. And the Commissioners will continue to examine all the Europeans who can give a knowledge of what has been done in the past and who can give good advice as to what should be done in the future. We have already examined some of the Native chiefs, people who have been members of the Houses of Assembly and Assessors of the Court—not very many as yet, but some, at any rate. And we not only shall meet all the people here, but we shall go next week to the Ngapuhi, in the Bay of Islands, then to Otorohanga, then down to Wanganui and into the Wairarapa, and on to Napier, and if there are any other places where it seems possible we can get knowledge from the Natives we shall, as a matter of course, go there also. Now, what this Commission has been told to report upon I will describe. First, it will have to speak of the Native-land laws—for instance, the laws which have been spoken of to-night which stop the Europeans from buying land, and throw it all beneath the hand and control of the Government; then of the law which has altered the old Maori custom of the tribes and hapus dealing with the land as tribes and hapus, and which has made each individual member of them sign deeds—every man, woman, and child. Then we shall have to report how the Native Land Court does its work: first, whether the Natives are pleased with the work of that Court—whether it satisfies them; secondly, whether it does its work properly and well. Now, in regard to the first of these questions about the Court, we shall ask the Natives whether they are satisfied with the fees that have to be paid. We shall then ask the Natives if they are satisfied with being drawn from their homes to distant places in order to attend the sittings of the Court. Then we shall ask the Natives if they are pleased at the continuous adjournments of the cases from Court to Court. Then we shall ask if they are pleased with the continual rehearings which are made in the cases. All these things we shall have to ask the Maoris, and then we shall have to find out whether a better system can be made, which will do away with this expense, do away with the difficulties, and make the

dealing of the Native Land Court, or any other Court that may be established, simple and economical. For instance, we shall ask the Natives whether they believe that a great portion of the expense connected with determining tribal and hapu boundaries could be settled by the Natives themselves in their own runangas without going to the Court, and whether only those cases should be brought to the Court in which the Natives themselves cannot and do not agree—that is to say, only the disputed cases. In the same way with the lists of owners, we shall ask the Natives if they consider that the tribes and the hapus, when they define the boundaries of their lands, can also define the names of the owners, and only bring those cases to the Court for decision in respect to which they themselves cannot agree. Then, supposing the Committee and the runanga agreed upon the boundaries of the hapus and tribe, and the names of the owners, they would bring their lists to the Court and hand them in. Now, we have been told by many wise people that a great deal of this work can be done by the people themselves, and that therefore a great deal of expense and loss of time could be saved to the Maoris by this being done. We do not, however, ask any other Maoris to be bound by those who have already spoken before us. He want the minds of the people here in Cambridge. Advice is only of value to us when it comes from the man himself—not as an imitation of other people's ideas, but as the feelings of his own heart and the thoughts of his own mind. Then, there are cases in which the law has produced great confusion between the Europeans and the Natives in the matters of sales and leases of lands. The law-courts of the colony are full of such cases. It is a perfect disgrace that they should exist. Now, although there are not so many of those cases in this district as there are in other districts, yet the Commissioners will, of course, have to ask the Maori chiefs here their views about what should be done in such cases. We shall ask the Maoris whether they think some Court could sit to decide upon these cases of dispute between the Europeans and Maoris, and to examine the Maoris and Europeans publicly, deciding then as best they can in the interests of justice, and making public decisions in such cases. Then there comes the question of subdivisions of the land. That is a very important thing. Now, in the old times, amongst the Maoris there was no subdivision except between the tribes and hapus; each man, woman, and child did not have a piece of land to himself or herself. And we shall take evidence from the Maoris as to whether, in poor land where there are large numbers of owners, the land can be subdivided without the whole value going in law-costs, Court-fees, and survey-expenses. That will bring us at once to the most important question of all—of the proper method of dealing with the Maori lands in the future. In the olden times, before the Native-land laws were passed, when the Government or any private person wished to deal with the Maoris, the tribe or the hapu was called together. Then, if the Government or any private individual wished to buy land or to lease land, it was talked over among all the people, a price was offered, and everybody consulted as to whether this was a proper bargain for the sale or lease or not. Then, if the people consented to sell or to lease their land at a fixed price or rent, a few of the chiefs signed the deed in the presence of the people, and the money was paid and distributed among the people publicly. Then there were no disputes, because everybody knew what was done. The evidence which we have taken, both from Europeans and Natives as regards the old system of purchase and lease, shows to us that the bargains made in public in that way were never gone back upon. Nobody denied them afterwards. Now, the first law passed by Parliament for the Maoris made provision for putting only ten men in a grant. There might be one or two hundred owners behind the ten, but only the ten names appeared in the grant. Then the ten took the land themselves, and very often sold it and pocketed the money, and the owners behind them got nothing. That was in 1865. Then came the first petitions to Parliament. The Natives said, "Oh! your law puts all our land into the hands of the chiefs, and then they sell our lands and we can get none of the money." Then the Parliament said, "Yes, this seems very bad." So, in 1867, two years afterwards, they passed a law which, while it left ten people on the face of the certificate, put all the other owners on the back of it. Then the ten could not sell; they could only lease. But it was found that when the ten leased the money still did not go to the people. The ten pocketed the money and spent it too often. Then came numbers of more petitions to Parliament. They said, "You have not done any good now." So in 1873 a new law was made, and then everybody's name went on the face of the certificate — men, women, and children. Now, after these Acts were passed all public dealing for the land ceased, and interpreters and agents went about the country and got each one to sign, here and there, giving a few pounds to one and a few pounds to another. Then more petitions came, and the law-courts began to be resorted to by the Maoris. Some said their names had been signed by other people; some said they had never been paid the money they were promised. So these petitions went on coming to Parliament, and Parliament went on passing laws, until the whole thing is in the swamp. Now, it is the duty of this Commission to try and find out a way by which future dealings of the Maoris with their land may be made fair and just between both Europeans and the Natives. That is our duty. And we shall take the opinion of the Maoris in Cambridge as well as in other places as to what would be a good plan. We shall ask them, for instance, if they think this would be a good plan which I will now sketch out: First of all, stop all Native dealings with the land at all. Let no one man sign at all for anything; let there be no private dealing between either the Government or any individual Native; let all the dealings be public. Supposing the Maoris of a block, after the tribal boundaries are defined and the names settled—when the title is once settled, and the certificate issued so that the title is certainly in those Natives—then, would it be wise for the Natives who are the owners of the block to choose a Committee for it, and then for the people to choose all the lands they will want for their own cultivations, their pas, and burying-grounds, and other reserves? If, beyond their own cultivations, the owners think they can utilise other portions of the land for sheep-farms or anything else, to make further reserves for those purposes. Then, that the balance of the land—that is to say, the land they do not want to use themselves—let the whole of the owners say how much shall be sold and how much leased, or, if they choose, they may have

all of it leased. Then let Parliament appoint for their district a Commissioner, or, if not for their district a Commissioner, a central body of Commissioners, appointed partly by Parliament and partly by the Maoris, to give leases for all these lands, and the Maori Committee and the Commissioner (who is responsible to Parliament) to be responsible for the due distribution of the funds amongst all the owners of the block; so that, if the Commissioner allowed a Committee to misspend the money, the Government would be responsible. In order to provide for the fair distribution of the money, the owners would have to decide amongst themselves as to the respective shares which each hapu or each individual should have. If they could not agree amongst themselves, then let the Court decide what share each is entitled to, and let that be entered on the list. Then the land to be leased or sold in the same way that the Crown lands are leased, the transaction involving no signing of individual deeds, no subdivisions in the Court, but carried out with the least possible expense to the people, so as to leave as much as possible of the proceeds of the land to the Natives. The Commissioner or Government would survey the lands—both the reserves for the Natives and the other lands which were leased; but then the surveys would not be to subdivide the land among individual Maoris, but to cut it up into proper farms so as to lease it just as Crown lands, always excepting, of course, the reserves. You see that would decrease the cost. Instead of having deeds, as now, signed by some hundreds of people, each signature costing £2 or £3, the Commissioner, with the Committee alone, would sign them, but they would be signed in public. The land would be charged with the expense of surveys and of any necessary roads to open up the land for the purposes of making the farms available; but then the best price would be obtained for the land for the benefit of the whole people, instead of each Maori having a few pounds given him as now. The land would not be shut up then to the Government; the Government would not be the sole lessee or purchaser; but the land would be thrown open under these circumstances, either to the Government or to the public. Then the Maoris would deal with their lands just the same as the Europeans do. Now, what we want the Maoris to do is to think about these things; then, to come to-morrow and talk them over, asking questions and answering questions. You see now it has come to this: that all the lands in the Rohe Potae are now going through the Court, and the Government have shut up everything to themselves. The Maoris can do nothing with their lands—they are utterly useless to them; and the Europeans are beginning to clamour out and say, "Oh! a lot of public money has been spent on railways, surveys, and such things: these lands must therefore be taxed." Now, what this Commission has to find out is a way by which the Maoris may get the greatest possible amount for any land they do not want to use, and at the same time that Europeans may get the use of the lands, paying fairly for them, so that they may be taxed and increase the wealth of the country. To attempt to obtain the signature to the deed of each individual Maori interested in a block of land is to attempt an impossibility; that has come to a standstill. Now, what we would suggest is, that the Native people should go back somewhat to the old tribal custom of dealing with their lands all together and in public; that they shall first of all have all proper reserves for their own use, chosen by themselves out of their lands; then that the waste lands, their extra or surplus lands, shall be leased for their own benefit, and yet be advantageous to the Europeans; and that that shall be done in public by the representatives of the people, chosen by themselves and the Government Commissioner, and the proceeds fairly shared out, the Government being responsible for the fair sharing-out of the proceeds. The only charges which would be on the land would be the necessary charges for surveys (and these would be done more cheaply than now) and any necessary roads and bridges, so as to enable people to get on the lands, and that they may fetch a good price. Of course, there would be, as Commissioner Mackay wishes me to remind the Maoris, a small charge for office-expenses; but, while the charge for the survey would be a substantial sum, the other would not be a substantial sum. Arrangements might be made between the Committees and the Government as to fixing a charge for that. That could easily be arranged. Now, if some scheme like that were adopted, the reserves made would be inalienable—the Maoris could not sell or lease them; they would be for their own occupation. The rest of the land would be leased, if the majority favoured that mode of dealing with it, so that for ever there would be a rental coming in to the Maoris. And we shall propose this also: that, if the Maoris choose to improve any of their land by utilising it for the purpose of sheep-farming or anything of that sort, the Government be requested to advance moneys for that purpose to the tribes or to individuals skilful enough to manage for themselves, and of course paying a fixed rate of interest. To-morrow, if anybody would like to ask any questions, the Commissioners will be glad to answer them. To-night, of course, they would answer any questions; but Judge Puckey has kindly consented to adjourn the Native Land Court to-morrow at 10 o'clock, so that we may have the Court and the people, so that then we will answer any questions to make more clear what has been stated, and we will ask questions in our turn so as to draw out the thoughts of the people.

At the request of the Natives, the hour for resuming the proceedings was fixed at 2 p.m. on the following day.

CAMBRIDGE, 25TH MARCH, 1891.

Pursuant to arrangement, the Commissioners (Messrs. W. L. Rees, M.H.R., and Thomas Mackay) sat in the Public Hall at 2 p.m. to receive the statements of the assembled Natives upon the subjects set forth in the Commission.

Karanama te Whakaheke: I wish to speak of the things that are clear and of the things that are dark—to lay them before you so that you may see which is which. I belong to Ngatiraukawa, and I wish first of all to speak of my land, Huranuipaike. The land has been subdivided, and after it was surveyed it was brought before the Court. The portion which was reserved was marked on the map, and the Court laid down the established boundary. Afterwards the Patetere

Company came and surveyed wrongfully that land, and altered the boundary from the one laid down by the Court. The company shifted the boundaries of the land, and we wish the boundary to remain as the Court fixed it. Let the company's boundary be put back, and the boundary that was laid down by the Court be adhered to. I ask the Commissioners to look into this matter and investigate the wrong that has been done. I wish the Commissioners to object to the boundary-line taken by the company. This land was reserved for the Natives, and a European came and laid down a boundary-line taking in our reserve. There is another matter that I wish to speak about. After that land had been reserved some of the Natives sold their interests in it to the company, and the company sought to have the shares they thus purchased cut out. Those that were sold were not in the reserve portion, but nevertheless these interests were cut out of the reserve. We object to this. The land that was sold was land outside the reserve, but the interests of the persons who sold were taken out of the reserve.

Pepene Eketone: I wish to let the Commissioners know the opinions of the chiefs who were assembled here last night, and, after that is done, to obtain a hearing for the different individual matters.

Waraki Kapu: I belong to the Ngatituwharetoa, Ngatiraukawa, and Ngatimaniapoto, and I wish to arrange to meet the Commissioners at half-past 7 this evening.

Arekatere Rongowhitiao: I think that the chiefs should first speak upon the subjects laid down, and then after that to come here again at half-past 7 if there is sufficient time.

Mr. Rees: We wish to hear the opinions of the chiefs, formed after having consulted their people, about general matters—the laws, and so on. After we have heard them upon the general matters affecting the whole of the people we shall be glad to hear any individuals who have causes of their own to speak about.

Pepene Eketone: You heard last evening what the chiefs said in expressing their gratification at the Commissioners coming here, and the pleasure with which the chiefs listened to the statement of the various reasons for which the Commissioners come here. The chiefs then arranged that forenoon of this day should be given them so as to place in order the various matters they wished to bring before the Commissioners. I desire now to inform the Commissioners that the chiefs and the people have gone very earnestly into these matters. They had their meeting this morning, and they came to their conclusions, and resolved that I should express their views to the Commissioners. I shall not take up your time long in explaining our views with regard to the subjects mentioned last night. The first point is the inquiry by the Commissioners as to the opinions of the Natives with regard to the Native-land laws. We have considered that subject, and I shall now lay before the Commissioners our views. The Commissioners will understand that the views I am about to express are the views solely of the Natives themselves. The first law that we wish to object to is the Native Land Duties Act of 1881. The Commissioners are aware of the great hardship of our having to pay a 10-per-cent. duty, seeing that in cases of similar transactions between Europeans they have only to pay a duty of ½ per cent. That is why that in our assembly of the chiefs we considered this 10 per cent. to be a very heavy duty indeed to pay. The opinion of all the chiefs is that that Act should be repealed, and that the stamp duty on land-transactions should be the same for the Maoris as it is for the Europeans. I might explain that the idea of the Government in having that heavy stamp duty charged is on account of the expenses incurred in connection with the Native Land Court. Let me show to the Commissioners how this injury afflicts the Natives. Now, in the case of some land there is a great deal of objection and opposition offered in going through the Native Land Court. Then, there are cases in which the land goes through the Court with much less difficulty. Yet in both classes of cases the duty payable is the same, and in that way one set of cases has to bear the costs entailed by another set. That is all I wish to explain about that. Another law that we object to is the Native Land Act of 1888, sections 12 and 21. The meaning of those sections is that they give the Court power to subdivide the land and allocate the subdivisions to twenty persons, the Court having power to make these subdivisions whether the Natives apply or not. We wish those sections to be repealed. I will point out the injury, from our point of view, that arises from those sections. The objections are, the great amount of money that is expended in surveys and in orders of the Court and in the hearings of the Court. There is not much accruing to the Natives after these charges have been satisfied. Difficulties to the Natives also result from the operation of the Frauds Prevention Act of 1881 and 1889. We think that in the Native Lands Frauds Prevention Act there should be a provision enabling the Natives to show clearly to the Frauds Commissioner—in fact, to prove to him—by certificates or grants they had other lands left. A great many deeds have been passed under which the Natives parted with all the lands they had. When these Natives stated that they had other land left they were believed. I think, therefore, that the provision I suggest should be inserted in the Native Lands Frauds Prevention Act. Another law that we object to is the 15th section of the Act of 1888. I spoke about this last evening; but in one year more the power of that law will cease. It is the latter part of that Act. Then, there is the Act of 1889, which relates to the North Island Trunk Railway. We have considered the laws that place restrictions on the land for railway and other purposes, but we will reserve what we have to say with regard to that until the Commissioners go to Otorohanga. The greater number of the people who are interested in these lands are there, and others of them are absent from here at the present time. We are gathering together the Acts that we think are injurious to the Natives. There is another law—I forget the title of it—which empowers the County Councils to levy taxes on Native lands in accordance with the provisions of the Rating Act. The objection to that law, the main law—the Native and Crown Lands Rating Act—is removed as the Act is repealed Yet, although the main Act is repealed, the County Councils still have power to levy taxes; but the Natives do not know what these taxes are that are placed on their land, because the Government pays them. And perhaps, in the future, when there will be a large sum demanded

by the Government to recoup them for the payment of these taxes, together with interest on the same, the Natives will then for the first time learn what they have to pay. I wish, therefore, that a provision should be inserted in the law, whereby the Natives may be enabled to become members of the County Councils, so that they may see into these matters. That law affects all parts of the districts that come within the operation of the County Councils. According to our idea, it is very necessary that the Natives should know what is being done in these local bodies. That is all I desire to say with regard to Acts affecting the Natives. There was another question put by the Commissioners last evening with regard to the Native Land Court. The chiefs and the people were asked if they were satisfied with it, or did they object to it and wish any alteration to be made. We have also considered this matter at our assembly, and we do not see that any other means can be adopted for the end in view than those afforded by the Native Land Court. We had the Native Committee plan arranged for in 1884. These Committees sat in different places among the Native people, and were not able to do anything. The Natives acted very cordially with these Committees, but their decisions were not satisfactory. We think that the Native Land Court should remain, but with certain modifications in the way of simplifying the business, and that the matter of paying fees should be made easier. As I said in the beginning, we are speaking purely from the Native point of view. We think that the fees should be reduced to 10s. a day. Then, too, there is the question of objectors to claims being required to pay £1 per diem as a hearing-fee. The opinion of the chiefs is that it is only when their case comes before the Court for hearing that they should be asked to pay a fee—that is to say, only paying when their own witnesses are called, or when they are examined. Then, again, there is the matter of a fee of £5 being demanded as deposit when applications are made for rehearings. The chiefs say that this is too heavy a fee. Some are able to pay that amount; others are not. In some cases a person may have very good grounds for applying for a rehearing, but he may not have the necessary money, and for that reason we say that this fee should be reduced by one-half. Those are the things that we say are objectionable with regard to the Court. With reference to what the Commissioners said as to the appointment of Native Committees to do the work that they mentioned, they do that at the present time. The Court now confirms any arrangements that are come to outside, and the law of 1890 lays it down that such arrangements, when come to, are to be reduced to writing. Therefore there is no necessity for any alteration with regard to that. As to the question put by the Commissioners, whether the Natives like coming from a distance to attend the Court, or would rather have the Court sitting near their places of abode, we say that of course the Natives would much prefer the Courts to hold their sittings near their places of abode. But the difficulty there is that many of these places are such a long way from the land that is being adjudicated upon. If the Court were to go to one Native place, the people from other places would be inconvenienced, and so on, and that is the reason why we are not clear as to the views we ought to express on that head. What we really prefer is that the Court should be held as near as possible to the place of abode of the people whose case is under adjudication. That is all I need say on that head. Now, with regard to the suggestions which the Commissioners threw out last evening about going back to the old way of dealing, the chiefs have carefully considered that matter, but they think it would not work well—that it is right enough that at one time the people of the hapus and tribes would look to their older people, and the chiefs would have great regard for their people; but now the feeling has changed, and the people do not look so to their chiefs, nor the chiefs to the people. That suggestion which the Commissioners made last evening is somewhat similar to that proposed by Mr. Ballance in 1886. To that Act of Mr. Ballance the whole of the Native people in the Island were opposed. It is questionable whether they would be able to choose the best men for these Committees; and then, when they did so, matters would be solely in the hands of the Committee, and the Commissioners and the people themselves would have no voice afterwards. We also think that the expense of management and of having these Commissioners throughout the country would be heavy. I think I should say, further, that this matter has been brought very suddenly before our minds, and we have not had an opportunity of thoroughly considering it in all its bearings, but I would merely remark now that, on our first impressions, we would object to it. We think that, when the title to the land is ascertained, and the owners are ascertained also, it should then remain. We say that no one should have any extra power in regard to it; that the Natives then should consider what proportion of the land they would reserve for themselves, and what proportion they would lease. What we, the Natives who have cases brought before the Court, seek for is to get a Crown title for our land. Then, when we get a Crown grant, why should we have any one to tell us what to do with it? The lands of the Europeans are not dealt with in that way. This is our reply to what has been said by the Commissioners. That is all I wish to say. Perhaps the Commissioners would like to put some questions to the chiefs.

Mr. Rees: In the first place, the Natives do not quite clearly understand, unfortunately, how it was proposed to deal with the land. What Pepene has just said about Europeans dealing with their land in the way he suggests is a mistake. They never do. For instance, in the case of lands held by a number of Europeans, the individual Europeans never sign the deeds. They always appoint a certain number to act for them, and it is they who have the power of sale, and the individual owners of the land never dream of signing any of the deeds. Thus the Europeans in Cambridge have not the opportunity individually of any direct dealing in respect of what they call the reserves belonging to the whole people in Cambridge. You may call these people the Ngati-Cambridge. If they are going to sell or lease a portion of that land the people in Cambridge do not sign the deeds for that purpose. The Mayor and one or two of the Town Councillors sign the deeds, and put the seal of the town to them. If a number of Europeans own, say, the Patetere Company's estate, or the Agricultural Company's estate, there would be perhaps a hundred and fifty or two hundred owners for that land. But the individual owners never sign any of the deeds. They appoint directors—that is to say, a committee of themselves—who always sign the deeds. So with

the Government. All the Crown land in New Zealand belongs to the whole of the people of New Zealand—Maoris and Europeans alike. Directly the Government buys a block of land from the Natives that land belongs to all the people of New Zealand—Natives and Europeans alike. But all the people could not sign the deed for that. So they make a law by which people can take it, and then the Governor signs the deeds. Supposing there are five hundred owners in a block of Native land, including in these five hundred a hundred children, how could they work together? Are the five hundred to sign the deed? Every Maori signature costs £2. There is the interpreter, the lawyer, the Justice of the Peace, and the Trust Commissioner, and then, too, there is the Native Land Court. Every signature before the transaction is finished costs about £3 or £4 by the time the matter comes to the Native Land Court and to the Trust Commissioner's Court. Now, would it not be better for the Maoris, if they could make sure that the land would be properly used, to choose their own people to act with a Government Commissioner, the people having all the necessary power of telling them what to do. The Committee and the Government Commissioner would have to be the servants of the people, to do what they were told by the people. And then all the expense of the deeds, of the Trust Commissioner's Court, of the Native Land Court, would be avoided. Besides, now the Europeans are afraid to deal, because even after they have obtained their deeds from the Maoris, and after they have entered into possession of the land, some one else may claim the land, and they may be turned out. And as long as this 10-per-cent. duty has to be paid by the Maoris, and surveys have to be made of these lands, and all these signatures have to be paid for, the Maoris cannot expect to get anything for their lands, and the money goes. What we propose is, that the land should not be sold, but leased under the hand of the Maori people through their Committees and the Government Commissioners. At present all the cost of the Crown deeds, of the Native Land Court, of the Trust Commissioner's Court, and of the Native duty is so much taken away from the value of the land. The European does not pay it, but the land does. And therefore we say this is a very cumbrous method of doing things. Which of the Maoris will go and walk down to Auckland if he has money in his pocket, instead of getting into the train and being swiftly carried there? Which of the Maoris would take a canoe to go through the Waikato, or to Raglan, or other places, if he can get into a steamer and travel by it to his destination? Now, that is just the difference between the present method of dealing with the Maori lands and the way we propose. We propose the train and the steamer instead of merely walking or travelling by the canoe. We propose to the Maoris exactly what the Europeans are always doing in respect of their lands where there are a number of owners. And the Maoris must not forget that already these Councils are beginning to rate their lands, and that before long, while their lands are lying useless, Parliament will be compelled by the people to place a tax on these lands. They ought to be getting a revenue from their lands by letting Europeans use them, and pay the taxes on them. Now, of all lands that have passed through the Court in this district, and been dealt with by the Natives, is there any individual here who has £5 left out of the price? Of all the lands they have sold? And, if they go on just in the same way they have been going on one individual may get £5 out of the price paid for a block of land, and another may get £10, and so on; but after that the land will be gone, and the money obtained for it as well, and there will be nothing left to show for it. And if they deal with their land one by one they will not be able to make reserves. It is only when they act all together that they can get reserves made; and it is only when the owners act together in one body that they can get a proper price for their land, whether they sell or lease. What we want to get them to say is, that they will act together, because if they act one by one they can do nothing, and our object is to bind them together—to give them that strength which comes from union. Now, we should like to have an expression of opinion from any of the Natives, or to have them ask questions of Mr. Mackay and myself, because this matter is of immense importance to the Maoris. I would like to mention that Mr. Ballance did not go nearly far enough. He took all the power out of the hands of the Natives. We do not propose to do that. The Natives had to give away the entire control of their lands. We do not propose that. We want to keep the Natives working as well as the Europeans, to see that everything is fair.

Pepene Eketone: With regard to what you say touching cases in which large numbers of Europeans own land and only a few of them sign the deeds, I would merely remark that if anything goes wrong all the others are injured by it, and that is what we are afraid of. With regard to Commissioners, from any lands that from the beginning have been taken over by the Government no advantage has come. We see that in the case of the land at Rotorua. The Government leased that land, and there has been no advantage to the Natives arising out of it. Then, too, the Natives are in the same unsatisfactory state with regard to the land on the West Coast. As I said in the beginning, we are taken somewhat suddenly with regard to these matters, and we are simply expressing the views that first come to us. What I think would be a very good thing would be if we could have printed what has been said, and have it circulated among the Natives. It is a very difficult thing for people to be able to accept at once that which has for the first time been put before them.

Mr. Rees: It is quite true about the Rotorua lands. That is because they were taken out of the control of the Natives altogether and handed over to the Government. If there had been a Native Committee chosen by the Rotorua people, and a Government Commissioner appointed to act with the Native Committee, that fuss would not have happened. They would have got their rents. The same remark holds good with reference to the complaints that are made on the West Coast. In all matters where the Natives make complaints it was the Government alone that had control, and the Government chose not to collect the rents, for purposes of their own. Even in the case of the West Coast lands I am told by Mr. Mackay that the rents were only abated for a time, and will have to be paid. In the case of the Rotorua lands, if there had been partial control by a Committee of the Natives working with the Government Commissioner there would have been no difficulty there at all. You see, there are two extremes: there is the keeping of the lands in the

hands of the Maoris themselves, just as they were before, and there is the putting of them out of their hands altogether. Now, between these two lies the safe road. Let the Maoris have their own people to manage, along with a man appointed by the Government; and let the Government be responsible for the proper distribution of the moneys through their man; and, if the Committee does not do its duty properly, let the people have the power of putting the Committee out and of putting a fresh Committee in. Then, let no land be sold; let all be leased only, so that even if for a little time things do not go on very well, still the land will be there, and we must learn step by step how to deal with it. Now we shall be glad to hear any of the others, for these are things that must be pulled about and examined.

Aperahama Patene: I belong to Waikato. I wish to explain to the Commissioners that all the lands of myself and tribe are within the confiscated boundary of the Government. I have heard what the Commissioners have said. Have the Commissioners come to establish some new system—to establish Native Committees and to abolish the Native Land Court?

Mr. Rees; Certainly not. The Commissioners have come to inquire into the complaints of the Maoris—to talk with the Maoris upon all necessary improvements.

Aperahama Patene: Then I am quite clear about that. I shall therefore express my views with regard to the first point spoken of by Pepene. We have all seen this burden that arises from the stamp duty on Native lands. We wish to get Crown grants for our lands. I agree with what Pepene said with regard to County Councils, and I think that Natives should be members of them if our lands are subject to taxation, and we do not know to what extent. If we were in these Councils we would know what rates were levied on our lands, and how the moneys arising therefrom were disbursed. There was a Committee appointed for the Waikato, but it did not have full power. When our Committees did anything it was referred to the Chief Judge to approve or otherwise. We have received notice to pay property-tax; we have received a demand from the Government to do so. We have not paid that money; we have merely acknowledged the receipt of the demand. We have no objection to pay taxes if we are allowed to take part in the County Council. That is one of the hardships we suffer from. Another thing that we object to is the Government taking the control over lands that are Crown-granted to the Natives in cases where we wish to lease or sell. We wish to have the same control over these lands that are Crown-granted to us as the Europeans have over their lands. I do not see anything wrong with the Native Land Court. Many of our troubles are settled in the Native Land Court.

Te Rangikaripiripia: Pepene has expressed our ideas on the matters before the Commission. I have nothing to say, but I wish to place a paper before the Commissioners. [Paper relating to a case before the Court produced and handed in.]

Mr. Rees: We cannot interfere with any Courts. We can only take the opinion of the Natives with respect to the law, with a view to its alteration if necessary. In the case of ten people in a certificate, and a number of the owners behind them, we can make the recommendation that the ten shall be compelled to account to the whole of the owners for their dealings with the land.

Te Rangikaripiripia: There is some trouble about that land. That is with regard to Tatua Rato. There are three subdivisions of that block. One subdivision was for sale. One portion of it was to be reserved. In subdivision No. 2 part was to be reserved and part to be sold, and the same with subdivision No. 3. Some of the Natives have leased and some have not, and those who have not leased do not understand the position, or how it is. Those who have not leased are in doubt whether they have a right to the portion that is leased. That is the perplexity we are in.

Mr. Rees: We are not a Commission to give advice upon that. We should be blamed if we did.

Hokiri: The reason why I wish to speak to the Commissioners is, that I have heard they will not go to Rotorua, Maketu, or Matata. That is why I wish to speak of some matters that affect the people there. I desire to speak more particularly with regard to the law relating to the confiscated land between Matata and Whakatane. That law does not allow successors to be appointed to deceased owners, as in the case of joint tenancy. The Natives there are suffering considerably through this. We felt greatly pleased when we heard that the Commissioners would inquire into these matters. That is why I ask that the law making all the people in the grants joint tenants may be amended. I ask that this land may be dealt with under the Native Equitable Owners Act, so that the people there may receive the proper benefit they are entitled to. There are about forty-six people in these grants, and there are over one thousand people who are entitled to the land. It was under the New Zealand Settlement Acts of 1863 that these lands were taken.

Mr. Rees: The people of Matata, Maketu, and Rotorua had better send a petition to Parliament detailing their grievances, and then most likely we shall be asked about it.

Te Roera Herua: Certain land at Whangamata went to a company, but we who own that land received no money for it.

Mr. Mackay.] Who handed it over to the company?—Six people.

Was it to the Patetere Company?—The Agricultural Company. Mr. Moon was connected with it.

Mr. Rees: We cannot enter into the dispute between you and the company. This is not a Court to decide disputes, but only to inquire into grievances. This Commission will advise that for cases like this a Court shall be constituted which shall come up and listen to all these matters. We can report that complaints were brought before us of this nature, and that therefore some Court should be constituted which should deal with these things. So also with regard to Tatua Rato, we can report that complaints were made and that some Court should be sent up to inquire into them.

Arekatere Rongowhitiao: There are a great many matters that I wish to speak about, but there is only one subject that I will touch upon now. We agree with what Pepene has said. The subject I desire to refer to is that of the rabbits in my part of the country. The Government are

getting them killed, and I want to know if the Commissioners can give any explanation regarding it. There are rabbits on my place, and the Government employ people to kill these rabbits. I want to know where the thing is going to end. The Government may eventually collar the land for killing the rabbits. If I send people to kill the rabbits I want to understand what the consequences would be—whether there is any liability to be met hereafter on that account.

Mr. Rees: The Commissioners have no power to deal with the question of the rabbits.

Hori Patene: I wish to speak about some of the land that was returned by the Government to the loyal Natives in 1863, under the Settlements Act. Some portions of that land were reserved. I do not know what the area was. The Crown grant was prepared in the names of two people. The Crown grant set forth that these two people were to be trustees for two hapus. Then, when the people of these two hapus wished their names to be inserted as owners in respect of that land, the Native Land Court had no power to do so. I sent in an application in regard to some other land under the same Act. The land came under the Native Equitable Owners Act. Under that Act the Native Land Court was applied to to act, and I wish, then, that similar provision may be made with regard to the block I have mentioned—that the Native Land Court may have power to include those who are entitled to be put in. That is all I have to say about that. With regard to the Native Land Court, the great objection to that Court is as to the fees. One of the Commissioners is a member of Parliament. Can he tell me anything about the new list of Assessors?

Mr. Rees: Members of Parliament do not know that. It is only the Government themselves who have to do with it.

Hipirini te Whetu: I am a Native Assessor, and belong to Rotorua. There is a certain block of land near Maketu, called Papamoa. It was purchased by the Government in 1887. There was something wrong about the Government purchase. Perhaps the Commissioners are aware that persons who were concerned with that transaction were imprisoned. Some of those who sold to the Government had a small interest in it; some had large interests. The Government now wishes to cut out the portion it purchased, and the Court that sits this month at Tauranga has to deal with the subdivision. Can the Commissioners have anything to do with the sale of that land?

Mr. Rees: Impossible. It does not come within our instructions from the Governor.

Hemopo Hikarahui: There are three blocks of land in the same difficulties as the one that has just been mentioned. There are, for instance, the Oruawaihaka Block, and another one. I mention the names of these blocks so that you may mention them to the Government. I also think some Court should deal with these disputes at Taupo.

Hokiri: I wish to ask the Commissioners if what has been said could be published and circulated amongst the Natives? The reason why I ask that it may be published is that the Commissioners are going to the Bay of Islands, then to Otorohanga, and then to Wanganui and Napier. How will the Natives at those places know what subjects they have to consider and speak about, unless the Commissioners publish the purport of what they have explained? A great many of the Natives there may agree to what the Commissioners suggested. We were greatly pleased indeed at what you said last night. It was indeed excellent. I think if it were printed and circulated the Natives of the whole country would agree to it.

Mr. Rees: We will have what was said printed and circulated among the Natives.

Hokiri: I want it sent to Maketu, Matata, Tauranga, Taupo, Rotorua. One of the members of the Commission represents the Gisborne and Poverty Bay side, so presumably he will be able to look after that district, and the Natives will see what is done. As soon as possible after the Commissioners go back to Auckland they could have it done, and if copies were then sent to the Natives they would have them distributed. Some of the people from that part of the country are here now, and are most anxious to have it so that they may see what is said by the Commissioners, and they will send the printed copies to their chiefs at Rotorua, Taupo, and other parts. It will be a great mistake if the Commissioners do not have it done.

Aperahama Patene: I would like to have some of the printed slips for my part of the country.

Mr. Rees: It shall be done. Mr. Mackay and myself would like to meet the Natives again this evening, so that we may have an opportunity of putting questions to them about various things.

Hokiri: I wish to assure the Commissioners that if they could go to Rotorua the whole of the Natives there would support what they (the Commissioners) have said. I know the ideas of the chiefs there. These matters were mentioned at Rotorua by Wi Pere and Mr. Carroll, and the whole of the chiefs there thoroughly indorsed those views. Of course the people here belong to different tribes from those to which the people there belong. Their thoughts may therefore be different from those of the Arawa people.

Mr. Rees: The Arawa people have had time to think over these things, and the people here have not.

The Commissioners (Messrs. W. L. Rees, M.H.R., and Thomas Mackay) met the chiefs of the Ngatituwharetoa Tribe at 7.30 o'clock the same evening in the Criterion Hotel, Cambridge, the Public Hall being otherwise engaged.

Mr. Rees: The Commissioners desire to meet this evening some of the leading Taupo Natives, who we are glad to see present. Mr. Mackay and myself are obliged to go away to-morrow morning; and, although we may come back to Cambridge some future time, yet it is possible the Taupo people may then be away. All the matters are of such great importance that I do not like to lose the opportunity of speaking again before we go. The principal matter is about the dealing with the Native lands for the future. A certain part of their own land the Maoris must want for their own occupation. Some of their people may be skilful enough to manage sheep-farms and things of that sort. Lands for such purposes they would, then, keep. But there will still be large blocks of land—some flat land, some hill land,

some rich land, some poor land—that they will not use for themselves. Now, the Europeans are beginning to clamour for taxation to be levied upon the Maori lands—not on the lands that the Maoris themselves use, but on the lands that are kept idle. We must therefore find some plan for the Maoris by which their surplus land shall be used, bringing in a revenue, and paying taxes as well. What the Commissioners think is that if the Maoris themselves join together and choose their own best men to work with the representatives of the Government, they taking the oversight, they may be able to do something. The moneys arising from the rentals of these lands would have to be distributed by the Committee and the Government officer among all the people interested. The Maoris would have to determine themselves the list of the owners, what proportion each family or each individual would share, how much one hapu should get, how much another, and how much another. They would talk about these divisions among themselves first, and then fix it with the Government officer afterwards. If there were a serious difficulty between different hapus or different individuals, then they would have to ask the Court to fix the proportion for each hapu and individual. Now, if that were done all the Europeans would know then that if they leased a piece of land the lease would be perfectly good, because it was done in public by the whole of the people. At present, when interpreters and agents go about to each individual it leaves the door open to all sorts of quarrelling afterwards. And there are children and married women interested in every block; that makes another difficulty. If the Committee and the Government officer made the leases there would be no expense for the deeds. And though the expenses of the surveys would have to be met, they would not be subdivisional surveys for each individual; they would be the surveys for cutting the block up into farms. There would be less expense, therefore, than there is now, there would be better rents than there are now, and there would be certainty of title; and the Maori owners would have not only their reserves, but they would also have a certainty of revenue arising to them and to their children out of the lands. Now, that is what we want the Maoris to consider; and we propose now to ask some of the leading chiefs, and the most intelligent and thoughtful, who have considered these matters, certain questions, which will be taken down, along with their answers, so that we may see the working of their minds, and that they may explain to the others here. If they would like to make statements, we will take them down and use them as their evidence.

Tureiti te Heuheu: I shall not commence my statement with any preliminary remarks, but go straight to work, so as to shorten the proceedings. I shall first of all speak with reference to what the Commissioners have said concerning the Committee. Their suggestion as to that is very clear to my mind, and I approve of it in the sense that it would be better if it were a tribal Committee, not merely small hapu Committees. For instance, there should be a Committee, say, for the Ngatituwharetoa, a Committee for the Ngatiraukawa, and a Committee for the Ngatimaniapoto. The Committees, of course, would manage all matters connected with the land belonging to the tribe, and other matters affecting the Maoris. But the Committee, to be effective, would require the support of the Government. I am quite sure that it is very clear to the Maori race to have Committees of their own to manage matters in connection with their lands, but with regard to such matters as the Committee could not settle or decide they should have the opportunity of referring these to the Native Land Court, or to any other tribunal that the Government might appoint. As for the Commissioner who has been spoken about, I myself regard him with a certain amount of suspicion. My fears are in the direction of costs, meaning thereby that perhaps the Natives would be saddled with more expense on that account than they could control or reckon for. That is why I think it would be better for the Committee to entirely manage matters, and only to refer those things to the law which they were unable themselves to settle. There is another matter that I would like to refer to, which weighs heavily on the Natives under the present laws. It is a matter in connection with the Commissioners. We take, for instance, a block of land with a hundred owners in it. For the sake of argument we will say that this block has been subdivided, and that perhaps each man's share would come to, say, two acres. Perhaps the cost of subdivision very nearly exhausts the value of each share. In the case of such blocks I would be in favour of leaving them entirely to the Maoris to manage. If the Commissioner were joined with them it would mean the saddling of them with additional expense, and, consequently, with a certain amount of trouble. I think that the Natives could quite well enough manage a matter of that sort themselves. I am quite sure that the Native Committee, composed of able men, would never have any difficulty in arriving at the proportionate shares in the block. And I am quite sure that that way of doing the thing would be very much more beneficial to the Maoris. I will now refer to the question of surveys, for there are some surveys in the Taupo district, for instance, through which the Natives there have suffered a good deal; and this remark applies also to other parts of the Island besides Taupo. These difficulties arise mainly from the fact of the Crown being the only purchaser within the district referred to. Owing to that restriction on purchase which the Crown has imposed, the Natives are deprived of any other means of saving money to pay for the incidental expenses of land-dealings. There is no doubt that the system of the Government keeping up the fees to pay for the surveys has been the cause of a great deal of hardship to the Natives. If the land is not very good land there is nothing to stop the Government from fixing the price at any sum they like—say 1s. or 1s. 6d. an acre. That, of course, comes about through the market being restricted to only one purchaser, and that one the Government themselves. No matter how hard the Natives fight for a larger price, they are unable to alter the Government's intention. But, on the other hand, if the public market were open to the Natives there is no doubt that they would obtain competitive prices for their land, and thus would very often get more than the Government chose to offer. If the market were open to them in that way I am quite sure the Maoris would not suffer as they do at present, but would obtain a better price, and therefore less land would go to pay for the survey. Now, there are some blocks in Tauponuiatia West that were surveyed in 1886. Do you want the subdivision?

Mr. Rees: No; only the facts.

Tureiti te Heuheu: These surveys, as I have said, were finished in 1886, but up to the present we have been unable to cut off any portion of this land to pay for these surveys, owing to the difficulty I have just mentioned. Therefore for four years and a half these surveys have remained unpaid, and of course interest has accumulated. I have heard that a fixed rate of interest is chargeable on the costs of these surveys from that time until now. Then, as these restrictions on the land are the cause of the surveys not being paid, they have at the same time had the effect of increasing the amount of the expense with which the Natives are saddled. Now, the owners of those blocks have long wished to have the matter settled—that is to say, to have portions cut off to pay for the subdivision—but they have been unable to do so owing to the restricted market; and the owners have repeatedly requested the Government to settle this matter, but up to date nothing has been done. This delay, of course, has raised the amount of interest they will have to pay. And I would mention to the Commlssioners that the delay in that payment has not been their fault, but that it is rather the fault of the Government and of the laws. Seeing that it has not been the fault of the Natives, I think the Government should not charge them with interest at all, or, at any, rate only from the date of the Commission. There is another matter which weighs on the Maoris, and that is the Act which ties up the Rohe Potae for three years by means of restrictions upon Europeans who might wish to purchase land there. These restrictions extend also over a great part of the Taupo country. Had this land been open to free trade no doubt the Maoris could have sold on much better terms than they have been getting from the Government. These are all the remarks I have to make, and if you wish to ask me any questions I will answer them.

Mr. Rees: You have spoken very fully and very clearly, and, as we understand there are some more of the leading men who wish to speak, we shall not ask any questions.

Tokena Kerehi: Greetings to you, the Commissioners sent here by the Governor. All those around me are young men, not like me, an old man. I am an ancient man [pointing to the wrinkles on his face]. I want the Government to allow us to lease our lands, because if we are not allowed to lease how can we pay the expenses incidental to subdividing the land and the surveys? It is because these sources of revenue are closed to us that we are compelled to cut off portions of the land, and give them to the Government. Some blocks contain, say, 40,000 acres, and we have to cut off as much as 20,000 acres to pay the expenses of the surveys. It is because we are not allowed to lease that we are compelled to do this sort of thing. But if we were allowed to lease we should be furnished with money, and be able to pay for the surveys. Therefore I ask the Commissioners to use their influence to stop this *kohuru* (murdering). We ought certainly to punish you and the Government if you go on murdering the Maoris in this way. That is why I stand up to make my earnest appeal to you to open the door to us to lease. I would ask you to make this quite clear to the Government, so that we may receive a revenue from the land, and be able to pay for surveys, and so that Europeans wishing to treat with the Maoris for land would be able to come amongst them and do so. So that, supposing I wanted to sell a piece of land, I would not be compelled to take this 1s. 6d. an acre, but be enabled to get a bigger price. That is why I call the present system *kohuru*, for this 1s. 6d. is too small a price. We sold one piece of land at 5s. an acre, and that is the only piece we consider we got properly paid for.

Waraki Kapu: It was on my motion that the meeting was adjourned till to-night. My father, Kapu, died last winter, and up to this date I have not been able to have his will proved owing to the delay on the part of the Government in opening the Court. The chiefs who are present have discussed the matters under consideration both outside and inside, as well as here to-night, and therefore I will confine myself to matters which concern myself—I will give the reasons why I asked that the meeting should be adjourned till to-night. Hauhungaroa is the name of a block of land that was adjudicated on in Taupo, and I think that that adjudication was wrong. Waihaha, the next block to that, is in a similar position. The adjudication in respect to the next block, Te Hoi, I consider to be all right, because it was awarded to me and Hitire. The next division to that, Hoekane, is being adjudicated upon now by the Court. With regard to the 20,000 acres cut off by the Government in the Hoekane division for survey-charges, I say that that was wrong, and should not have been done. These 20,000 acres ought to be held in suspense. Regarding Te Hoi I have the same complaint to make.

Mr. Rees: The Commissioners will ask that the things which have been spoken of may be examined, in order to see that they are fair.

Ngakurute te Rangikaiwhiria: I will not detain the Commission long. I support what Te Heuheu has told the Commission—namely, those matters which he explained, and which, if looked into, would probably result in benefit to the Maori people; and I also agree with him in respect of those matters which he said were hurtful to the Maoris. As to the suggestion concerning the Maori Committee, I agree that if it were given full *mana* (authority) by the Government it would be able to work out much benefit to the Maoris. I also agree with what Tokena said about leases. That is with reference to your—the Commissioners'—explanation about waste lands that are useless to us. I support the suggestion that such lands should be leased. Such leases should be open to public competition, so that the Maoris would get the biggest price obtainable. In this way the benefit arising to the Maoris, through their Committees, would be shared in by the whole colony. But if, on the other hand, the Government persist in maintaining their restrictions over the Maori land it will be a long time before the Maoris will be in a thriving condition. And I would ask, therefore, that the restrictions placed by the Government over the Taupo country should be removed. That is all I have to say.

Te Rangikaripiripia: I stand up to support the Committee's idea, provided the Government will allow the Ngatituwharetoa to have such a Committee, and will recognise it. If the Government will allow us to appoint this Committee, and will authorise it, we shall be able to do a great many of those things that we have been talking about, for then the Committee would enter into and decide matters that are in dispute—that is to say, such matters as were mentioned by Te Heuheu in his speech. I conclude by saying that I support all that Te Heuheu said.

Hitiri te Paerata: I think that the suggestion of the Commissioners as to the appointment of Native Committees would act beneficially in so far as the Maoris are concerned, and would prove effective. The Ngatituwharetoa have been praying the Government for a long time to give them a Committee, but without success. Therefore, when on your arrival here we heard your suggestion about the Committees our hearts were gladdened, because we thought that our prayer was shortly to be answered. I now stand up in your presence and ask you to be sure and give us this Committee—that is, a separate and independent Committee, not one mixed up with another tribe. And let it be clothed with the same power as that which the Land Court possesses. Te Heuheu touched on a good many things, and those matters which he disapproved of I disapprove of also, and those which he approved of I approve of too. With regard to the subject of leases, mentioned by Tokena, I support Tokena's statement. We, the Maoris, do not care who obtains these leases—whether it is the individual pakeha or whether it is the Government which leases the land—so long as we get a price which we consider the best and highest obtainable. This remark applies to both sales and leases. We ask you to carry all the words that have been written down to-night to your honourable House.

Hemopo Hikarahui: I will begin by greeting you, and thanking you for coming here to-day to bring this great benefit to us—those things which you hope will benefit the Maori people. I also stand up to support what Te Heuheu said to you to-night. I earnestly pray you to especially take back to Wellington the word relative to the Committee, and to have our Committee appointed; thereby affording us the means or the power of adjusting and managing all matters, both with regard to ourselves and also to the Europeans who have dealings with us. No doubt, if our Committee were sanctioned it would be able to go into all those other matters you have been talking about—to co-operate with the Government in bringing them about. With regard to those matters disapproved of or condemned by Te Heuheu, I agree with him in that disapproval. The things which he supported I also support. I would refer to one matter which escaped him. I would ask the Government not to tax those people who are industrious in the cultivation of tobacco, because the cultivation of tobacco is a great source of revenue to the colony. The man who rears cattle, sheep, and pigs should also be exempted from taxation, because it is these things that supply the people with wealth and food. Dogs, likewise, should not be taxed. Another suggestion that I have to make is that the jurisdiction of the Committees should be limited to £30.

Takiwa te Momo: I stand up to support what the other chiefs have said about the Committee in asking that it may be given us. This request of ours is strengthened by the explanation which the Commissioners made to-night. There is no doubt that when any difficulty or trouble arose the Government would talk with the Committee concerning it, and thus arrive at a satisfactory settlement. That is why I approve of the Committee being appointed. The Maoris send members down to the House and they work along with the European members; and therefore, if you, the Commissioners, think it is a good thing for us to have the Committee, I am in favour of it. When we have the Committee we shall be much clearer in mind in going into other minor matters that have been referred to. Ngatituwharetoa have long wished for a Committee to go into the matters which have been brought up to-night.

Te Roera Herua: I stand up to support what Te Heuheu said to the Commissioners—that is, to give Ngatituwharetoa a Committee of eighty members, and to get the Government to absolutely sanction this Committee of eighty men. Those matters which Te Heuheu and the other speakers disapproved of I disapprove of, and those which they approved of I approve of. But I think that the jurisdiction of the Committee should be extended to £50, so that the Committee shall have great mana (power). I also think that what Tokena said about leases being allowed was right, as in that way we should be supplied with the means of supporting ourselves, and of paying for surveys and other expenses connected with the land.

Wiari Ngatai: I thank the Commissioners for coming here to-day and assembling the Ngatituwharetoa here to-night, and for asking us to lay before them all our thoughts in connection with our lands. I have been thinking over what you told us to carefully consider—viz., as to the best course to adopt for the future. In 1889 the Ngatituwharetoa held a large meeting in Taupo, the object being to appoint a Committee for the tribe. It was unanimously decided by the hapus to appoint such a Committee. And now that you, the Commissioners, are here to-day, I ask you to be sure and lay this matter before the Government, and get our Committee appointed by Parliament or by the Government. I support all that the former speakers have said about this Committee. I think, if it were appointed, all these matters you mentioned to-night would come before this Committee and they would manage them. There is another improvement that I wish the Commissioners and the Government to give us—that is to say, that all surveys shall be paid at the rate of ¼d. an acre. The prices now charged by surveyors are very heavy. I do not know whether the Government sanction those charges or not, or whether the surveyors make them up themselves. At any rate, the effect is that large areas of Maori land pass from them in payment of survey-charges. That is why I ask the Government to declare that they will not charge more than ¼d. an acre for the future.

Hauraki Tonganui: The principal thing in my mind is the fact of the Commissioners having come here to discuss with us matters connected with the land, and so on. Your inquiries have been practically answered by what Te Heuheu said. What he disapproved of I disapprove of. Those matters which he approved of are also those which I approve of. I agree likewise with Tokena's request that we should be allowed to lease our land. As to the jurisdiction of the Committee, I would make the limit £50.

Wereta Hoani: I thank the Commissioners for coming here. I am glad to see them here, especially as by their means benefit is brought to the Maoris. I will confine myself to the subject of leasing. I indorse Tokena's statement that the Maoris should be allowed to lease their lands, as in that way they would obtain a revenue. If they are not allowed to lease their lands the Maori people will be killed entirely. There is another wrong which I see has come upon the Maori

people—viz., that certain claimants undertake a survey and carry it through, and it is then found that the land does not belong to them at all, but that it is awarded to somebody else, these people being then made to pay for a survey which was carried out without their sanction, but by people who are found not to be the owners. I will now say something about the Committee. I approve of what Te Heuheu has said to-night. Of course I can say nothing as to what may be in the minds of the people who are here to-night, but I may say that, as to those matters which I have heard of here, I approve of them. I also agree with what Wiari said as to the cost of the surveys being reduced to ¼d. an acre, and the charge remaining at that figure.

Mr. Rees: I want to ask Te Heuheu, and then Tokena, a few questions. The Commissioners have heard with great pleasure what has been said to-night. We want to ask Te Heuheu and Tokena, first of all, whether the chiefs present are fairly representative of the chiefs of one part of the Ngatituwharetoa?

Tureiti te Heuheu: There are not many absent—that is, of the western part of the tribe.

Mr. Rees: Can Te Heuheu, one of the youngest, and Tokena, one of the oldest chiefs, tell us whether the eastern part of the Ngatituwharetoa are of the same mind about the Committee?

Te Heuheu: Yes; those chiefs who are present here to-night are from the western side and also from the eastern side.

Mr. Rees: Then, there are some here who belong to the eastern side?

Tureiti te Heuheu: Yes.

Mr. Rees: Then the Commissioners may safely say in their report that Ngatituwharetoa generally, both western and eastern divisions, wish for a Committee?

Tureiti te Heuheu: Yes; I have no hesitation in giving that reply.

Mr. Rees: About how many people are there in the Ngatituwharetoa?

Mr. L. M. Grace: I can answer that question, as I took the census the other day. On the western side I made their number to be about six hundred and forty—that is, including absentees; on the eastern side, starting from Tarawera and going down to Galatea and up to the southern end of the lake, about one thousand. I may say that some Ngatituwharetoa live about Tuhua and other places, and these would not be in this enumeration.

Mr. Rees: Then, they come up to about two thousand?

Mr. L. M. Grace: Quite that.

Mr. Rees: Can Te Heuheu give us any idea of the extent of the territories belonging to Ngatituwharetoa?

Tureiti te Heuheu: If you saw a map of Tauponuiatia hanging up in the Courthouse, it includes the whole of the tribal boundaries. The unsold territories in our possession amount to about a million and a half acres.

Mr. Rees: We are very glad to have met you to-night. Many of you know that Pepene appeared to-day and rather disagreed with the views of the Commissioners in the Native Land Courthouse, stating that the people wanted more time to think over the matter. I was struck with the fact that there were evidently few of the chiefs of any of the tribes present when Pepene spoke. And a few of those who were present dissented from what Pepene said against the views of the Commissioners, and intimated that they wished the talk about it printed and circulated amongst the people, stating also that the people generally would adhere to what the Commissioners said. Now, the meeting to-night is evidently a much more representative meeting of the leaders of the people than any that Pepene represented to-day. And I think that both the Government and the Parliament will be pleased to know that a great tribe like the Ngatituwharetoa almost unanimously, if not quite unanimously, desire this change, so that they may manage these matters for their own benefit and for the benefit of the Europeans also. We shall have the statement of the Commissioners most likely printed along with extracts from the speeches of Te Heuheu and Tokena, together with some of the other statements, and we will send copies for circulation among you and your people.

KAWAKAWA, 1ST APRIL, 1891.

The Commission sat in the Resident Magistrate's Courthouse at 2 p.m. Present: Messrs. W. L. Rees, M.H.R., and Thomas Mackay (Commissioners), and a number of Ngapuhi chiefs and people.

Mr. Rees: The Commissioners are glad to see the Natives who are here present. Although they have appointed their meeting to take place at Waimate, I shall take the opportunity to state shortly upon what subjects we are prepared to hear opinions from the Natives. In the first place the Commissioners would like the opinion of the Maoris in relation to the working of the Native Land Court—whether it gives satisfaction to the Maoris, and, if not, in what respects they would like it altered. The second point upon which we should like to get an expression of opinion from the Maoris is as to whether the present laws regulating dealings with the Maori land suit the Maoris, or whether they would like an alteration in those laws so as to revert to some extent to public tribal dealings with the land instead of continuing the present individual dealings. Now, as to the Native Land Court, of course we include in that all questions as to whether the present system of surveys is what the Maoris think wise and good. We shall be pleased to hear any statement made by any Native who has knowledge of those things: first of all his opinion, or what he knows to be the opinion of the Maoris generally. When any statement like that has been made then, after, he has finished speaking what he thinks is proper, the Commissioners will ask questions. And the Maoris will remember this: that the Commissioners come not merely to inquire into the grievances of the Maoris, but to inquire into those grievances for the purpose of recommending Parliament to make such laws as will secure justice. Now, then, upon these two subjects—the working of the Native Land Court and the surveys, and the laws by which they deal with their lands, we shall be glad to hear any Maori, and especially the leading chiefs, speak.

Rev. Wiremu Pomare: It is the Native Land Court that causes the main difficulty between the Maoris. Let me explain about that Court. In the year 1864 the Native Land Court began its work. The first lot brought before it was Mahurangi. Crown grants were issued in those days. It was not stated that there should be ten people in the grant. The whole of the owners of that land were not included in the Crown grant. There was only one person put in the grant, and trouble came upon the tribe in consequence. A Government notification was issued that no persons had any right to go afterwards and object, or to apply to be inserted as owners. Application was subsequently made to have the case reinvestigated, and afterwards the Government itself came into trouble with the land. In this way the trouble commenced in the Native Land Court; but you, Mr. Rees, will understand that, and will know that that trouble extended all over and among the Native tribes. Then the Natives and the chiefs asked that the work of the Native Land Court should be discontinued, and it was stated then that Native Committees should adjudicate upon the lands within their own districts, and the land was awarded by the Judges and the Assessors to the people who claimed it. Those now who have suffered from the operation of the Native Land Court feel greatly aggrieved. That is why we wish our strong objection recorded against the Native Land Court, and that we, the Maoris, should adjudicate upon our own cases—that we, the Natives, ourselves should investigate our own titles to our own lands. In the year that I went to Wellington with Major Ropata we applied that power should be given to the Native Committees to adjudicate upon our titles to land. The Premier and the Native Minister said that a Committee of twelve had power to deal with our land; but that Committee had not power. Some land in the district of the Ngapuhi was investigated by the Committee, but their decision was not authenticated. The land in respect to which this decision was given by the Committee was subsequently brought before the Native Land Court, and that decision was upheld, and the decision given by the Judge and Assessor in the Native Land Court was clearly seen by the people. I will speak now with regard to certain land in respect of which I am a sufferer. It is land belonging to my ancestors. That land was handed over to the twelve—to the Committee—to be adjudicated upon. The Committee did not give a decision upon that land on account of the strength of my claim; and the other person who wished to get that land made application to the Native Land Court. The Judge was Mr. Puckey, and Hamiora Mangakahia was the Assessor. I was at Wellington at the time the case came before the Court. I stated to the Judge at the beginning of the Court that it was not right that that case should be dealt with by the Court, as I was going to Wellington; but the Judge did not listen to what I had to say. The investigation of the title went on nevertheless, and the judgment was in favour of the claim of that man, and I am a sufferer in consequence. Subsequently I made application for a rehearing, and the rehearing went before the Chief Judge, Hone Peeti being the Assessor. I said it was not proper that Hone Peeti should be in the case, as he was one of the twelve; but the Chief Judge did not listen to me, and the decision of the rehearing confirmed the original decision. I was not fully questioned as to what I had to say. In this way that land has gone from me, through the action of the Native Land Court. Now, I ask the Commissioners to give some consideration to this affliction that has befallen me, for in this way the whole of the Ngapuhi people condemn the Native Land Court. That is all I have to say with regard to the Native Land Court. Now with regard to the laws. I am not able to speak very fully on the subject of the laws, seeing that the Ngapuhi as a tribe are not assembled here to-day. We can only express here now what we individually think, and for this reason: The laws made by Parliament are those which have constituted the Native Land Court, and, as the greater number of the Ngapuhi are absent to-day, our views might be different from those held by the others on that subject. Let me speak now about the laws made by the Parliament. I was at Wellington, and I attended at the Legislative Council, along with Paora Tuhaere and Hamiora Tupaea, and gave evidence before a Committee of that Council. We requested that the Premier and the Native Minister should come to a meeting that was to be held at the place where the Treaty of Waitangi was signed, so that the Premier and the Native Minister might explain to the assemblage there the laws relating to the Native lands, so that the whole of the people of the tribes might hear what they had to say, and so that the whole of the people should hear what these laws were, and should approve, or otherwise, of those laws; and that the Premier and the Native Minister might have the opportunity of hearing whether the people dissented or not from those laws. But the Committee of the Council did not agree that the Premier should come. There was some trouble then with respect to these Native-land laws. Hence it is that I hesitate to express my views with respect to these laws, lest what I say might be different from what others of the Ngapuhi might say. If a great meeting of the Ngapuhi had been called, and our views were solicited, I could then explain what my views are. That is with regard to the laws. Now, the Ngapuhi have a member to represent them in Parliament. We shall lay our views before him, and he will then lay them before Parliament. That is all with respect to that subject.

Mr. Rees: There are one or two questions I would like to ask Wi Pomare. First of all, with regard to the Native Land Court, do you think that the Native Committees could define the tribal boundaries, the subtribal, and the hapu boundaries better than the Native Land Court, and define also the list of owners belonging to these divisions?

Rev. Wiremu Pomare: That work could be done by the Committees. We have laid down our boundary-lines between the different hapus. But these boundary-lines we have not determined, and cases existing between our different hapus are not regarded by the Government. The Government will not listen to the decisions we have come to. All these boundaries we have fixed having been agreed to and determined upon, perhaps some person may apply to have his particular piece cut out, and the Government consents, and the result is a great deal of confusion. I have already explained that the whole of the Ngapuhi are suffering from the action of the Government and of the Native Land Court. The Government will not listen to us, but still persists in surveying our lands, and trouble then befalls the Natives. The Natives themselves quite lately were actually

killing one another, and still the Government sits and looks on, saying, "Well, it is all right. Let them kill one another." There was a certain block of land called Pukeokuri, near Whangarei, and four people were killed there. The quarrel rose out of a survey. That was in the time of the Government of Atkinson and Mitchelson. I went personally to Mr. Mitchelson and requested that the surveyor should not be sent to survey that land. But that Minister would not listen to what I had to say. But when the four people had been killed he wrote to us and asked us to go into his presence. He addressed us, and asked that peace might be established. I said to him, "What is the use of your going to Whangarei when the people are killed? This is your evil work." That Minister replied, "No, it is not my fault." But his face became red when he heard those words of mine. Therefore it is that I wish to know from the Commissioners here whether they can ward off those evil things, or is the matter to be still left with the Government in Wellington. I wish the Commissioners to understand that I am speaking now upon what are regarded as most important matters by the whole of the people in this part of the country. You are aware that the Government is the cause of the evil that arises between the Maoris. I hope that this Government, of which my friend Mr. Rees is a supporter in the House, will be able to do some good in respect of Maori laws for the Natives who are themselves powerless; and if that be done then I may be able to look upon the work accomplished as being such as will benefit the Natives. I have nothing more to say. I cannot explain with regard to the laws. I leave that to Parliament. But I am one who is very bitterly opposed to the present Native-land laws.

Do you consider that if a system of dealing with the Native lands could be brought about by which Native Committees could choose the reservations required by the people in their own blocks, and the rest of the land could be leased by the Native Committees acting with Government Commissioners—the reserves to be taken out first of all, and then the portions of the blocks they did not want leased to Europeans, the deeds to be signed by some people chosen by themselves and the Government Commissioners—do you think that that system would answer, the Government Commissioners to be responsible for the proper distribution of the moneys among the whole of the people?—What you have said to me is clear. This is the desire of the Natives: that those people whom they may choose from among themselves should make the arrangements with regard to their lands. Do you mean that those people who would be chosen as the Committee should lease the land?

Along with the Government Commissioners?—I will speak about that presently. That land should not be given over to the Native Land Court to adjudicate upon. If the Native Land Court will have nothing to do with the land it will be an excellent thing for the Native Committee and the Government officer to see to the proper distribution of the money.

That would do away first of all with the expense of signing Maori deeds by all the people. Then it would prevent one man being got hold of by one European and another man being got hold of by another European. It would prevent all that kind of single dealing with the land?—Would the Native Land Court have anything to do with it?

Not necessarily. Some Court would have to decide, and give the certificate of title. But the Natives would decide their boundaries first of all, and take the matter into the Court?—The stumbling-block that we cannot get over is this Native Land Court.

We have got a very strong remonstrance about the Native Land Court, and that we shall pay attention to in our report. But we now want to go on to the method of dealing with the land?—Let me say again that I wish the whole of the Ngapuhi were here, so that there would be no difference of opinion regarding the Committees and the Commissioner having the power to lease the land for the people. Speaking as one man, I do not like to take upon myself to say Yes or No with regard to the leasing of the land.

There will be a meeting to-morrow and the next day at Waimate, for these matters to be spoken of?—Yes. A great meeting of the whole of the Ngapuhi will be held at Kaikohe on the 15th April, and that will be the time when these important questions you have mentioned will be laid before them. There may not be a very large assemblage of people at Waimate. At Kaikohe they will be most able to go fully into the work of the Native Land Court and its errors; but I cannot say what will be done with regard to the laws. There is another subject I wish to mention. It is with regard to the Government including portions of our land within its surveys. Some of my land has gone in that way. Haratu is the name of the first place; Ruapekapeka is another. The Government have taken that land and sold it to Europeans, and we are very dark about it. The Government surveyors have done that. Some four acres of my land have been taken in that way by the Government. I applied to the Government, and have received no word. I hope that the Commissioners will look into this matter.

Mr. Rees: We should like to have your individual opinion on the matters that have been submitted to you, even if it may not be the opinion of the whole tribe. We want the opinions of the leading men, because things cannot be allowed to stand as they are. Of course we do not wish to force individuals by bringing pressure to bear upon them. You will be able to have a talk among the people. Our opinion is that all dealings should be public dealings, and openly conducted, and not secret dealings with individuals. Should any other Maori like to say anything, of course we shall be glad to hear him.

Hori Winiana: I have something to say with regard to a block of land called Huiarau. That land will be dealt with by the Court at Waimate.

Mr. Rees: We have nothing to do with the Native Land Court. We can make recommendations as to what shall be done with the Court, but we cannot interfere with it otherwise.

Hori Winiana: There are about 100 acres in the Ruapekapeka Block, referred to by Pomare, that were wrongly included. There is the same complaint about Taumarere—7 acres have been wrongly included there. The railway-line goes along there. Subsequently the Government surveyor came and included this portion in the lands belonging to the Government.

Mr. Rees: We cannot interfere with the Government any more than we can with private parties. We can only recommend Parliament what to do, and we can state that there are complaints made that the Government have wrongly included land in their surveys.

Wiki Moehana: I consent to the Native Land Court adjudicating upon our lands. I do not wish the Maori Committee to do it. Trouble comes from the Native Land Court upon the owners of the land, and trouble comes from the Native Committees upon the owners of the land; the troubles are both the same. I like the Court of the Government because it gives out the portions for this person and for that person. The Maori Court would not be clear in saying what portions belong to each person. That is why I do not like the Maori Committee. That is all I need say about the Courts. Now, with regard to the laws of the Government in relation to the Native Land Court: a great objection that I see in connection with the Native Land Court is in its demanding payments from the people who have cases before it. A second objection is the compulsory payment of rates upon land that the Government surveys. A third objection is to demanding a Native duty upon leases. That is all I wish to make known to the Commissioners.

Hoterene Maihi Kawiti: I wish to explain to the Commissioners my views with regard to their coming here and with regard to the troubles that have beset us through the action of the Government in relation to our lands—both lands that have already been surveyed and lands that are still remaining in their Maori state. I shall first speak about lands that have already been surveyed. Applications are sent in to have the claims adjudicated. A time is fixed for the investigation to take place, and it is held that after this investigation does take place no person shall make any further application in regard to that land. I have heard now that these cases can be reopened, and the land given to some other person. That is all I have to say with regard to lands that have been surveyed. Now, with regard to lands that are in their original state, I myself and a great portion of the Ngapuhi do not wish our lands that are not through the Court to be surveyed. Our lands near Kawakawa are not through the Court. I do not wish any surveys to take place there. We want the troubles that exist between us with regard to our lands to be settled by our Native Committees.

Mr. Mackay: Who wishes to survey the lands?—The last speaker is one who wishes to survey the lands. The boundaries of our lands that are not through the Court we decided many years ago, and I have a note of them in my book. Ngatitini is the hapu.

Is it not necessary for you to have your land surveyed before going to Court?—I am stating what my own ideas are upon this subject. What is the question?

How can you expect to get your lands put through the Native Land Court without surveys?—Our desire is that the land should not be surveyed or dealt with by the Native Land Court.

How can you expect to get a title to it unless it is dealt with by some Court?—According to our Native way of holding land we have no trouble, but with the Native Land Court there is a lot of trouble.

Would you approve of a system by which the titles to Native land would be obtained through the action of a Native Committee settling the boundaries and working with a Government officer?—The Native Committee could determine the boundaries. With regard to the Government officer and the Committee, I could not give an answer to that now; that will be for the whole of the Ngapuhi to reply to. The man who is persistent in trying to have our lands surveyed is the last person who spoke to the Commissioners, and he is a very objectionable person altogether. At the time Marsh Brown was alive this person made application to the Government to have the survey made. Marsh Brown wrote back to the Government requesting that no surveyor should be sent. Mr. Ballance was the Minister at the time. The Government afterwards sought to have the question settled by arbitration, and people were sent up by the Government who investigated the claim of the person to whom I am referring. The decision of that Court, or inquiry, was altogether against him. He was defeated there.

Who composed this Court?—Henry Clarke and two Native Assessors. Kauere was one of these, and Rehutai was the other. The decision was given against that person, and I have a copy of the judgment. I wish to say to the Commissioners that with regard to our land that is not through the Court we have already completed a covenant. This is the book which contains it. [Book produced containing printed agreement entered into by a number of Maoris with regard to their land.] The purport of that is that we do not wish to have any surveys. That is to remain a permanent law for the future. No portions of that land are to be sold. Those are some of the terms of the covenant. We are willing to allow prospecting for coal, manganese, or other minerals to take place over the land referred to in the covenant. There is a great deal of coal in it.

Mr. Rees: Here are 267 names for one block. If they want to lease portions of that block, these 267 can never sign one deed. Some of them are children, and unless everybody signs a European would have no right to go there prospecting for coal or anything else. And unless the European leased from them a certain portion, which was surveyed, he could not do anything. If the Natives keep the land locked up the next thing that will come along will be a tax that will be put on the land—that is, if they do nothing with it. How are they going to pay the tax? Then, the next thing that will happen is that somebody outside the list of owners altogether, like the man who spoke some time ago, will say, "That land belongs to me; I will take it to the Native Land Court." He and his friends will get up some story, and they will get put in a list of owners. What this Commission wants to do is this: Taking for illustration this block of land, in which there are 267 owners, to let them pick out the wisest men among themselves to cut out what portions they want for themselves, and then to act with a Government officer and the whole people in dealing with the rest of the land which they do not want to utilise. Even then it must be decided, either by common consent of all the Maoris owning land there or else by the verdict of some Court, that these 267 are the owners. If all the Natives agree to this, it could then be settled by the Maori Committee. On the other hand, if the Maori Committee and all the Maoris

surrounding them did not say these men were the owners, some Court must decide the question. It is impossible that Maori land can be allowed to remain in its Maori state, without a title being obtained. Otherwise the County Councils and the Government will levy taxes, and will sell the land if necessary in order to pay those taxes. So what we have to do is to find out the best and wisest plan to adopt. The man who spoke before Kawiti said, "I will go into the Court; the Court is good enough for me." The Natives must go on; they cannot stand still. Now, then, we must find the best and safest way to go on. Wi Pomare has said, and Hori Winiana has said also, they do not like the Native Land Court; they would sooner determine these matters by Committees of their own. That has all been taken down, and, if we find that substantiated by the other people of the Ngapuhi, we shall say, "The Ngapuhi want Native Committees to decide the hapu boundaries." Parliament may say, "We will make a law and allow the Natives to have this opportunity of dealing with their lands." Then, supposing the Committee finds these 267 names to be the owners of that block of land, how are they going to deal with the land?

Atimana Parerau: I wish to explain something in connection with what the last speaker said in objecting to have our lands surveyed. The people whom we appointed to be the Committee to manage that land are included in the list; and that Committee is to make all necessary arrangements with regard to the wealth that is in the land. It is empowered to make arrangements with regard to the coal and other minerals that may be in the land. That is all done in accordance with our rule that there is to be no survey. If any European wants to lease that land, that Committee is to consider the application. If the members of that Committee see that it is well that it should be leased, then that Committee will consent. The two hundred people who are in the block would have no power to go and cause any dispute. This is explanatory of what the last speaker was saying. We are willing that a company should go and work that land for the coal; but the coal company will not accept our proposals.

Mr. Rees.] What you say now is very good sense, but it would be better in such a case as that if for the whole of this district there was a Government Commissioner, who would help the Natives to manage the land in European fashion, so that the people would be safe and the people behind them?—You have heard what Wi Pomare said. That is strongly the view of all of us here. We cannot speak on the subject.

Yes, but you are travelling on what appears to us to be the proper road. There are other things we should like to speak of now, but there is not time.

No; but there will be time to morrow and Friday.

Hoterene Maihi Kawiti: I wish to know why the Native Land Court sitting at Waimate should deal with Kawakawa land.

Mr. Rees.] Do you complain of the Native Land Court holding its sittings at a distance from the place of abode of the people who are to attend the Court?—Yes. We object that land in this vicinity should be decided on by a Court sitting at a distance.

The Commissioners then adjourned, intimating that they would sit again in the same place on Saturday, the 4th April.

WAIMATE NORTH, 2ND APRIL, 1891.

Messrs. W. L. Rees, M.H.R., and Thomas Mackay (Commissioners) sat in the Resident Magistrate's Courthouse at 10.30 a.m., a number of Natives being present.

Mr. Rees: We had hoped to have met more of the Natives at Waimate, but we are glad to see that some of the leading men—heads of families who are looked up to by the Maoris—are present, so that probably we will get on as well as if a larger number had assembled. The Commissioners have been told that the principal subject of thought and of trouble among the Ngapuhi, especially in this part of the Ngapuhi district, arises from the action of the Government in their surveys continually overlapping and taking away lands belonging to the Maoris. Now, though the Commissioners will be anxious and willing to hear any complaints of that sort, and so to report to the Government as to get justice done to the Natives, yet the Commission has to regard other things besides that. For many years Parliament has been flooded with petitions, which have come in by scores from all the different parts of the North Island, complaining of wrongs of various sorts under which the Natives have suffered. The members of Parliament themselves were ignorant of all the matters which the petitions contained, and of the members of Parliament who knew anything about Native matters half would be on one side and half on the other. That was the same with the four Maori members, because two of them would go on one side and two on the other. The reason for this in the case of the Maori members is very simple: it arose from the fact that they were afraid to go all on one side, either the side of the Government or the side of the Opposition, lest when the other side came into power they might be altogether destroyed and not listened to. Then, every year the Parliament kept passing new Native-land laws with the hope of doing something for the Natives. But they found, instead of these new laws healing the sickness of the Maoris, that the diseases, and sicknesses, and troubles of the Maoris seemed to increase every year. At last, therefore, the Parliament and the Government have asked Mr. Mackay, Mr. Carroll, and myself, who have been appointed by the Governor with the advice and consent of the Ministers, to go and see the Maoris in the various places and talk with them face to face about all these matters. Then the evidence is all taken down—all that the Maori chiefs say at the different meetings—and we shall report it to Parliament, together with our view of the wrongs the Maoris suffer, and the remedies that ought to be applied. Then the Parliament will have some ground to tread upon. It will see what is the real state of the case, and will be able to pass a Bill which it may reasonably hope will heal the sufferings under which the Maori people now pass their lives. Although, therefore, we shall be willing to hear about any wrongs that the Natives have suffered as regards the Government overlapping in the surveys and taking their lands, yet we shall want them to speak, and we shall

speak to them, of two other subjects in addition to that. The first of those two things is concerning the Native Land Court. It is our duty to ascertain from the Maori people whether the proceedings of the Native Land Court are satisfactory to the Natives, and whether not merely they are satisfactory, but whether they really accomplish the work that the Native Land Court is intended to do. For instance, we shall want to know whether the payment of the fees which are now demanded by the Native Land Court is satisfactory to the Maoris; whether the Native Land Courts hold their sittings at such places as suit the convenience of the Maoris; whether the work of the Native Land Court is conducted as speedily as it ought to be, or whether there are adjournments from time to time which are oppressive upon the Maoris; whether the granting of rehearings, which has now become so frequent, is in the opinion of the Maoris a good thing; and whether the Maoris themselves believe that in their runangas and by their Committees they could define and find out the tribal boundaries and the hapu boundaries in a better and cheaper manner than is done by the Native Land Court. Those are the things which we shall have to talk about concerning the Native Land Court. The second subject which we shall have to ask the Maoris to speak about is as to the use, disposal, and management of their lands. In this district the Maoris have sold to the Government and to private individuals large portions of their lands; but they still retain lands, some of which have gone through the Court, and some of which have not gone through the Court. And this question affects not merely the Ngapuhi, but the Rarawas, the Arawas, the Ngatimaniapoto, the Ngatituwharetoa, and all the other great tribes of the North Island. So when we ask the Maoris to speak concerning the management and disposal of their lands, they must remember they speak not merely as members of the Ngapuhi Tribe, but as members of the Maori people, who yet have large estates, and who wish to see these estates utilised for the benefit of themselves and their children. Now, the Commissioners are of opinion, and the Parliament is of opinion also, that the present system of the Maoris passing their land through the Court, and then one selling, and another selling, and another selling—men, women, and children all acting in this way—is a bad system. In the olden times, if a tribe desired to deal with its land, the tribe met in public, and then the heads of the families carried out what the whole tribe desired to do—acting as managers. But under the laws which the Parliament has made, when a long list of Native names is put into a certificate or grant, somebody gets hold of one or two Natives—perhaps of people not living in the district at all, or spendthrifts—and perhaps through the action of these one or two people the European gets his hand upon the land. Then, when the European, whether it is the Government purchaser or the private purchaser, once gets his hand upon the land, he goes on working, step by step enlarging his foothold, until the Maoris are clean out of it. Now, that is not wise work nor good work. We desire to ask the Natives whether they think it would not be wiser to go back to some extent to the old dealings with the lands, under certain restrictions. Supposing the Natives who are here present, with their families, were declared to be the owners of a block of land—we will call it Waimate—of 20,000 acres. Now, supposing the people, their wives and children, numbered a hundred and fifty, and that all their names were to go into the certificate. Would it not be advisable for them to choose the wisest and most honest people amongst themselves—people whom they could depend upon, people who had skill to manage, and honesty to do their work fairly by the whole people—say, seven of such men? Out of this 20,000 acres this Committee would mark off all that the people wanted for themselves—for their own cultivations, burying-grounds—anything they chose. Supposing we take 5,000 acres of the land for these reserves. That would leave 15,000 acres that they do not want for their own use. Now, the Committee, in conjunction with an officer appointed by the Assembly for their district, would cut that 15,000 acres into proper farms to let to Europeans. Then, let that 15,000 acres, having been cut up into proper farms, or small sheep-runs, or whatever else it is fit for, be leased for the best price obtainable from Europeans. And let no one individual of the hundred and fifty owners have power to sign any deed whatever, but let all the leases be signed by the Government Commissioner and a certain number of the Committee. Then, let all the proceeds over and above the necessary cost of management be distributed among the hundred and fifty. The people would meet and draw up a list of the names, and put down how much out of every £100 each family was entitled to receive. Then the officer appointed by the Parliament would be responsible to the Parliament that he would, with the Committee, distribute all the moneys in accordance with the list every year or every quarter. The result of that would be that the 5,000 acres reserved for cultivations, and so on, would always be in the possession of the Maoris; they could not be leased or sold. Then, too, the 15,000 acres could never be sold away from them, but would always, from year to year, bring in a revenue for them and their children. They would thus be safe, as a people, all over the Island; the time could never come when all their land would be gone. But, as things are now going, bit by bit the whole of the lands of the Maoris are passing away from them, and, unless the lands are used so as to carry sheep or to grow corn and fruit, the Europeans will clamour for taxes to be paid out of the land—that rates and taxes shall be levied on it. If, therefore, these great blocks of land are kept idle, the Maoris will have to pay taxes just the same as the Europeans pay taxes. And, unless they get something out of the land itself to pay the taxes, gradually the taxes will mount up to so much as to swallow the land itself. We therefore propose that their land should be utilised in the way I have just indicated, so as to give them a rent in perpetuity, and so as to let the Europeans pay the taxes. And if there were any of the Natives themselves who were skilful enough to have sheep-farms, the extent of the reserves could be increased so as to afford them land for that purpose. That would enable them, also, to establish schools for their own children—not merely schools to which the children would be sent for an hour or two each day, but large buildings, with a large farm, where cattle and sheep might be reared, and fruit-growing and dairying carried on, so that the children could be instructed in all those things, and how to manage similar farms for themselves. I hope the Natives clearly understand the two things we shall be glad to hear them speak about—about their own local matters, and the Government interference with the lands—the sufficiency and efficacy of the

Native Land Court; and, secondly, future dealing with their land. If any of them would desire to speak, all that they say will be taken down, and then the Commissioners most likely, after they finish, will ask questions upon the points which we want knowledge upon, and upon which we consider they have not fully spoken.

Wi Katene: The Native Land Court is the first subject to be spoken of. I will speak of the evils that I have seen at the Native Land Court. There are a great number of rules and regulations for that Court. A case may happen in this way: Supposing I have a case before the Court, the law of the Court is that for each day that I stand up and give evidence I have to pay £1. That is at the rate of £5 a week, the Court not sitting on Saturdays. That is the regular weekly cost, even though the case may have been going on for two months. It might be a case in which I appear merely as an objector, and not as an applicant, before the Court. The claimant in such a case has also to pay £5 a week. I have seen these things at the Court at Hokianga, both claimants and counter-claimants being called upon to pay the fees I have mentioned. Within the last couple of years there has been some alteration in respect of the Court. It is improved to some extent. Last year I only paid £1 for my case. That is a somewhat better arrangement. In former times, when the Native Land Court first began its work in this part of the country, Judge Maning was the Judge, and the Natives got on very well with him as Judge. Those are the evils that I have seen in the Native Land Court, together with the difficulties that arose in connection with the surveys. I believe that if our lands are dealt with in the manner I have stated—that is, subject to the great expense of the Native Land Court and the survey-charges, the land itself would not be able to repay the cost. I have seen a very great number of objections to the Native Land Court. One of the great difficulties that I have seen proceeds from the Chief Judge himself—that is, with regard to applications for rehearings. In former times the Government had the control of the Native Land Court. The Government acted in a uniform manner in the matter of rehearings; but when the power came to be transferred to the Chief Judge to grant rehearings, in some cases rehearings would be granted, and in others they would be refused. I have seen notifications in the *Gazette* of applications having been granted by the Chief Judge, and of other applications having been refused, and I have thought to myself, "What is the reason that in one case such an application is granted and in the other case that it is refused?" That is what I see in regard to the Native Land Court. Other speakers will have their remarks to make in connection with the Court. I have seen the errors of the Court in regard to a certain block in which I was concerned. This was a case of my own. I do not wish to speak of anybody else's case, but to speak of something that is absolutely within my own knowledge. That block of land consists of 7,000 acres. It is land situated at Hokianga, on one side of Waima. My case lasted for two months, and my claim was established, but only to a small portion of the water that was on the block. I got a decision, but I got no land. A small lagoon was awarded me as my interest, and my name was inserted as the owner in the certificate of title. I do not regard this as properly the law of the Native Land Court. That is one of the improper things I think the Court did, and there are many people who have a great number of complaints to make against the Court. When the case I have just referred to was being heard I watched the aspect of the Court. We who were the counter-claimants paid £1 a day for the case. Then the Court brought up a new regulation, which permitted counter-claimants to cross-examine for only fifteen minutes. If I went one minute over the fifteen, and thus occupied sixteen minutes, I would have to pay £1. And in that case the claimants or applicants were paying £5 a week. And it did not matter how falsely a claimant stated his case, he got judgment in his favour. I have just spoken of a case within my own knowledge, but there are many besides who are aware of these defects in the Land Court, and may speak of them. That is why I quite agree with the Commissioners in thinking there should be new regulations and new arrangements made with regard to the Native Land Court. One thing that I am very much distressed about is in connection with the Native Land Court, and that is in regard to surveys. The costs inflicted upon us for surveys, for Court fees, Crown grants, and other expenses are very severe indeed. I am convinced, and I say truthfully, that if these lands of ours were sold they would scarcely produce sufficient money to pay for the heavy outlay entailed in connection with investigating the title. This land of ours would not exceed 1,000 acres—that is, some of the blocks. The block which I spoke of, and in which I got a small portion of water as my share, was a very large block, but in many cases our blocks of land are 50- and 100-acre blocks. Other speakers may have something to say with regard to the Native Land Court. I shall now conclude what I have to say by repeating that new arrangements are essential in connection with the Native Land Court. I just wish further to impress upon the Commissioners the fact that the surveys are a great source of difficulty with us. The Chief Judge is another source of difficulty, and also the head surveyors.

Mr. Rees.] Do you believe that, if the question of tribal boundaries and hapu boundaries were left to be decided by the runangas and Committees of the Maoris themselves, better and truer decisions would be given than those given by the Native Land Court?—Yes; those things would be settled better in that manner than they would be by the Native Land Court.

Do you believe that, if persons came before the Native runanga or Committee to urge a claim to certain land, they would be more likely to speak the truth before the runanga than they would before the Native Land Court as at present constituted?—If a Native should go and give evidence before the Native Committee about his land, no false or lying statements would be manufactured, because he would know that the tribunal he was addressing was a Native tribunal, and he would not lay before it false or lying statements. But in the Native Land Court the lying is something fearful—it is very great indeed. The Court does not know whether the statements made before it are true or false. That is what I have seen, and that is why I think the Native Committee would be infinitely preferable to the Native Land Court.

What you would say, then, is that the runangas and Native Committees would know whether the man was speaking the truth or not, and that he would not dare, therefore, to tell them lies?—

Yes, that the Committee or the runanga would know whether the man was speaking truly or falsely.

And the Native Land Court, as at present constituted, has not that knowledge?—Yes; that is it. In many cases the Native Land Court would believe to be true that which is false.

The Commissioners have been told that false statements are deliberately got up to deceive the Land Court, and that the people regularly learn off what they intend to say. Is that true?—Yes, that is perfectly true. False statements are deliberately made and urged before the Court.

Are you prepared to give an opinion as to the future management of Native land? Do you think that it should be managed henceforth as in the past, or that it should be managed by a Committee of the Natives acting with a Government officer before all the people, and for the benefit of all of them?—Yes, I am quite satisfied to express my views upon this second part of your inquiry. My idea is that it would be a good thing for the people who own the land to assemble in runanga and appoint a Committee to regulate and manage dealings in connection with the land. This is the new arrangement that the Commissioners are inquiring into, and if effect is given to it the Native Committees would be quite able to do all necessary things in the way of leasing land and those other works that have been spoken of. I am not quite clear as to the runangas and the Committee, but I think that the Committee itself would be able to do all that is necessary. There are no very large areas of land in this district to be leased by the Natives, but in the southern part of the Island there are large areas of land. My opinion is that if the principal Natives in the South—Wi Pere, Hamiora Mangakahia, and Paratene Ngata—make any suggestions the Commissioners should pay attention to them and carry them out, and that, so far as the Ngapuhi are concerned, the Commissioners should also carry out what we would suggest. But it is quite possible that some of our lands would be in the same position as some of those lands in the South. Then, in such cases let the arrangements that those persons approve of apply to such of our own lands here as fall within the same category.

Generally speaking, then, we understand you to approve of the management of their land by a Committee of the people, for the benefit of the people, with the consent of the people, and in the presence of the people?—Yes.

And that in the cases of the Southern tribes—the Ngatimahungunu, Arawa, Ngatimaniapoto, and Ngatituwharetoa—the principle of the Committee, with a Government Commissioner, to conduct all transactions in respect of their waste lands would be likely to be useful?—Yes.

[*Hone Peeti* at this stage continued the sworn testimony which he commenced before the Commission at Auckland on the 18th March. See "Minutes of Evidence."]

Hiramai: I wish to speak to the Commissioners with regard to something that Hone Peeti has said concerning the maps that were not sent in in time to the Survey Office. I wish to know what reply the Commissioners have to make to that.

Mr. Rees: The only reply the Commissioners can make is, to ask the Government that it shall be inquired into, and if the Maoris have been wrongly treated that the wrongs be redressed. We can ask the Government to inquire into it, and whatever has been wrong we can ask the Government to set right.—That reply is quite satisfactory to me. I wish to speak of the cases in which surveys were made in the old times, but in which the maps were not approved of. That was at a time when the Maoris were having disputes among themselves, and some of them went to the Survey Office and got all the maps that they could, so that the other party of Natives would not have access to them. That is one of the reasons why the surveyors could not prepare their maps and send in the plans of some of the lands they had surveyed. Now, in these times, when application is made to the Court the Court says, These surveys are no good—that they are not certified to. That is the reason why I stand up here and say that the fault of the delay in regard to those maps is not the fault of the Court or the fault of the surveyors, but the fault of the Natives themselves. Another of the wrongs that are seen in connection with these maps is that pieces of land are cut off one block and cut off another block and claimed by the Government. That is why I say the Natives are to blame themselves on account of the maps not being passed in time, and my idea is that those surveys should be made anew. The two chiefs who have spoken are quite right in saying that this question of the surveys presses very heavily upon the Natives. Those two chiefs are quite right in what they have said in pointing out the great objection to the Native Land Court, and I quite agree with what they have said in supporting the Committee system. But some of the evil that has befallen the Maoris has resulted from the Maoris themselves. I think this Maori Committee system will be the salvation of the race, although many troubles have arisen from the Native Committees. The two chiefs to whom I have referred have explained their views upon that question, but I am not at present prepared to accept all they said. I have seen some of the trouble that still remains as the result of the work of the Native Committees. If opportunity be offered there are others who could come forward and point out the evils that have resulted from the Native Committees. In concluding what I have to say, my opinion is that the evils that have resulted from the Native Land Court would still continue even if there were Native Committees. What I have seen of these Committees is this: Supposing that two people are contending for a piece of land, and that one of them is a chief and the other a very low-born person, the whole of the case would be laid before the Committee, but the Committee would give its decision in favour of the chief. That is all I have to say. I wish prosperity and health to the Commissioners.

Mr. Rees: Of course the Commission is most anxious to hear all sides of the question. We want to hear the expression of every man's mind—whether he is for a particular way or against it; because we do not come pledged to any one path—we want to find out the best path. But you must remember that if things go on as they are now there is no hope. One-half of the land which the Natives once had in this country they have sold—more than a half, in fact. They still have ten or twelve millions of acres, so that an immense territory is left. Now, where has the price of all

the land they have sold gone to? It has gone in clothes, in food, in spirits, in tobacco, and in horse-racing. Now, if we do not find a better plan all the rest of it will go too. After all, the Committee will only be men; they will not be angels or gods.

Wi Katene: What are the evil results from the Committees to which Hiramai has referred?

Mr. Rees: They will be liable to mistakes. But to keep the Native lands, and to choose the best and-wisest men for the Committee, seems to be the best way of giving certainty for the future. Mistakes will be made, but we must watch and guard against these mistakes as much as possible. You and others will have to look after the Ngapuhi Committee, and if you see them making a mistake come down on them. If you see them make any mistakes put them out at once. We are anxious to associate with the Committee some officer chosen by the Parliament. If the Parliament finds he is doing wrong it will dismiss him at once. I do not say any of these things for the purpose of blaming Hiramai for speaking as he did, because we want to hear all shades of opinion, and the more we can get the Natives to look upon our side of the question, to pull it asunder, and see what it is made of, and then speak their minds, the better we shall be pleased.

Hiramai: With regard to the question that Wi Katene wished the Commissioners to ask me, I can answer that now.

Mr. Rees: Perhaps it is better not to do so, as others may wish to speak on the main subjects.

Hoani Ngapua Tuhirangi: The Commissioners have replied to Hone Peeti's request with regard to the land taken by the Government, that the parties concerned should petition the Parliament, and that the persons should go before the Parliamentary Committee and give evidence. Some of the names of the blocks of land have not been mentioned to the Commissioners. Should all these names be given in to the Commissioners?

Mr. Rees: No; we do not want the names. We ought only to say that complaints are made with respect to many blocks. The names must be sent in to the Committee of Parliament.

Hoani Ngapua Tuhirangi: With regard to the Native Committees, the chiefs have come to the conclusion that there should be Native Committees to settle the troubles between the people, and the chiefs of Ngapuhi have decided that that should be the means of settling the disputes of all sorts. The only thing that is outside the Committee is what the Commissioners have spoken of—that is, having some one connected with the Committee; but that does not interfere with the Committee in any way. All that remains to be done now is to select good men for the Committees. This idea with regard to the Committees is a matter firmly established in the minds of the chiefs, and that intelligent people should be chosen for that work, and that whatever results the Committee arrive at should be confirmed by the Government, or by the Court, or by some other authority. That is all I wish to say about the Committee.

Karina Puhi: I wish to refer to something that Hone Peeti has said with regard to the surveys not being approved of. Hone Peeti has explained that one part of the land was surveyed, and adjudicated upon, and dealt with, and that when application was made to have the other portion brought before the Court the Court refused to entertain the case. This is one of the maps referred to. [Map produced.] Let me explain how it was that this map was not sent in at the time the survey was made. The reason was that the person who owned this land, Te Rata Hongi, died. That was the cause of the delay, and now, when his children, who are here present, applied to have their claim investigated the Court told them they were too late. We, the descendants of that person, wished to have our claim to this land investigated. A great deal of money has already been spent over the survey of this land, and if we are to have it surveyed again it will entail a great deal more expense, and the whole value of the land will have gone in survey-costs. Another reason why we wish this map to be accepted is, that all the troubles in connection with this land as to boundaries were settled during the lifetime of the person whose name is on the map. It was only when we found out that the Court at Russell would not deal with this case that troubles arose with regard to the boundaries of the land.

Tareha te Hehe: I am just interrupting the witness for a moment. I have not a great deal to say about this map. If you were sitting in the Native Land Court I might go further into the matter. All that I have to ask the Commissioners is if they will look into this question of the old survey. What I think is, that originally there was a large block surveyed; it was all included in the one survey, and then this dividing-line was run out, a Crown grant was issued for that, and that portion shown here belonged to my parent, under whose order the survey was done; and now in these days it devolves on me to conduct the claim with regard to this land. Then, the Native Land Court Judge said this survey could not be accepted by the Court; that that surveyor (Fairburn) was not authorised, and therefore had no authority for the survey. Consequently, the Judge told me to have the land surveyed again. Then, when I heard the Commissioners were coming here I wished to explain to them the position in which this survey stands. The troubles as to the Maori aspect of the question I do not look to at all, because that is a matter that we can settle between ourselves. What I should like to know is, how is it that one portion of the survey has been accepted as right, and the other has not?

Mr. Rees.] We cannot tell you that. We can only say it seems very strange. And we can make a report. First of all I would ask anybody who knows: Are there many of these cases, or are there only one or two?—This is the only case. There is only one in precisely the same position as that—where a portion of the land has been surveyed and granted. That is to say, a case in which the old surveys have not been received by the Court?

Mr. Mackay.] How long is it since Fairburn made this survey?—About twenty years ago.

When was the land brought before the Court?—Last September. The reason why the Court would not accept the survey was that Fairburn's license was taken away. He was not an authorised surveyor at the time. After he surveyed this land his authority was taken away.

Mr. Rees: The only thing we can do is to draw the notice of the Government and of Parliament to the fact that plans have been made, some of which have been partially used by the Government

and some of which have not been before the Court at all. Then, seeing that the Maoris have spent money on these surveys, we can ask them, if they can, to make these plans available—that is, if they are sufficiently useful for the Native Land Court. Of course, we do not say that they will do so.

Hori Whiu: I wish to speak first of all about the Native Land Court. A sitting of the Court was held in this building in September, 1890. One of our claims was dealt with, but no judgment was given. Another claim was heard. The Judge said that if the Natives in the second case would be the same as in the first case he would give his decision. A lot of cases were heard, and they remained in the same position, without a final decision being given in them. In the first case the judgment was, I think, that he would wait until certain other cases were investigated. Now with regard to the second matter: When the case was heard the Judge said that those who were claiming the land should select who were to go into the different parts of it. I said to him that it was not for us to do that; that it was he who should decide who the owners were. He became alarmed at what I had said, and then we eventually fixed who were to go into the different blocks. But he was not able to give judgment. I have seen a good deal of the Native Committees, and I believe that they are far better than the Land Court. Their decisions are more effective. I have listened to the person who said before the Commissioners to-day that the Maori Committee is wrong. I say that that is a wrong thing to state. I am one who has had a good deal to do with Native Committees, and I have seen that their decisions were always right, whether it was a chief or a low-born person they were dealing with. I therefore say that the Native Committee is better than the Court. That is all I have to say about that. There is a piece of land in our district that was surveyed a long time ago. I cannot recollect in what year it was that the survey was made. The name of the person included in the large portion of the land was Mitai, and Heta te Hara was the name of the person included in the small portion of the land outside of and adjoining this block. Mitai got into some trouble with the Government, and his portion went to them. The Government sent their surveyors to the land. This was the second survey; and Heta te Hara's piece of land was included in it, and the whole of the land then went to the Government. We do not know how it is that the smaller portion of land came to be included in the land that went to the Government, seeing that it was quite outside of Mitai's portion.

Mr. Rees: The Commissioners can hardly take notice of anything of that sort, but Heta te Hara might send a petition to the General Assembly, and they would rectify any wrong. We can report that there are complaints of various sorts about the surveys. If Heta te Hara sends in a petition along with the other petition that Hone Peeti was speaking of, it will strengthen the case before the Native Committee of Parliament. That is all the Commission can do.

Tane Haratu: There are a great many of us who have a great deal to say, but it would be the same as Hone Peeti and Wi Katene have said; and there are also some troubles with regard to our lands like those which Hone Peeti pointed out. In a particular case that I am concerned in, we discovered in 1889, for the first time, that the hand of the Government was on our land. These are the matters that are affecting all of us; and I wish to support, therefore, what has been said by those speakers whom I have mentioned. It is no use my taking up the time of the Commissioners by going over the same ground that the others have traversed. We understand your suggestion about the surveys, and we will send a petition to Parliament as you have recommended.

Mr. Rees: You support what Hone Peeti and Wi Katene have said. Can you state—and will the other people who are here state—that what those chiefs said is a fair representation of the feelings of the majority of the Ngapuhi people?—Yes. I have said I support what they say. I should have liked the Commissioners to have attended the large gathering of Natives that is about to take place.

Our difficulty is want of time; we cannot do it. We have a meeting at the same time at Otorohanga with the Ngatimaniapoto and Ngatiraukawa?—I can say for all of us who are here to-day that we indorse what has been said.

Kingi te Nahuru: I wish also to support what has been said. I support what Wi Katene and Hone Peeti have said; and with regard to these lands of ours that are taken by the Government, I also have land that has been taken by the Government. I applied to the Survey Department for a surveyor to survey these lands, and I am to get them surveyed. Some European has sent a surveyor to survey for him the land that belongs to me, and the surveyor has gone upon my land to survey it for the pakeha. I have gone forth and protested against the survey. The surveyor said, What did it matter to him? he would still go on with the survey; that I could go on with my survey notwithstanding; and if it is seen when the case is tried that the land belongs to the Government, very well; if it is seen that it belongs to me, well, all right—it won't matter whether he surveys it or not. That is all I have to say to the Commissioners.

TE AHUAHU (BAY OF ISLANDS), FRIDAY, 3RD APRIL, 1891.

The Commission sat in the Travellers' Rest Hotel at 9.50 a.m. Present: Messrs. W. L. Rees, M.H.R., and Thomas Mackay.

Hiramai: The reason why we have come this morning to see the Commissioners I will explain. First of all, you will recollect the map that Karama Puhi showed the Commissioners yesterday in the Courthouse. I will ask the Commissioners to call to mind the circumstance that the map was placed before them. Karama Puhi and Hone Peeti explained that the map was not accepted, and they wished that it should be accepted as an authorised map. Myself and friends wish to explain that that map is a map of the land in respect to which trouble exists between ourselves, the Natives. We who are here wish to explain that that is a wrong map, and a map that steals our land from us. We object to that map being accepted as correct. We, the Natives assembled

here, desire that that land should be surveyed and used, so that we, the people who own the land, may have the survey made. And as to the application of Karama Puhi for the Commissioners to have Parliament accept that map as correct, we who are here are opposed to that, as we wish to have the land surveyed again. I will explain now to the Commissioners the trouble that exists in connection with that map. There are three separate pieces of land included in the land shown on that map. One of the pieces of land included in that map belongs to the person called Werohia. Werohia did not wish the survey of the whole of that land made. It was done secretly. The second piece of land included belongs to us who are here now. Neither did we nor our parents see the first survey made of that land. Whataparaoa is the name of the person who owns the third division of that land, and Whataparaoa knew nothing of the survey of the block including his portion within that map. These three reasons are the grounds we have for disapproving of that map, and that is the reason why I ask the Commissioners that we may be able to survey our own particular portion of that land, so that we shall not encroach upon any portion of the other two pieces. That, then, is our request—that we ourselves may have our own particular portion surveyed, so that we can bring it before the Native Land Court and have it dealt with. It is over thirty years since that survey was made. That map was produced before Judge Maning in 1866, and it was owing to the fact that we objected to the map at that time that the Court did not deal with the land. And that map was not produced again before the Court until September, 1890. When the map was produced on this last occasion before the Court it was before Judge Puckey, and he said that the map was a wrong map, and in consequence of that he would not adjudicate upon the land. That is the reason why we think it is a wrong map, and that it should not be accepted by the Court; and we therefore ask the Commissioners not to make any application to Parliament to have that plan accepted, but that it be condemned, and that there be a new survey made of the land. That is all I have to say about that point. Perhaps the Commissioners may have something to ask me. I make this application to the Commissioners because Karama Puhi asked the Commissioners to have the matter brought before Parliament. Karama Puhi does not own that land, and when the title comes to be investigated it will be discovered that he is not an owner.

Mr. Rees: The Commissioners yesterday told the Natives in the Court that the only thing we could do in the matter would be to say in our report that the Natives complain that plans about which a great deal of money was spent were refused by the Court when brought forward; and then the Commissioners should ask that it should be ascertained whether the plans were good or not. They could only ask, "Let it be seen whether the plans are good or not." The Commissioners could not take Hiramai's part against Karama Puhi, nor Karama Puhi's part against Hiramai. All we can say is that certain Natives appeared and said they had gone to great expense about plans, and the plans were thrown out. In some of the cases of these old plans no doubt it will be found that there is no dispute among the people at all, but that, unlike this case, everybody assents. Now, if these plans are found to be correct, about which there is no dispute, then Parliament may say, "If these plans are correct, and there is no dispute, we will not put the Maoris to the expense of another survey. We will take your survey as correct, and save you the expense of another survey." But where there is a dispute as to the surveys we could not ask the Legislature to say the plan was a good plan. We should say, "Let everybody come before the Court and be heard, and then let a just decision be given." And we should say this, most likely—I do not say that the Commissioners will do so, because I have not talked on the subject to Mr. Carroll or Mr. Mackay—but we should probably say, "Let the Natives meet together and talk over these plans, calling in chiefs who are not interested to say whether they could not agree how to cut the land up; because if they agree the matter would be settled." It might then be quite possible they would meet, and talk amongst themselves—men like Hone Peeti, Hone Mohi Tawhai, Wi Katene, and Eparaima te Mutu—hearing what the Natives say, talking it all over with them, and then an agreement be arrived at that this party's land lies here, that party's land lies there, this land goes to one hapu and that land to another hapu. In that way a common arrangement would be come to.

Hiramai: That, if acceded to, would be a very good proposal. It would be a very good arrangement. There is no doubt that perhaps some would lay claim to land that they had no right to. The arrangement proposed is a very excellent one. Still, there would be disputation among the Natives.

Mr. Rees: But if they talked it over among themselves it would be found that they would come pretty nearly to the actual facts as they stand. There might be a mistake on some point—about a creek, or a tree, or a post, or a hill, or something of that kind—because the lands have never been surveyed by a surveyor, and they would have to trust to memory and tradition, and do the best they could. When there was a dispute whether this was the point or that, this was the hill or that, they would have to leave it to the general runanga to decide, and then everybody would agree to give the surveyor instructions to lay off these lines as decided upon. This has reference to the general proposition of the Maoris settling these things among themselves.

Hiramai: The Commissioners' suggestion that the Natives should meet, themselves, and discuss their various claims, and that the matter might be settled in that way, is right. In this particular case we had two meetings of the Committees and the runangas, but the matter was not settled satisfactorily. I quite agree that the Commissioners are quite right in what they say; but in our case a satisfactory settlement has not been attained. We ask them that this map may not be authorised, and that there be a new survey, and that we can then bring the matter before the Court and have our disputes settled. Some of the chiefs say that the Native Land Court is bad; others say it is good. I say it is good. Wi Katene spoke yesterday about Native Committees. The only difference that was spoken of was that there should be an officer of the Government connected with the Committee. I do not think that one officer of the Government would be able to override the number of people who would be on the Committee. And in that way, through the action of the Committees, the lands of persons have gone to the chiefs. That is why I say that good has come

from the Native Land Court, and bad has come from the Native Land Court; and it would be the same with the Committees. I think, then, in this way trouble would continue, whether it is from the Committees or the Courts. That is all I have to say. Perhaps the Commissioners would wish to put some questions to me.

Mr. Rees.] What plan would you suggest for getting rid of the troubles? Have you any plan for enabling these things to be settled without trouble?—I think the Court would be better than the Committee for settling these troubles. I have seen the Natives begin to take up guns over their disputes that were before the Committee. I have not seen the Natives take up arms in connection with the Native Land Court. That is why I think the Native Land Court would be better than the Native Committee.

Is it not because the force of the Government is behind the Native Land Court that the Natives do not think of resisting its decrees?—Yes.

Supposing all the cases were brought before the Native Committee first of all, and that if the Native Committee's decisions were right they should be taken into the Court and registered; but that if disputed, and if the Natives could not come to an arrangement, that these cases should be taken to the Court, and the disputed points alone referred for its decision, do you think that would be satisfactory?—That would be better than anything. It would be very good indeed. As this particular block has been referred to, I should like to have it referred to the Court, because it has been a very serious dispute.

That would be one case in which the Native Committees would fail to give a satisfactory decision, and then the other tribunal should be resorted to?—Yes, that is the case.

Do you think, then, that in all instances—not merely among your hapu or subdivision of the Ngapuhi Tribe, but among all subdivisions of other great tribes—the land questions might first be left to the runangas and Committees to see if they could arrange, and then if there happened to be irreconcilable differences they should then go into the Court?—Yes. I would ask the Commissioners what would be done in cases where there was Native land not surveyed, and disputes arose in connection with it?

Just the same: the Natives would have to meet among themselves and fix their own boundaries. Supposing there were 100,000 acres of land in this district to be arranged for, the Native Committees and the runangas would meet and would see if they could decide upon the sub-tribal boundaries, then the hapu boundaries, and finally the family boundaries; and, if so, the surveyor would mark them off on his map as they were settled. The surveyor would fix on paper in the presence of the parties, and by their consent, such-and-such a hill, such-and-such a tree, such-and-such a creek, such-and-such a natural boundary, an old pa or a cultivation, by their names, and when all these had been agreed upon he would place them on a map and draw a line between the hapu boundaries. Then the land would be surveyed according to the instructions of the Natives themselves?—That would be a very good arrangement. I should like to ask the Commissioners this question: Who are the proper people to own the land, the people who have occupied and dwelt upon the land from the time of their ancestors down to the present time, or the people who have not occupied the land?

The Commissioners cannot answer that. That is a point of law upon which it would not be right for the Commissioners to pronounce even an opinion. We have been appointed by the Governor to inquire what grievances the Natives have. If you say that certain decisions are given by the Native Land Court which you think are not according to law, we can report upon that; but we cannot give advice as to what is right and what is wrong?—You are quite right. I should like to ask the Commissioners if I could send a petition to the Parliament saying that I object to this map being approved.

Certainly you can. You can send in a petition to Parliament—that is, one couched in proper language and which does not abuse people. You must disabuse your mind of the idea that the Commissioners will recommend that this plan or that that plan shall be given effect to. We are not to decide. We can only say that plans are brought forward, and that people allege, on one side, that they are correct, while on the other side people allege that they are not, and will Parliament inquire whether it is so or not?—That is quite right. This explanation of the Commissioners is very good. Would the Commissioners inform me of the name of any particular person in Parliament to whom I may send my petition?

Eparaima, your own member. A member of Parliament is bound to present a petition sent to him for that purpose. If he did not he would be turned out of Parliament. Every member is obliged to present such a petition. For instance, if a petition were sent to me against myself I would have to present it to Parliament?—The petition is to the Parliament, then?

Yes, it will be addressed to the Parliament of New Zealand. Then it will state what the facts are about the plans, and then pray that the Parliament will not pass that plan, but cause inquiry to be made?—I do not know what Eparaima will think of me, because I did not vote for him at the last election.

That does not matter. Eparaima is your member, and represents you?—If we should ask in our petition that an inquiry be held, would the inquiry be held by a Committee, and Wi Katene and Hone Peeti be asked to allow themselves to be appointed?

I cannot say. That would rest with Parliament to determine. Parliament would take such steps as it thought would insure justice being done?—I want to ask the Commissioners if it is their opinion that the Native Committees will be appointed to inquire into all these troubles.

The Commissioners cannot express an opinion upon that. They have got to report merely on the troubles they hear about. Parliament must deal with the remedy. Do you Maoris who are here think that the general opinion of the Maoris would be that, in the first instance, cases should go before the Native Committees, and then only in case of dispute go before the Court?

Mr. Mackay.] And that in case of agreement before the Committees, that that agreement should be recorded by the Court?—That is really a very excellent arrangement.

Mr. Rees.] Do the others say the same? Do they think that this is not merely their own opinion, but that it will meet with the approval of the Natives generally?—Yes. We think others hold the same views. A great number indeed of the people would consent to that arrangement. Such things as the Committee could not settle, let the Court settle.

We are glad that you have come before us, and we shall pay attention to what you have said. We deal with you just as if all the others were present. There is nothing secret.—That is a very excellent suggestion of the Commissioners, that things should be settled by the Committees, and that when things come before them that they are not able to settle, then let those things go before the Court. There are some who, I think, would desire in any case where there were difficulties that the Committee could not settle, and when reference is made to the Court, that then the whole inquiry should be reopened. The Committees would in that case be set on one side, and the Court would go into the whole inquiry from the beginning. I wish to ask the Commissioners would that be the way in which it would be done?

You must not ask the Commissioners, for we cannot answer you as to that. We can only report of the things put before us, and say, "These are facts and opinions." We gather together from all parts of the country not kumeras and pigs, and things of that sort, but opinions, and we put them in shape and order, and lay them before the Governor. All your statements have been taken down, and will be paid attention to.

KAWAKAWA, SATURDAY, 4TH APRIL, 1891.

The Commission sat in the Courthouse at 5 p.m. Present: Messrs. W. L. Rees, M.H.R., and Thomas Mackay.

Mr. Rees: As Wi Pomare and some of the other Natives thought it wise to take time to think over the matters submitted to them, and the Commissioners promised to meet them again to-day, we are now here for that purpose. We met at Waimate not a very large meeting, but a number of the representative people of the Ngapuhi Tribe, including Hone Peeti, Wi Katene, and others, and they went a step further than the Natives here, and expressed themselves without hesitation in favour of the suggestions thrown out by the Commissioners. And a matter was mentioned there which was only lightly touched upon here—a matter not merely of dealing with the land, as to the power of the Committees and any body authorised both by the Maoris and the Europeans to deal with questions affecting Maori interests, such as surveys. The Maoris have immense estates of land, and they have children growing up, in all parts of the North Island especially. Now, the education which the children get at the present time is not sufficient, that is clear. The Maori children, both boys and girls, should be taught not merely to read and write in books, but they should be taught trades. They should be taught to plough, reap, and shear, look after cattle and sheep, grow fruit, make boots and shoes, and carpenter, and, in fact, all the things European children are taught Maori children should be taught. Now, if the Maoris were to work together they could have great estates set apart in all parts of the North Island for schools. And if that were done the Committees could see that everything was properly done for the children, and these children would grow up able to use their hands as well as their brains, just the same as the Europeans. On these school-farms they might have sheep-stations and dairy-farms. If the Maoris give the land the schools would be pretty well self-supporting. That can only be done by the Natives joining together. And instead of being so many thousands of individuals, each one for himself, they would be one great army all working together. If the Commission, therefore, could hear the Natives express their opinion upon that as well as those other points, it might lead to very good results in the Parliament. Of course we do not want to prevent them speaking upon any other subject; but we throw this out as a suggestion for them to think about and speak about, so that they may do as much good as possible with the advantage they now have of speaking with the Commissioners. Are you, Wi Pomare, a clergyman of the Church of England?

Wi Pomare: Yes; I formerly was. Perhaps I may be permitted to speak on the subject that has just been mentioned. I have already spoken to the Commissioners with regard to the Native Committees, and I said then that I was unable to say more on that occasion until the whole of the Ngapuhi expressed their thoughts. But now, with respect to the schools, I should like to say something about that. I have applied to the Government to give authority to Native Committees to have the control of the Native schools. The Government did not consent. Now, I ask the Commissioners to induce the Government to give the necessary legal control for the management of their schools into the hands of the Native Committees. The Native Committees that now exist have no real power, and that is the reason why parents take away their children from the schools to their own homes, where they grow up in ignorance. And in that way we are unable to compel the children to attend the schools, the parents keeping them at their own homes. My petition has reached the Minister of Education. Now, with regard to what Mr. Rees has said with respect to the children being educated in farm-work, the Committee has not power in that direction. This is my final word: I wish that the Government will give full authority to have these things that were spoken of carried out, and effect given to them. I also spoke about this subject when Mr. Ballance was Native Minister. I spoke to him here at Kawakawa on the subject. I applied to him that a large school might be given for the whole of the children of the Ngapuhi, similar to the one at Te Aute, near Napier. Mr. Ballance did not make any reply to my request. I now ask the Commissioners, therefore, that a school such as I have mentioned should be established for the Ngapuhi children, and that the Natives should be consulted about setting land apart for its maintenance. That is all I have to say. I might perhaps be preventing others from speaking if I continued longer.

Te Atimana Wharerau: Salutations to you, the Commissioners. The last speaker has spoken with reference to the subject of schools. With respect to what the Commissioners have said as to their being willing to hear what the Natives had to say, I wish to speak now with reference to the portion that was left unsaid at the last meeting as to the troubles about our lands. Some of the

difficulties in connection with the lands about Kawakawa were not mentioned on the former occasion. For a long time past I have been communicating with the Government with reference to a block of land called Opua. There is a railway-station there, and it is the place where coal is supplied to the steamers. Another block of land is called Te Maihi. A third block is Waikurakura, also at the Kawakawa. A fourth block is Whakarorengi, also at the Kawakawa. The whole of these lands are in the possession of the Government. The Government said that Maihi Paraone Kawiti should be taken to be the person in connection with those lands. These are lands that have gone to the Government a long time ago. That old man asked the Government a long time ago about these lands. I have a copy of the communications that he sent to the Government, but it may take some time to explain about them, they are so long. He also wished to make application to the Queen, but the Government said they would attend to that application. But no application was forwarded to the Queen, because the Government have returned the application. It was an application made in accordance with the law of 1852. That is the trouble we have got: and we wish the Government to return those lands to us. That is all I have to say about that.

Mr. Rees.] What ground have you for asking the Government to return those lands?—Because those lands of our old chief went to the Government without any proper right.

Do you mean to say that Marsh Brown Kawiti did not sell the land?—Yes, he did not sell these lands to the Government.

Did he give them to the Government?—No, he did not give them to the Government.

Were the titles to them determined in the Native Land Court?—I do not know whether they were awarded to him or not by the Native Land Court.

Were they awarded to any one else, who sold them to the Government?—Some portion of the lands was awarded to somebody else.

Do you mean to say that some portion of that land has not been awarded to any one, but that the Government has taken it?—Yes.

Were these lands what are called "surplus lands"? Was this the condition: that Europeans claimed the lands, the Government Court gave them a portion of the lands only, and then the Government kept the balance?—A portion of the lands went to the Europeans and the balance of the land went to the Government.

Then the Government kept what they did not allow the Europeans to occupy?—Yes.

Although we cannot directly ask the Government to give you back that land, we can ask that an inquiry be made, and then if an inquiry be made by the Legislature you may depend upon it that justice will be done?—That is very clear.

Hoterene Maihi Kawiti: I wish to explain with reference to what the last speaker has spoken of. Some portion of what he has said is clear, and some portions are not clear. Those four blocks that were mentioned are Native land, over which the title has not been extinguished. These lands that I have mentioned are lands that have not been disposed of by the old people. We afterwards discovered that the Government placed a red mark on the maps of those lands. For five years Marsh Brown Kawiti was making application to the Government about these lands, and then when he died his children made applications. About 50 acres of our land at Kopuru went to the Government. There were no pegs put down along the survey-line, and in that way a portion of the land belonging to the Natives became included. It would be a good thing for the Commissioners to come up and see this land. Kapitoni was the man who surveyed it. He was the first surveyor who surveyed these lands. These are the troubles the Maoris are suffering under. After that the Government surveyor came, and the old survey was abandoned. I wish now to speak upon something that was omitted on the last occasion—that is, with reference to our own Native Committees managing the matters relating to our lands. We did not have such troubles as these with regard to the surveys when we managed our own affairs. I wish the Commissioners to understand that I do not agree with the survey of lands that have not passed the Court.

Mr. Rees.] Do you agree to what the two former speakers, and especially to what Wi Pomare said, about schools being established for the Maori children, and the Committees to have the partial management of them?—Yes, I agree with what they said about the schools. I am one of those who wish to have a school established in our district. The reason why the Native school at Waiomio was broken up was because the Committee had no controlling-power. We had a school established in our district, but the children would not attend it, and it was the absence of controlling-power on the part of the Committee that led to this state of things.

Te Atimana Wharerau: We agree to the Commissioners' suggestion as to the schools. I stand up so that the Commissioners may know that we all agree with what they have said about the schools. As to what the last speaker said, objecting to surveys being made on lands that are held in the Native state, I wish also to state that we object to the survey of those lands.

Kaka te Hakiro: I think that the question of the School Committees should remain over for the present, but let me also say that I think we should have the schools—we, the Natives, in our Committees to have the power. The 71st section of the New Zealand Constitution Act states it will be well that the laws, customs, and usages of the Natives should have full power in relation to themselves—that is, the laws and the customs that will not cause evil to the people, so that the Natives may be enabled to manage, according to their own customs, matters relating to their lands. You, the Commissioners, can look at that law of 1852. What I agree to is that the Commissioners should act with respect to those lands that have been taken improperly from our old people. In this district a great many of our lands have gone in that way, but these lands are not of very great extent and they should be returned to the Natives. Our Native lands should remain under the 71st section of the Constitution Act, and of those lands there should be no surveys nor anything else. Let the laws of the Government bear only upon our lands that are Crown-granted.

Wi Pomare: If the Commissioners will allow me I would like to say something with reference to what the last speaker said about the School Committees. My fixed idea with respect to the Committees for schools is that the Government should give them full and complete power for

dealing with the schools. As Kawiti has said, it was because the Committees have no power of dealing with the schools, and because that power is entirely in the hands of the Government, that our school was broken up. That is what I object to. If the Commissioners will permit me, I should like now to speak about some land that was Crown-granted for the schools. This land has been surveyed by the Government and is occupied by a European. The person who is the owner of that land—the grantee—wishes the European to take away all his fences.

Mr. Rees.] It was granted, then, first of all to the Native?—Yes, and after it was Crown-granted to the Native a portion was surveyed off for the European, and the European occupies the land. The Native grantee wishes the European to remove his fences from the land. That is why I wish to point out the mistake the Government surveyor has made.

The Commissioners are especially stopped by the Governor from interfering at all with any agreements between individuals. But we can mention that complaints of such things have been made to us and should be inquired into, although we cannot ourselves inquire into them. We propose to ask the Government to make a Court which shall inquire into every one of these things, both where the Government itself has taken the land and where it has been granted to other Europeans. Then that Court should sit here in this district, so that both Maoris and Europeans may have the plans decided on the spot?—That is the reason why I have mentioned these matters to the Commissioners; that, although they may not themselves be able to settle them, they may point them out to the Government, with the ultimate object of having them all inquired into. I wish also to speak to the Commissioners with respect to Assessors of the Native Land Court. I object to them. My objection to them is that the Natives are not allowed to choose their Assessors—that is to say, that they are not elected in the same way as members are elected to the House. The Government chooses the Assessors, and selects men who are not well versed in Native customs. I shall instance the case of an Assessor who arrived along with Mr. Puckey. That Assessor belonged to the Ngatiwhakaue Tribe. He was quite a young man. I saw him when he was sitting in the Court at Waimate, and he was very ignorant indeed. I said to the whole of the Ngapuhi that they should object to that Assessor sitting before the Court opened. They did not, however, object, as they were afraid of the Judge. And that person made mistakes in other parts of the Ngapuhi district, and the Ngapuhi were nearly treating him with violence. At last Mr. Puckey ordered the Assessor to go away. I hope therefore the Commissioners will represent this matter to the Government, so that the Natives may only have as Assessors men who are elected by the people themselves.

Hoterene Maihi Kawiti : In the printed circular that we received from the Commissioners it is said that we have to state what difficulties there are in relation to Maori matters, and I have stated these in pointing out the matter of lands taken from us by the Government. Having spoken of these lands of ours that have gone to the Government, I hope the Commissioners will be able to obtain them back for us.

Mr. Rees: We cannot go into that question. All we can do is to represent what has been said to us about it. It will be for the Committee of Parliament to look into the matter. We will pay attention to what has been said, and do the best we can in the interests of the Maoris.

OTOROHANGA, 15TH APRIL, 1891.

The Commission sat in the Native Land Courthouse at 10.30 a.m. Present: Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Thomas Mackay. A number of chiefs and people of the Ngatimaniapoto Tribe were present.

Mr. Rees : The Parliament and the Government, finding that many complaints arise both from Natives and Europeans regarding the dealings with Native lands, and as to proceedings in the Native Land Court, have determined to inquire for themselves, by sending out Commissioners to meet the Natives face to face. The European members in the Parliament know very little about the Maoris, and those who are acquainted with Maori matters in many instances have themselves been engaged in the purchase of these Maori lands, and are therefore interested to some extent in the statements that they make to Parliament. The other members of Parliament, therefore, do not know, very often, whether things are not to some extent coloured and prejudiced by the Europeans who speak and have knowledge of these matters. The four Maori members in Parliament occupy a peculiar position. They of course know of the troubles under which the Maoris suffer, but the Maori members have in the past not been decided upon one political side or the other, fearing that if they joined any one side, and the other came into power, their action might be turned against the Maori people. The Parliament therefore determined to advise the Government to appoint as Commissioners the gentlemen now sitting here, two of them being members of Parliament (Mr. Carroll and myself), and the other Commissioner being a gentleman who has at the present time the charge of large Maori interests. And our instructions are to meet the Maori chiefs especially, and the people—the old and experienced people—in the different places, to have their words taken down, to allow them to ask us questions, and for us to ask them questions, so that we may go back to Parliament and tell the members how things really are, what wrongs the Maori people complain of, and what we think would do them good if brought into effect in the future. The Maoris will understand, therefore, that we are sent for the purpose of hearing whatever they complain of, and with the hope of so giving the light and truth to Parliament that good laws may be passed for them. Now, lately you have had three sets of visitors at Otorohanga. The Governor came to show that not only he himself, but that the Queen and the Government, were animated by friendly feelings towards the people here. The Native Minister came because he was requested to come and hear the complaints which they had to make, and the requests they had to prefer to the Government. The Commissioners come from the Parliament, come from the Governor, and from the Ministers, to hear and to advise with the Natives, in the hope of getting laws passed for their benefit which will be binding in effect.

The Maoris now have the first opportunity which ever has been given to them of having a voice in the disposal of their own lands. I was here eight years ago, and was then the guest of Taonui, who is here present, and who I may say was very hospitable towards me. I was then interviewing Wahanui, Rewi, and Taonui about their lands. The Government of that date did not see then as far as all the political parties see now. Now, both the past Government and the present Government, and all parties, are anxious that we should give assistance and advice to the Maoris, and get at their minds and their own wishes, and so report to Parliament that their wishes, if reasonable, may be carried out. This Commission, therefore, does not represent any one party or any one Government; it represents all the people of New Zealand, who want to know from the Maoris and to act with the Maoris. Now, that map hanging on the wall just over there is a plan of the Rohe Potae territory, stretching from Aotea down to Mokau, and thence over to Taupo. Other Maori tribes own lands from Taupo away to the East Cape and Wairoa. From sea to sea, therefore, right across the Island, the bulk of the land belongs to the Maoris. Now, let the Maoris give the Parliament assistance and advice at this time. They must speak, because this is an important time. On looking at the printed paper, copies of which have been circulated among you, it will be seen that the Commissioners have many subjects committed to them for investigation, and on which we are to speak to the Maori people. But we have decided that, as regards the people here, it is not necessary for us to enter into some of the subjects. For instance, the people in this district, happily enough, have not been involved in disputes with Europeans about the titles to land, as have the Natives at the East Cape, Poverty Bay, and Napier. Nor have they had so long experience of the Native Land Court as the Natives in other districts have had. But, on the other hand, they are better off than most of the Maori tribes, because the bulk of their land yet remains to them. Unless, therefore, they desire to tread in the steps of the other Maoris, and lose the whole of their lands, we must find some means of preserving their land for them and their children. Now, if they desire to have that done, they must give assistance to the Parliament and to the Government. What has happened heretofore has been this: the Maori lands have passed through the Court, and particular owners have been put in for the various blocks, and the Europeans come and purchase the lands. This European, that European, and the other European—gradually they get their fingers on all the blocks, and gradually and surely press the Maoris out. The value of the land has been swallowed up in surveys, in deeds, in expenses of various sorts, so that very little remains to the individual Maoris who sell. The result is that in Hawke's Bay, Poverty Bay, the Waikato, and in the Wairarapa, and in other places where the Maoris have sold their lands, their lands have gone, and the money has gone also. They have neither land nor money. Many of the Maoris have no land left at all, and have to become burdens on their friends. Now, the Commissioners would ask the Maoris to advise them upon this point: Would it not be wiser, instead of the tribal lands of the Maoris being sold, that whatever land they could not use for themselves, or did not use for themselves—the waste lands, in fact—should be cut up and leased for their benefit to Europeans. Among all the Maoris there would be found some persons of intelligence and skill who are able not merely to cultivate a piece of land, but to manage a farm or a sheep-station for themselves. In such cases the Commissioners would like to ask the Maoris whether they would not consider that persons of that sort should be assisted to become purchasers in that way. But, even after all such cases are provided for, there will yet remain large areas of these lands not used. Now, the Commissioners would like to ask the Maoris whether they do not think it would be wise, instead of each individual being enabled to sell a piece here or a piece there of his interest, whatever it may be, that the waste lands should be cut up so as to be profitable to Europeans, and then leased to Europeans for the benefit of the people, and for the best terms that could be got. That is, to stop individuals in these large certificates of title going on selling or leasing, and to enable the whole of the people, together tribally, to deal with their lands in public. Of course there may be valuable lands near the townships, owned by people of considerable skill, where it would be proper that they should be cut up, and that each individual should have his own portion. But, in regard to the large areas of these waste lands that the Maoris themselves cannot use, we want them to express a decided opinion whether they should be divided among the individuals, and the individuals be left to deal with them, or that the whole of the tribes through their head chiefs should deal with them in conjunction with a Government Commissioner. The Commissioners, of course, would wish the Maoris to remember that there is a growing feeling among the Europeans that all the Maori lands ought to be taxed. That is the Europeans' feeling. Take the lands here, for instance: The Europeans say the Maoris consented to the railway coming here. That railway was made at a cost of hundreds of thousands of pounds, and the Europeans bear the taxation entailed by that expenditure, while the Maori lands escape all taxation. And at the present time various burdens are being heaped upon the Maori lands, the extent of which I do not myself think the Maoris are aware of—Government surveys, for instance. They are expensive, and, besides that, they bear interest, so that year after year the amount grows. Then, in many places, the Government have paid rates and taxes, which are a charge upon the land. If, now, additional taxation comes upon the Maori lands, and they still lie idle, and they produce no rent or no profits of any kind, gradually they will be eaten up. All this country which we can see from these windows, after the Maoris have taken out all they can use, could be let on good terms, and many of the Europeans would come and settle upon it after the reserves have been taken out. The Europeans would pay all the taxes and the rates; the lands would yield a revenue to the Maoris now, and their children after them. And if the causes which have led to disputes in other places—that is, individual dealing with the lands—were avoided here, there would be no dispute in the future. Then there is the question of the education of the Maori children. The Commissioners wish to ask the Maoris—especially the heads of families and hapus—whether it would not be a good thing to set apart lands on which schools could be erected and farms established, where the Maori children would be taught to plough, reap, manage sheep and cattle, make boots and shoes, carpenter, shoe horses, and do

everything of that sort. Now, these, then, are the principal things upon which we desire the expression of the people's minds. I will put them in order—First, whether, in the future, dealings with their lands should be by the whole people through Committees associated with a Government Commissioner in each district, or in any other way they might choose, and not by individuals. Secondly, whether their own Committees should not make reserves first of all for the use of the people and for the cultivation of their food, and also for the giving of farms, or any other thing of that nature, to those who are capable of managing them. Thirdly, whether their opinion is that the lands should be leased only and not sold, or partly leased and partly sold. And, fourthly, whether reserves should be made for the education of the children, on which reserves farms could be made, to be self-supporting, and the children to be taught various trades like Europeans are taught. Of course, if they thought that the tribal dealings were better than the individual dealings, regulations should be drawn up under which the Maori owners of the block would work, choosing a Committee of their head men, and that Committee would act in concert with a Government Commissioner, who would be responsible for keeping all accounts, and he would know what was to be done as to making reserves and leasing. And if any question arose as to the distribution of the rents, and they did not agree, they would have to go before the Land Court to have settled what each family or each individual should get. There is one other question that we should mention: Do the Natives here believe that the tribal boundaries and the hapu boundaries might often be determined by the people themselves talking the matter over in their own runangas and Committees, without entailing upon themselves the expense of getting the Land Court to do it for them. Of course, if they could not decide by themselves, then they could bring it to the Court for settlement. It would amount, therefore, to this: that the Committees and the runangas, and the Government Commissioner, talking the matter over, might settle amicably the boundaries of the tribes and the hapus. If they so agreed, and there was no dispute, then the surveyor could lay out the boundaries on the map, and they could bring it to the Native Land Court and have it confirmed. If they did not assent among themselves to the boundaries, then, of course, the question would have to be decided by the Native Land Court. Now, these, then, are the five subjects offered for their consideration: (1) Tribal dealings, as against individual dealings; (2) reserves for the use of the Native owners, for pas and cultivations; (3) leases, or sales and leases; (4) education reserves; (5) settlement by Committees or runangas, in conjunction with a Government Commissioner, of their tribal and hapu boundaries; and when settled without dissension the submission of their decision to the Native Land Court for confirmation, and, in case of failure to arrive at a settlement amongst themselves, the Court to deal with the matters in dispute and settle them.

Mr. Carroll then addressed the Natives in Maori, reviewing generally the position in regard to Native-land legislation, and pointing out that it was necessary for the Natives to take some action themselves, as, if Parliament were unable to elicit their opinions with a view to legislation, it would, despite that fact, proceed to legislate upon the basis of such information as it possessed.

Taonui: The coming-here of the Commissioners, in order to explain these things to us ignorant people, is very satisfactory, because this tribe has only just now entered upon these things. That is the reason why I express my pleasure at the arrival of the Commissioners. What has been stated is very good. The first thing that I wish to say to you is with regard to the land that is subject to restrictions placed upon it by the Government. It is, that the Ngatimaniapoto wish the restrictions removed from that land. The reason why we wish this done is, because what we desire to do with the land we cannot do while the Government impose restrictions upon it. Should the restrictions be taken off, I am not one who is in favour of land-selling, but I am in favour of leasing the land. If the restrictions of the Government are removed, I should be in favour of leasing; but I ought to have in my own hands the making of the arrangements with respect to the leasing of my land—that is, the land of which I am the owner. I should have the fixing of the conditions for leasing that land. That is all I have to say upon that. I mentioned this subject to the Native Minister—to have the restrictions removed from the land. The second subject that I brought before the Minister was with regard to the survey of lands. The question of surveys has not been clearly laid down yet. I think that the two years at present allowed the Natives for paying for the surveys should be extended beyond that period. The third subject that I spoke about to the Minister was that consent should not be given to individual sales, but that the hapu or the tribe should consent. That is all I have to say with reference to those subjects. There is something else that I wish to say to the Commissioners: There is a block of land, called Hurakia, belonging to myself and tribe, and there is a dispute between Ngatituwharetoa and ourselves with respect to that land. The case has been investigated by the Commission appointed by Parliament, and an alteration in the survey has taken place. Two portions of the block were excluded by the survey, one portion being on the Tauponuiatia side and the other on the Tuhua side. I am very desirous that the portions excluded should be adjudicated upon also. The Court to hear that case will soon sit. The only cause of delay is on account of the illness of the Judge's wife. The proportion that will be dealt with by that Court is that which is excluded on the Government boundary-line. It is with regard to the other portion, that is left out, that I wish to speak to the Commissioners. I do not know what is going to be done with it. I am very pleased at what the Commissioners have said. But hold on; wait first to see that this restriction has been removed.

Mr. Rees: This Commission, of course, will report to the Government upon all the points that have been mentioned, including what has been said about the restrictions; but we take it for granted that if the Natives assent to the leasing of their lands we should immediately recommend that the restrictions be removed at once. There would be no hesitation at all about that. And Parliament will be more likely to grant the removal of the restrictions at once if the Maori tribes and hapus choose from themselves their leaders to conduct their business for them. We make this explanation not to stop any discussion, but to let the Maoris know what our minds are about these matters. We shall now ask the Maori chiefs questions—or shall we postpone doing that until all

those who wish to speak have spoken? Then the Commissioners will ask such questions as they think wise.

Wahanui: I am very glad that you have come here, that we may each and all hear your statements and say what we have to say. We have heard what the Commissioners have said; but we do not know what we can say in reply. Perhaps it would be better to postpone for a while in order to enable us to consider what has been said. We are pondering what are the best means to be taken—whether it is to go this way or that way. I shall therefore repeat my suggestion that we should now adjourn until another occasion. I shall wait till I get a reply to that.

Mr. Rees: Of course the Commissioners have every anxiety to get the mind of the Maoris, and therefore we are bound to try and convenience them in so far as they ask for anything in reason. That is our duty.

Wahanui: We would like a little time to consider these matters over among ourselves.

What do you mean by a little time?—Till the evening.

The Commission accordingly adjourned till 7 p.m.

Subsequently the Natives intimated that they would be prepared to go on early in the afternoon, and the Commission accordingly resumed at 2.30 p.m.

Henry Edwards (half-caste): I stand up to inform the Commissioners of the decision the Ngatimaniapoto have arrived at in reference to what the Commissioners stated to them before dinner. The reason why we hurried on with what we are doing was to enable the Commissioners to resume at half-past 2 o'clock. This is what we have arrived at: First, that the restrictions imposed upon all our lands within the Rohe Potae be removed. We are not in a position to go into other matters so long as that restriction remains over the land. With regard to another matter mentioned by the Commissioners for us to consider—viz., whether dealings with land should be conducted by hapus or individually, or whether Committees should be appointed to conduct the transactions in relation to the lands that remain after the portions required for our own use are cut out, whether those transactions be for leasing or selling—we do not consent to a law being made for that purpose. With respect to what the Commissioners said in relation to setting apart land for the purposes of schools, we cannot go into that question so long as the restriction remains on our lands. To condense what I have to say, I will put it in this way: that the restriction should be removed from the land; and, with respect to the laws mentioned by the Commissioners, we do not consent to them. That is all I have to say.

Mr. Carroll.] What you say is that you do not desire to have the laws made which were suggested or spoken of by the Commissioners. Then it amounts to this: that you approve of the laws now in existence remaining in force. That is the question put to you. Because if you do not desire any alteration made in the laws the implication is that you prefer these laws remaining as they are? —In reply to your question, I have to say that, whatever may be the laws now in force, they can make no difference to us, as our lands are at present under restriction by the Government. But if the restriction of the Government were removed from our lands, we would then be in a position to see what course we would pursue.

Then, if the Government should withdraw the restrictions from these lands, are you favourable to the existing laws remaining in force?—The result of the deliberation of the Ngatimaniapoto is, that once the restriction was removed they would be in a position to say what portions of the existing laws they approved, and what portions they condemned. That which operates badly on the Ngatimaniapoto at the present time is the restriction that the Government have over their lands. So long as the lands remain in that condition the Ngatimaniapoto are unable to give consideration to other questions.

We understand that the great obstacle in your way is the restriction that exists over your lands; but, assuming that that restriction were removed, what then is your opinion with regard to the laws? —My reply is, that in that case, the portions of the laws that act injuriously should be amended, and the portions that are unobjectionable should remain in force.

Supposing, then, that the objectionable portions were to be amended, what portion of the existing law is it that you find objection with at present?—I am unable to explain at present what parts of the existing laws are objectionable, because we have not had a great deal to do with them up to the present.

Now, let me make this clear to you: Should the Government remove the difficulty that you object to, what then is your opinion with regard to these matters—first, the sales by individuals, or sales or leases by the owners collectively?—With regard to that, we think that, should any person hold in severalty, he should be allowed to lease or sell as he likes, and that, whether the transaction were profitable or unprofitable to him, that would be his own look-out.

In the case where an owner would not have his interest held in severalty, but where the interests were held collectively in an individual block, what system would the Natives here like to be applied?—This is a rather new thing to us, and we would like to take a little time to think it over. We think that if the owner of a block of land wishes to lease or sell, his interest should be divided off in order that he might be allowed to sell or lease.

We understand that from what you have already said; but the question now put to you is, how dealings should be conducted when the interest in the land is held conjointly with other owners and undivided?—In cases where the land would be held collectively, if a person wished to dispose of his individual interest it would rest with him to do so, but the whole of the people holding the land would decide what portion should represent this person's individual interest.

Then, is this the position you take up: that, in the case of a block of land owned by a hapu collectively, the individual owner could dispose of his interest?—What the elders think is, that in case a person went to the principal owners and intimated that he wished to sell his interest in the land the owners in the block should decide what portion of the land he was entitled to in respect of his share.

Then, the meaning of that is, shortly, that the majority of owners in the block should assent to the sale by an individual owner?

Mr. Rees: What has just now been said by Edwards is exactly contrary to what Taonui said this morning, and to what Taonui said to the Native Minister the other day. This system of allowing individuals to deal with Native land has been a perfect curse to New Zealand from the very commencement; and if the restriction had been taken off this land by the Government all the lands now possessed by this people would be in the same condition of litigation as the lands at Gisborne and Napier. It is impossible for us to say who has advised the Natives in this matter, but such advice as that now given expression to by Edwards is bad advice, wherever it comes from. And the very worst argument the Natives can bring to the Government, in asking them to take off the restriction, is to say at the same time that each person is to be allowed to sell and lease as he pleases. That sort of thing has involved the whole country, both Maoris and Europeans, in difficulties; and I, for one—I am speaking now as only one of the Commissioners—do not believe that either the Government or the House of Representatives would take off the restriction if they believed that everybody was going to sell individually to Europeans—if, in fact, we were going to have the same condition of things here as has prevailed in other parts of the country. The feeling of many of the Europeans is getting very strong about this Maori-land question all over the colony. The Europeans are most anxious to do what is right and proper for the Maoris, and if the Maoris will themselves help in guarding their own interests the Parliament will be the first to assist them in doing so. But if the restriction is to be taken off only to allow men to get money by selling individually their interests all over this land to Europeans, the Parliament is not likely to take off the restriction. The result will be that the opportunity which is given to the Maoris now will be lost; and if it be so the Maoris will have themselves to blame. And then they can reckon with the advisers who have given them such advice. I should like to hear Taonui, because he spoke this morning, as well as before the Native Minister, in a manner which seemed to everybody to be sensible and clear. But this speech of Edwards now is going back to the very worst advice with respect to Maori-land dealings—advice which has led to war in the past, and to everything else that is evil. It is different also from the speeches made by the chiefs of all the other great tribes which we have met. If the restriction were removed, and every man and woman were allowed to sell their shares in the lands, not knowing where the land represented by those shares was, or what their true value was, it would mean trouble, and loss, and legal proceedings without end.

Henry Edwards: It appears to me as if the Commissioner is angry with what I have said. Do not let him be mistaken in thinking it is my own thoughts I am expressing. It is the result of the deliberations we have had. What I said with regard to individual and collective dealings with land is the result of the questions that were put to me. It is not that we of our own accord gave that matter consideration. But I am very glad, nevertheless, to hear what you have said. With regard to individual or collective sales, our fixed opinion is that we do not approve of them. We have no desire for individual or collective sales. That is our opinion at the present time. But the subject was mentioned, and it was thought better that each individual should deal with his land, and that the majority, or the Committee, or the Commissioner should not act.

Mr. Carroll.] Is that your opinion—you do not approve of sales?—Yes.

But that if any individual desires and persists in desiring to sell, his portion should be cut off, so that no trouble may result to the non-sellers through his sale?—Yes.

That, then, is with regard to the question of selling. Now, are you favourable to opportunities for leasing being granted?—We are agreeable to leasing in accordance with our own arrangements and terms.

Then, the meaning of what you say is this: that you should lease your lands as you think fit?—Yes.

With regard to leasing, should the lease by an individual of his interest in a block be allowed, or should the consent of the whole of the owners or of the hapu that owned the land be gained?—We will know that when the time arrives for the desire to lease.

The probabilities are that in the next session Parliament will pass a law in accordance with what it thinks proper on the subject. Now, before Parliament does that—before it sets to work to pass a law—it has adopted the course of ascertaining your views on these matters. Then, if you understand what course should be pursued with regard to leasing the land at the time you may desire to lease, now is the opportunity to make known those views to the Commissioners, lest it should so happen that when the time arrived for you to make up your minds as to how the lands should be leased Parliament might already have passed a law, and that law might not be in accordance with what would suit you. That is the reason why you are asked to let the Commissioners know to-day what course you will adopt, supposing that in the case of a block with a hundred owners in it it was desired to lease at the present time. On what principle, then, would you have it leased—by the individual owners, or by the consent of the hapu or the whole body of owners? Because Parliament might put such a question as this to the Commissioners: "What are the views of the Natives of Otorohanga with regard to this question of leasing?" And in case that question was put, the Commissioners now desire to be placed in a position to give a definite answer, so that if you wanted to lease your lands it would be understood what course you desired to adopt?—Any one understanding the European custom will understand that we have been speaking from the Maori point of view. We have not arrived at a definite conclusion as to what course we should pursue in the future with regard to leasing. We are not in a position to lay our views before you. We have not expressed a desire to sell or lease our lands. The subject has not been considered by us. The first thing we require done is to have the restriction removed.

Mr. Rees.] What for, if you do not wish to lease or sell?—What we mean is, that after the restriction is removed, then we would consider the question of leases.

Mr. Carroll: Then, your view would be this: We will solely consider the question of remov-

ing the restriction, and that the question of sales and leases be held over, and that, when the time arrives when you will wish to go into the question of leasing and selling, then you will give consideration to it. The reason why the restriction was placed upon your lands was in order that they should not be sold or leased to Europeans. The only sale that was permitted was the sale direct to the Government alone. You say now that you are not desirous of either selling or leasing. Then, why should the restriction be removed? Until there is some substantial reason for removing the restriction why should it be removed? Now, you have not shown any reason why the restriction should be removed. If you were to say, for instance, "Well, we desire to have the restriction removed from the land, so that we may lease it," that would be a reason. Or, if you were to say, "We wish the restriction removed from these lands, so that we may be enabled to sell them," that also would be a reason. But your present request, "Remove the restriction. We do not want to lease; we do not want to sell;"—that is no reason; there is nothing in it.

Taonui: That is the one important thing we want—to have the restriction removed; and then, when the time arrives, we shall deal with the question of leasing or selling. But at the present time we are quite in the dark with regard to this restriction, and that is the reason why I say that when the restriction is removed we shall then be in a clearer position and know what to do. Mr. Carroll will understand that. We have a reason for asking that restriction to be removed, only we are not prepared to say exactly what that reason is. We made that request known to the Commissioners this morning; and when we know that the restriction is removed we shall know then what to do afterwards. Then we shall make known what our desires are.

Mr. Carroll: What has been spoken is understood. The restriction can be removed, or the restriction can remain unremoved. Parliament can do that; but when it does it will at the same time make a law such as it would deem beneficial for the public generally. And at the time that the Parliament may decide to remove that restriction and make this law you might see that the law so made was not in accordance with your views, or suitable to you. You might say then, "Ah! why are not our views incorporated in this law?" And the only reply that Parliament could then make would be, "We sent Commissioners to ascertain your views upon this question."

Taonui: That would be a matter for the four Native members to attend to.

Mr. Carroll: That is so; but I am explaining to you why it was that Parliament sent the Commissioners to ascertain the views of the Natives.

Mr. Rees: To expect Parliament to remove the restriction without knowing what is going to be done thereafter is to expect an impossibility. It would not do it. To expect Parliament to remove the restriction without knowing what was to come to pass afterwards is to expect the impossible. Indeed, the restriction can only be removed by a law which would at the same time provide for those very methods of dealing with the land that should operate for the future. The Parliament has sent the Commissioners here to deal fairly and openly with the Maoris, nothing being concealed, everything being stated and set out. The statement that Taonui made to us just now is not the same as the statement that he made to the Native Minister, nor is it the same as the statement he made to us here this morning. It will not strengthen the case before the Parliament if it is found that the Maoris conceal anything. They should meet us in exactly the same spirit as we meet them. As Mr. Carroll has told them, Parliament must make a law about these things. If they do not express their opinions about what should be done, then they cannot complain of anything the Parliament does.

Whitinui: I am pleased at the Commissioners having come here to hear what the Maori people have to say. Taonui and Henry have expressed the thoughts of us, the Ngatimaniapoto. The removal of the restriction over the land in the Rohe Potae is also the subject we mentioned to the Native Minister. That is the hardship that rests upon us, the owners of land in the Rohe Potae, and what we desire is that we, the Natives, should have the management of our lands returned to us. That is the important subject that we have laid before the Commissioners in response to their request to us to make our views known to them. What I said to the Native Minister was to ask him to take off the restriction from our lands, so that we shall be free to lease them. I do not approve of selling. This is also what I say to the Commissioners—and they will know therefore from what we say what answer to make to Parliament if it should ask what was the opinion of the Natives here: namely, that we desire to have the restriction removed. If the restriction imposed by the Government had been against selling, but had allowed leasing, we would never have applied as we do now for the removal of the restriction. Our hardship, as the Commissioners are already aware, is that we cannot lease or sell, except we sell to the Government. Now, under the plan which has been adopted by the Government no benefit whatever results to us, although we put our lands through the Court. The only person who comes out right is the person who sells his share. To a man like myself, who does not sell, it is simply a waste of time attending the Court, for no benefit results. That is the reason why we request urgently that the restriction may be removed, so that we may be enabled to lease our land—that we, the owners of the land, may be enabled to make terms with the lessee, whether it be the Government or any one else. With respect to what Mr. Carroll has said in asking what reason there is for the Government removing the restriction, I may just mention that when we made our application to the Native Minister to remove the restriction he replied, "It is you who asked that the restriction should be imposed;" and perhaps that is also what the Commissioners will say. Then, if our request to have the restriction imposed was granted, why should not our request to have the restriction removed be likewise acceded to? I think that this is a very substantial reason for the Commissioners to convey from us to Parliament to show why the restriction should be removed: that the owners may be enabled to lease their lands. That is all I have to say. If there are any questions I shall be prepared to answer them.

Mr. Carroll.] Then, this is the meaning of what you say: you are opposed to selling?—Yes. Then that is clear. But you are willing to lease?—Yes, I am agreeable to leasing.

That also is clear?—All of us are desirous of leasing, and that we ourselves should make the arrangements.

These, then, are the three strong points in what you have to say: the restriction to be removed, sales prohibited, and leases permitted. Now, if leases are permitted, how should they be conducted? —That would be settled by the chiefs of the land and the lessee.

Would you say that, if it were a block for which there was only one owner, that owner should be allowed to arrange with the lessee; and that if it were a block for which there were a hundred owners, the hundred owners should be allowed to arrange with the lessee as to terms?—In a case, say, where there would be a hundred owners, they would arrange matters between themselves first, and then go to the intending lessee. They would meet and act as a committee, fix among themselves the terms and the conditions of the lease, and then acquaint the intending lessee with the conclusion they had arrived at.

Then, when all those terms and conditions had been settled, one of your number would ratify the transaction?—Yes, we would choose one from among ourselves to carry the arrangement into effect.

When the one person was fixed upon to give effect to this lease, and the lease had been given effect to, when it came to a question of paying the rent, who would receive that rent?—When the time had come for the rent to be paid, the money would be paid to the person, or through the persons, chosen or arranged for by the owners of the land. They would appoint a person or persons to receive the rent. Then those persons who were to receive the money would place it down among the people, and it would be divided among the persons entitled to share in it.

Would that money be divided among the people in proportion to their interests in the block?—In some of the blocks the shares would be equal, and in others the shares would be unequal. The money would be divided in proportion to the interest held by the recipient. That is a matter the Natives could adjust among themselves.

Now, if a person were selected by the owners of the land to receive the rent, do you think he would be able to distribute it properly and fairly among the owners?—The owners of the land would be quite able to see if anything improper was done by the person distributing the rent, and, in case he were doing wrong, he could be summoned and brought before the Court.

Mr. Rees.] Do you not think it would be wise that, along with the persons chosen by the Natives for this purpose, there should be a Government officer appointed to see that the money was fairly distributed in that way among the people? Would that not be for the good of the Maoris? —A receiver of the rent such as I mean would be one who would not have anything more to do with the land than the receiving of the rent. He would simply receive the rent and divide it.

Do you not think there should be an officer of the Government for the district to see that the Maori so receiving it dealt it out fairly, and gave him assistance in doing that?—The way I would like would be that the one person, or the three or four persons, who might receive the rent should get it and distribute it themselves.

Parliament is responsible to the Natives, and would be able to help them by giving them skilled assistance in seeing that that money was fairly distributed. It is not for the Government's benefit, but for the Natives' own benefit, that this is suggested and would be done?—No, we do not care about having a Government officer. That will be a question for the Government to settle.

We should like to hear what you have to say about the power of the Natives to make those reserves for cultivations, because it may happen that there will be men among them able to cultivate or to manage sheep-farms. What is to be done in such cases? Will the people among themselves decide what is to be done about reserves—for that is a very important question?—We ourselves would make the necessary arrangements for lands of that description—that is to say, the owners of the land would make the arrangements.

Would you set apart any portion of the blocks for the education of the children, and, in the same way, decide what portions should be so set apart?—We have two schools already. This is the arrangement we have with regard to schools: Supposing I have a block of land, and if I should consent to the school, it should go upon my portion of the land. We would arrange among ourselves whether we wished the schools or not. I do not think it is necessary to pursue this matter any further. The great question is the removal of the restriction from our lands, and you can report to Parliament that that is our desire.

As to the statement which you have made, that the Natives do not desire to sell, but that they desire to lease their lands in the way which has been spoken of—the whole of the people leasing in public and the few carrying the lease into effect—we can report in favour of that, for that is a distinct statement to some purpose, because they say they will lease after making reserves. Of course, the Maoris would have to conform to the law as made by Parliament; but we will report the conversation that has been going on here, and the results of this discussion.

Henry Edwards: I hope the Commissioners will not be dark if I stand up and contest anything that has been said by the Commissioners. It is well that we should consider over these matters, so that our thoughts may be clear, lest the Commissioners should have the impression that we are opposing them. We, an ignorant people, are endeavouring to seek out the best course so that advantage and good may be derived. Therefore it was that we mentioned in the first instance that the restriction should be taken off our land, because there is no reason why that restriction should be on our land. It is restricted against everybody except the Government, and, as there is no reason why that restriction should exist, we ask that it may be removed. It is on account of our land being subject to that restriction that we have been unable to adopt any plan similar to that mentioned by the Commissioners. And we shall have to seek out the best system to act upon. That is the reason why we have been unable among ourselves to come to any definite conclusion. We were unable to determine what particular plan we should adopt. We are not fully clear to-day as to the course spoken of by the Commissioners, and that is why we say that, if the restriction is removed, then we can turn our attention to considering the best course to be adopted. It is not as if we were setting up a groundless opposition. With regard to the question

that was put to Whitinui, our minds are not quite made up upon that point. If we were a people well versed in these matters and in Court matters we would be clear as to the questions put to Whitinui. We considered this question of appointing Committees to manage the lands when we went outside to-day. We did not think that any good would come from it, but perhaps evil would. That is the reason why we said we did not like it; and it was owing to questions put to us on other matters by the Commissioners that Whitinui and myself have given the replies we have. But we have not actually come to definite conclusions. And in the same way with regard to what we are saying now, it should not be accepted as final. So in that way we do not know whether this would be a good road or whether that would be a good road to take. We would like the Government, however, to remove the restriction from our lands, and we can consider these other matters afterwards. Do not be angry with us over this. Do not say this: that, if we have nothing to adopt in substitution for the removal of the restriction, that the restriction will not be removed. We say that there is no reason for having the restriction on our lands. I am saying this to make the matter clear. There is one small matter arising out of a question put to Whitinui I wish to speak about. We have resolved among ourselves not to have Committees to control matters. That was the conclusion we came to to-day when we were considering these matters, and that if the Government persist in making a law constituting Committees there should be some clause inserted permitting persons to remain outside—not to be included—in fact, to make the thing optional. I have already mentioned this matter to the Native Minister, Mr. Cadman. What I have said is the result of the deliberations of the people.

Mr. Rees: Parliament has to look out for the interests of a great country, involving the interests of both Maoris and Europeans—not merely the interests of one particular race, but the interests of all the people. It must make a law for the whole of the country. Now, it is most anxious to make a fair and just law. It does not want to take by force a foot of any man's land, or to compel him to sell or lease it, but it wants to avoid the rocks on which the canoe has been going for years. It wants to avoid for the future the wrecks that have happened in times gone by, and therefore it will not reproduce in this district the same conditions that now exist, and are ruining the people, both Maoris and Europeans, on the East Coast and about Napier. Now, the questions which were put by Mr. Carroll to Whitinui were sensible, pertinent questions—proper questions to be put. The answers made by Whitinui were such answers as a man ought to make, because they were sensible. There is a reason for every one of them. And, even whether they were right or wrong, they were answers to the questions put. How can we go back to the Parliament and say the Ngatimaniapoto want the restriction taken off, and that afterwards they will say what they will do with their land? What is the good of saying that? The Parliament will say at once, "Very well, then, if the restriction is removed, what are they going to do with the land?" Now, if we take Whitinui's answers, Parliament will understand the position at once, and may say, "Very well, we will modify our plans, and carry out a system of that nature;" but if, as Edwards suggests, only the restriction is to be removed, Parliament will not remove it. And the reason is this: The Parliament is already covered with confusion and trouble on account of having removed such restrictions in other districts. Half of the time of the Parliament is being taken up with these disputes in other districts, and it is not likely Parliament will commence it again in this immense district. Most likely Parliament would make it a condition that if the restriction were removed some such method of dealing should be set up as that which Whitinui referred to in answer to Mr. Carroll's question. The Parliament is not averse at all to giving back to the Natives the control of these lands, but it will say that the Natives must work sensibly—that is all. Now, here Edwards may well say the Natives have not had much time to consider; but the Parliament has had twenty-five years of trouble to consider. Therefore the Parliament knows all about it. And the Parliament knows that to take off the restriction and leave everything open, so that a hundred Europeans may come in and purchase and lease, might plunge the country into another twenty years of trouble; but if the whole of the people in a block—the hundred or the hundred and fifty owners—be gathered together, and then a contract is made by general consent, and a few are chosen to carry it into effect, there would be no trouble after that. Parliament will be anxious to give much of the power to the natural leaders of the people—the heads of the families; but if Parliament finds that they will not take it then the Parliament will have to make such a law as it considers wise. That is all. We are very glad to have met you, although some of you have not made up your minds upon certain points; and the Commissioners do not feel at all offended or hurt, because their object was to get a real expression of opinion from the Natives. They may depend upon this: that before any law is passed it will be printed in Maori and circulated amongst the Natives, so that they will see what it is proposed to do.

Whitinui: With regard to the desire of Parliament that there should be one law, that is right. I do not know whether that is what the Parliament does. The Commissioner said that for twenty-five years Parliament has been sitting, and the troubles are increasing. For that time, too, Parliament has been oppressing the Native people. How can the four Native members compete against the eighty-odd European members? And how can Parliament say it is working for the benefit of both races? Then, we ask, how is it that the lands belonging to the Natives are subject to restriction, while the lands of the Europeans are let go free? The Natives at the present time are like horses in winkers—they cannot see either on one side or the other. This injustice of having restrictions imposed on our lands surpasses all the others. I make this statement on account of what was said of the Parliament making laws for one people. That is all I have to say. Convey to Parliament that our desire is that the restriction should be removed.

Te Kooti: Welcome the Commissioners. I have responded to the invitation to be present. I have listened to what the Commissioners have stated, and I have heard what has been said in reply. For myself I have nothing to say. My word simply is: Save the land and the people.

Mr. Carroll: If the Natives should decide upon anything hereafter, they can send it in writing to the Commissioners.

Taonui: The number of Native members for Parliament should be increased.

NEW PLYMOUTH, 21ST APRIL, 1891.

The Commission sat in the Native Reserves Office at 11 a.m. Present: Messrs. W. L. Rees, M.H.R., James Carroll, M.H.R., and Thomas Mackay. A number of settlers, headed by Mr. E. M. Smith, M.H.R., presented themselves, for the purpose of laying certain grievances before the Commissioners.

Mr. Rees: We understand that Mr. Smith and some of the gentlemen who accompany him desire to make a statement to the Commissioners.

Mr. E. M. Smith: These gentlemen are the holders of leases in Native reserves, and I believe that Mr. Rennell will be better able than myself to inform you of the nature of their grievances. At present some of these leases have very nearly run out, and the Commissioner has no power to renew these leases at the end of the term, or even to deal with them in so far as compensation for the improvements the tenants have made upon these lands is concerned. I would ask Mr. Rennell to speak on their behalf, and then, if necessary, the Commissioners may question the gentlemen themselves.

Mr. Rees.] May I ask whether these gentlemen are simply acting for themselves, or whether their cases are representative of cases other than their own? Do the cases which they wish to represent to us concern only themselves, or do they represent a class of cases which comprises others than themselves?—I think they wish to represent themselves, and others who are similarly situated. Mr. Rennell is thoroughly up in the matter, and knows all the facts connected with it.

Perhaps it would be wiser to give us at once the names of the gentlemen who now attend before us?—Mr. Mitchinson, Mr. Haigh, Mr. Matson, and Mr. Collingwood. Those are all that desire to address you.

For themselves and others?—Yes. Perhaps Mr. Rennell will state their case.

Mr. Wilfred Rennell: These gentlemen represent a class of settlers who hold leases on the old Native reserves. They were first brought under the operation of the Native Reserves Act of 1856, when the Commissioner of Reserves had charge of them. Under the Act of 1882 the Public Trustee took charge of all reserves which the Native Commissioners had dealt with heretofore, and these are the class of reserves in respect of which these gentlemen desire to make certain representations to you. At the end of the term for which the leases were granted the Public Trustee is unable, by law, to grant a renewal of the leases, or to grant compensation, or, in fact, to assist the lessees in any way whatever.

Mr. Rees.] By the present Act. What, then, would become of the land?—In some cases it would revert to the Natives, unless they wish to let. In some cases, however, they will not let. The consequence is that some of the tenants who have been in occupation for as long as thirty years, and who have cleared the land where solid bush existed—have built dwellings for themselves and erected fences—have only eighteen months of their terms to run. At the end of the term, from what I know of the Native owners, they will then take the land over. And the Public Trustee cannot under the present Act afford any relief.

What is the average balance of the term that is unexpired in the majority of these cases that you know of?—I can hardly say, because the lands were let at different periods. Some have ten years to run, and some only eighteen months.

Could you not give us the approximate limits—the shortest and longest?—I should say the balance of the term outstanding would be from one to ten years. Mr. Wilson, the Solicitor for the Public Trust Office, told me he was directed, in case any amendment of the West Coast Settlement Reserves Act were found to be necessary, to draft a clause for insertion in it specially assimilating these leases to the leases under that Act, which gives compensation to tenants at the end of their term.

So that if they did not get their leases renewed they would, at any rate, obtain compensation for their improvements?—Yes; from the incoming tenants, not from the Natives.

Have the tenants in these reserves, as a general rule, improved to any extent their properties?—Yes.

At a cost to themselves, I suppose, both of labour and money?—Yes.

Have you thought at all, Mr. Rennell, of any terms or of any compensation which, in your opinion, should be granted to tenants in that position?—Yes, in the direction of compensation; but, of course, with my opinion they might not agree. I think that to give compensation for all improvements would be an extreme case. The best way would be to give fresh leases at an improved rental.

On which basis—the improved value or the unimproved?—I would go between; strike the medium.

Would that satisfy the tenants?—I think a reasonable rental would.

Would it be fair to the Maoris?—I think it would.

They would get a higher rent?—In some cases they would. I do not know that they would in all.

I suppose the aggregate amount of the rent would be higher?—Decidedly.

Although in individual cases it might not be?—Just so.

You think that such a course would be also fair both to the present tenants and the incoming tenants?—Yes, I think so. I do not say that my opinion would meet the views of the tenants or the Maoris altogether, but I think it would be a fair compromise.

Have any promises been made to the tenants which would require legislation for their fulfilment?—No; there never has been any power to make promises to them.

Have any promises been made to the Natives as to their resuming the lands which would be affected by such an arrangement as you propose?—The leases, of course, give them any such improvements.

That is not what I mean. Have any absolute promises been made?—Not that I am aware of.

As for instance, in this way: If they let the lands for a certain number of years, that at the end of the term they should revert to them?—I am not aware of any such promise.

As far as you know, they were simply leases made for the terms for which they profess to be made?—Yes.

Then, the leases, from the earliest time down to the latest, were simply made for the terms which they bestowed, without any provision for the future?—Yes.

Do you think it would be in the public interest of this district that such a plan as you propose should be adopted, irrespective, I mean, of the mere individual interests of the parties?—I do not know that it is in the public interest, because the reserves are comparatively few; but to the class of tenants concerned, it would undoubtedly be of great interest.

Of course, they are a part of the public?—They are a part of the public.

Can you suggest any other method by which the interests of the parties could be conserved than that which you proposed?—No; I do not think I can. I think that to give them the right of renewal at a fair rental would suffice.

For what term?—That is a question which never entered my head. I presume that if legislation took place in that direction it would give them a kind of perpetual right.

I was just going to ask you whether you consider that, under the restrictions imposed by the law with respect to this perpetual-lease system, it would be a fair thing to bring these cases under it?—I should say so, but not on the basis of the unimproved value of the land.

You would make some difference? You would not exact the whole value of the improvements, but only a portion of it?—Yes; it should be a compromise, in fact.

I see that to the Joint Committee of both Houses of Parliament, before which you gave evidence last year, you stated that the Natives had for themselves—for their cultivations, and so forth—amply sufficient reserves: have you any reason to alter that opinion now?—None whatever; but it related to West Coast Commission reserves.

You still say that, notwithstanding those reserves which have been leased, the Natives have an ample area remaining for their own wants?—Much more than they require. I will not say in every particular, but generally.

More than they use?—Much more; thousands of acres more than they ever will use so far as present appearances go. A great deal of the land is bush-land, and I am afraid poor bush, and I do not believe that the Natives are at all likely to interfere with it. They might, if forced by circumstances, fall back on it, but not so far as present appearances go.

Mr. Mackay.] They have an ample area of open land for themselves in their present reserves?—You are speaking of the West Coast Settlement Reserves? Yes. They have ample reserves in that land. In fact, in some cases the only open lands have been reserved for them.

Mr. Rees: Is there anything, Mr. Smith, in addition to what Mr. Rennell has stated, that you wish to say on behalf of these gentlemen, or that they would like to say for themselves, because, if so, we should be very glad to hear either you or them?

Mr. E. M. Smith: I think that the questions you have addressed to Mr. Rennell have had the effect of putting the matter very fairly. I can safely say that these gentlemen are really very industrious men—that they are really a great acquisition to the place, and that it would be cruelty to drive them from their holdings, of course taking into consideration the necessity of acting fairly towards the Native owners. There is one point, however, that Mr. Rennell has not touched upon, and that is, that these particular leases are dealt with differently from the manner in which the Native reserves are dealt with on the East Coast of this Island. There, I am informed, the Commissioner has power at the end of the term to renew the leases, or else to put these leases up for competition in the interest of those who made the improvements.

Mr. Carroll: That refers to the leases in the South Island, as at Greymouth for instance.

Mr. Smith: I merely mention this as showing you the particular grievance of which these gentlemen complain. I quite agree with Mr. Rennell that if you can bring them under this perpetual-lease system and reassess the property, taking the evidence of both parties, you would be likely to meet the case. Again, you asked Mr. Rennell if he thought the Natives had sufficient land reserved for their cultivations, and for keeping them in a manner in which they ought to be kept, and if they had any surplus land that they were not dealing with. In order to satisfy yourselves as to that you have only, if you can find the time, to travel over this district and pick out the sections that are in the hands of the Europeans and contrast them with the lands that are still in the hands of the Natives. You would then find that something ought to be done in the direction that we have indicated.

Mr. Rees.] You are speaking of the surplus land in these reserves for the Natives over and above what they require or use for their cultivations?—Yes. Maoris come to me every day clamouring to have an alteration of the law so that they may be enabled to deal with their surplus land. I am quite of opinion that the time had come for this Commission to be appointed, and I hope that, as a consequence of its work, things will be better in the future than they have been in the past. The great grievance here of those who occupy the land is that so much of these Native lands are lying idle and yielding no return in the way of rates, the result being that if any roads are required to these lands the industrious settlers have got to make them at their own cost. I might mention, as a particularly hard case, that of Mr. Mitchinson. No man in this country has put more labour, skill, and energy into his particular land than has this gentleman, because, as a gardener and nurseryman, he is not to be excelled. He has been promised over and over and over again that something would be done to meet his case. He has gone already to considerable trouble and expense over his gardens, but he would have improved these gardens still further if it were not for this continual doubt in his mind as to the uncertainty of his tenure. I hope you will so draw up the report resulting from your labours as to induce Parliament to give him and these other people who are in the same position absolute relief.

Mr. Rennell: You asked the question just now whether I thought the Natives had sufficient land for themselves. If the reference was to the Natives in the West Coast Settlement Reserves, I should say they have sufficient land. I hardly think, however, it would be wise to grant, indiscriminately, new leases of the Native land around the town of New Plymouth itself. There they have not sufficient land, or at any rate, nothing too much.

Mr. Rees.] You think that very great care would have to be exercised in granting any more leases of this land?—Yes.

Mr. Carroll: Perhaps Mr. Rennell might make this distinction more clear.

Mr. Rees.] Yes. You might make distinct the areas of land which you mean, and the districts in which they are situated—the two distinct classes?—In respect of the land operated on by the Native Reserves Act around the district of New Plymouth, I consider the Natives have none too much land there.

Here is a plan. Now, which are the lands in which you think it is imperatively necessary that great caution should be used if any more land is to be leased?—Here is a map on a larger scale of the lands around New Plymouth.

Of the two classes of land to be considered, the first is lands that are not over-abundantly supplied to the Natives. Now, within what radius of New Plymouth, or about what radius, do these lands lie?—About three miles.

From three to four miles, I suppose you would say?—Yes; about from three to four miles.

Now, outside that limit, and in relation to the West Coast reserves—the larger areas shown on this plan—what do you say?—I say that generally they are more than ample for the requirements of the Natives. There may be special cases in which it would be as well to go no further in the way of leases even there.

But still there are lands reserved on the outside limit more than sufficient for the use and for the cultivations of the Natives for whom those lands were appropriated?—Yes.

Mr. Mackay: You say, Mr. Smith, that Natives have come to you wishing you to exert your influence to enable them to lease more of their lands. Now, where are those lands situated?

Mr. Smith: On the Ngatimaru Block; and I may tell you that the other day a deputation from the Clifton County Council waited on me—in fact, I rather went out to meet them. They are making a proposal to the Government praying them to acquire these lands as being unoccupied and lying idle, and the Maoris are willing to lease to the Government, and the young men living about Tikorangi are willing to form a settlement there.

Mr. Mackay.] The Native owners and grantees have already come to Mr. Rennell to have that effected on any of the lands under his charge and covered by the West Coast Settlement Reserves Act?—We are not prepared to say what view they take. I only say that these people have been communicating with the Government with the object of inducing them to take steps to acquire this land for the purposes of settlement. The Government have a large block at the back, but these Natives' lands block it. The sons of settlers in the district I have indicated are willing to occupy this land, and the Natives are willing to sell or lease. But without the right to go through the Native land they would not get to the Waitara.

There is no power to sell given by the West Coast Settlement Reserves Acts of 1881 and 1884. These lands can only be leased, and that through the Public Trustee?—That is what they want, and the Natives want the Act amended so that they may be enabled to sell to the Government.

If they want to lease they must come to Mr. Rennell?—Of course, I am not here to say why they do not come to the Government or to Mr. Rennell.

Mr. Carroll.] Perhaps they want to lease themselves, instead of through the Government?—I know they would deal with them if they had the power, but these lands are under the operation of the Act.

Mr. Rennell.] You allude, Mr. Smith, to the block on the other side of Waitara?—Yes, Tikorangi.

Mr. Rennell: There are two blocks there. The Natives will not let. The Government authorised me to treat with them to get them to lease the land, offering to cut it up free of cost if they only allowed part of it to be let. But they declined absolutely. One or two of them whom I have met are willing, but the majority are not. Unless all are prepared to deal, I do not see how the thing can be done, so far as sale is concerned.

Mr. Carroll: But you think it would be for the general benefit if the Government did cut up the land free of cost?

Mr. Rennell: Undoubtedly, in this case.

Mr. Rees: In cases like that, what is the position of such lands—I mean the lands you are speaking of? Are these lands liable for rates?

Mr. Rennell: They have been hitherto. I think they are not so now. Hitherto they have been liable to rates, and the rates have been a charge on the lands. At the present time, when the Public Trustee lets the land he is compelled to let it in such a way as to make the incoming tenant pay the rates. I think it would be very much better if the Public Trustee were to let the land and pay the rates out of first rents, as the Natives then would get more money for the land, and it would be much more readily taken up.

Mr. Mackay.] What you speak of is owing to the operation of the Crown and Native Lands Rating Act?—Yes. It is the rates that have accrued that have to be provided for.

Mr. Rees.] You are hinting at the 10-per-cent. stamp duty?—That does not apply here. It is the arrears of rates.

Money which has been paid by the Government on behalf of the land—heaped up, in fact, on the land—and which has to be paid?—Yes; as a first charge upon the land.

You think the Public Trustee ought to be authorised to pay that, and distribute the charge for it over a number of years?—No; but to take it out of the first payments made in respect of the land, and let it then be done with. I think that would be better. The Natives would not feel it so much as if it were spread over a number of years.

Are all these reserves made under the Act liable to the 10-per-cent. duty, with the lands generally of the Natives in their districts, on the first transaction?—I think not, but I should not like to give a positive answer.

Mr. Mackay: No; the Public Trustee's leases are not. West Coast Settlement Reserves are specially exempt, but not the other Native reserves. It is provided that where Natives themselves carry out sales or leases they are subject to this duty.

Mr. Rennell: Of course the rates have to be paid, and at present the tenant must pay that before he can register his lease.

Mr. Carroll: The Native lands on the East Coast are subject both to the stamp duty and to the rates which have accumulated under the operation of the Crown and Native Lands Rating Act.

Mr. Rees.] Then, acting for the Public Trustee, you do not lease land comprised within these reserves unless the Native owners, or a majority of them, are willing that it should be so leased?—No; and the majority are simply guided by a few of the leading men. If you ask the Natives to agree to let the land, the majority will tell you No. A great many of the Natives of this coast belong to Te Whiti and to Parihaka, and are not at all inclined to let.

Is there anything else you wish to say? Is there any reform which you can suggest that with advantage might be incorporated in any new Act?—I would like to say something with reference to the succession duty.

Mr. Mackay: That had better come afterwards.

Mr. Carroll.] Those Natives who are under the influence of Te Whiti are against the leasing of land in any form?—Yes.

Can they be reasoned with at all?—No; they are perfectly willing that any Native should do as he pleases with their shares, but they are not willing to sign. That is the feeling.

Do you think, if they could be induced to throw their land open to lease through the channels prescribed by the Act, that it would obviate any of the difficulties which at present exist?—Yes.

That is really the stumbling-block?—I think so. There is a strongly-expressed opinion that the Natives should be allowed if they wish to deal with the land themselves.

And you think, in view of their reticence to deal with their land at all, that some system should be devised whereby the land should be leased, and whereby the land could be brought under the operation of the Act for their general benefit?—I think it would be to their advantage hereafter, at all events, and also to the advantage of the European settlers. But there is a great number of these lands—isolated reserves—which nothing can be done with at present. People ask me to try and make the Natives let or fence these lands, but I have no power to do so.

Mr. Mackay: There is no clause in the Fencing Act which compels the Natives to fence.

Mr. Smith: That is the great stumbling-block in this district, and the great grievance of the settlers. They cannot compel the Natives to fence or compel them to act under the Furze Ordinance, or take a portion of their land for a road, as they can with European land. If you could see your way to individualising this Native land first of all, you would get over a lot of the difficulties.

Mr. Rees.] I am afraid we cannot do that. That has been a bone of contention for a great many years. My colleague, Mr. Carroll, made a wiser suggestion, which would effect what is desired if we can get the Natives to act together. Do you think, Mr. Rennell, from your intercourse with the Natives, that if they themselves were allowed to elect Committees which should have partial power of working with you, for instance, they would be inclined to accept such an arrangement?—I think that such a Committee would be only one in name, the same as now exists. I am guided now by what the leading men think.

The Committees to which you refer are not elected by the people; the people have no voice in it?—Practically they are not elected.

Supposing you go a step further, and get a real election—have these men elected by the people, and clothed with the necessary responsibility and power—could they do good work, acting along with you?—I am not prepared to say how it would work, because it has never been tried. We had an election once of a Committee for the district; but because it was held at Opunake, the three men elected were chosen from that place, but they were not of a representative character. None of the other Natives joined in the election. I am afraid the District Committee would not be of a representative character.

Mr. Carroll: The Natives here, as I understand, are under this Te Whiti craze, and have thereby placed themselves under a disability legally. They are not capable of administering their own land—in fact, they will not. They would not vote in the election for a member of the House of Representatives, nor would they, I think, in respect of a question of this kind. They would simply stand aloof.

Mr. Rees.] However, any change in the direction of giving them an active share in the administration of their land, and of affording them the assistance of a Commissioner or a trustee like yourself, would be a bit better than the present state of things?—Undoubtedly, if you could only get them to do it and to take an active part.

Then, you find great difficulty in getting the Natives' assent generally to anything like fencing or letting their lands, or letting roads be carried through them?—Yes. Of course, with reference to roads, the local bodies have the power to take land for roads, but if they carry a road through Native land they improve that land, and yet get no return for their expenditure. Still, I think they have the power to make the road.

Now, does that provoke any active opposition on the part of these people, or is it merely a negative or passive opposition?—It is a negative opposition. The Europeans say that they are improving the land, but that what is the use of doing that unless the land is to be settled on!

Mr. Mackay: In order to bear its share of taxation, of course?

Mr. Carroll.] Of course they take, without compensation, the land required for those roads?—I am not sure of that. In some cases there is a surplus in the Crown grant, specially made for roads, but I do not think, if the matter were taken to law, they would be entitled to compensation.

That is the difference between Native land and European land so far as roads are concerned. The European from whose private property a portion is taken for the purposes of a road is entitled to compensation, whereas if you take the road through a Native's land the Native is not entitled to compensation?—It is not so in all cases. I may instance the case of the railway taking part of the Taumaha Native Reserve. There compensation was paid.

The difficulty I can see, in regard to the Natives here, is that there is a strong section of them under the influence of Te Whiti, who are against dealing with the land in any shape or form. They do not study the advantage of it at all. There are others who wish to break out from that thraldom—men of more intelligence than the rest, who are less subject to Te Whiti's influence. They are quite willing, as far as I can learn, to act rationally, and have their lands thrown open for selection. In now making a law to deal with the case, you would have an arbitrary law for those who are under Te Whiti's influence, and a mild and reasonable one for those who are outside of that influence. Is not that the case?—You have hit it exactly. It is not for me to say that the Government ought to do this thing or the other, but, at any rate, I think Mr. Carroll has hit the right nail on the head. It seems harsh; but look at the necessity for some action of the kind. As an instance, take the land Mr. Smith mentioned on the other side of Waitara. If the land is taken by me the Natives will not oppose my doing so, but they will send a petition to Parliament. I am sure of that; therefore, of course, I do not think it worth while to take the liberty. But I do not think the Natives would have made any active opposition had I done so.

Mr. Rees.] Then, speaking as a public official having intercourse with the Natives, you do not think, if a reasonable law were made for these matters—fencing, road-making, and leases—they would offer any active opposition?—I do not; I certainly do not. Possibly Mr. Carroll was thinking of those who did not choose to elect a Committee when he spoke of an arbitrary law, and I quite agree with him.

No doubt, and so am I speaking of them?—Then, they would simply throw the onus on the officer.

But, on the other hand, some are prepared to go slightly in advance in that particular?—No doubt. I must say, however, that, in my opinion, the Committee, if elected, would be probably conservative and rather obstructive.

Very possibly. Still, you would have some material to do with. Passing from the position of the Natives in these matters to the position of the European public of this place, do you consider that it would be in their interest that such a reasonable law should be passed?—Undoubtedly, sir.

Mr. Smith: Here is a paper containing some information which will throw a little light on the views of the County Councils.

[*Mr. Rees* then read out from the *Taranaki Weekly News* of the 11th April, 1891, the following extract from the report of a meeting of the Clifton County Council: "Native Lands.—Proposed by Councillor Halcombe, and seconded by Councillor Old, 'That the Government be requested to appoint Mr. John Elliot to negotiate the purchase of the Native lands contained in Blocks X. and XI., Waitara Survey District (containing about 6,140 acres), but especially of that portion called the Otaraoa Block (containing 2,624 acres), the acquisition by the Government of such block being essential to the progress and successful settlement of a large portion of the Clifton County, and the Council having every confidence that Mr. John Elliot can effect the purchase at a reasonable rate.' Carried."]

Mr. Rees: That is the land that you have been alluding to?

Mr. Smith: Yes.

Mr. Rees: Would it not be sufficient if the Government were to pass such an Act as we have been just now discussing, by which land would be thrown open for selection?—That would meet the case.

If it were thrown open for settlement it would be subject to rating?—Yes.

Can you state whether the difficulties which we have been discussing with yourself and Mr. Rennell in connection with fencing, leasing, road-making, and rating affect merely one portion of the district or the whole of it?—The whole district from one end to the other. I can get you the members of the different County Councils and the prominent men of the various Road Boards to confirm what I say.

Would it not be wise for them, if there be this general anxiety for action in the direction you have indicated, to pass special resolutions for presentation by you to the Assembly, asking that such amendments in the law should be made?—Yes, if you think it would strengthen your hands.

I think it would strengthen our hands very much if you, the people who are directly interested, should say it would be in the best interests of the Natives that this should be done?—At present the Natives are drawing no benefit from the land, and if this thing were done they would be drawing some benefit in the shape of rent, the land would be improved, and roads would be made to the different parts.

I would suggest, therefore, and I am sure Mr. Carroll will join with me in saying that it would strengthen the report of the Commission if any representations they had to make on these matters were seconded by a direct communication from the local bodies. Speaking entirely for myself, I may say that what is asked seems to me reasonable. At any rate, in respect of anything fair and reasonable, such a representation from the European inhabitants of the district would have considerable force and weight.

Mr. Smith: I shall be only too glad to communicate with the different local bodies and have such a representation made. There is a gentleman here named Haigh, who has land bounded by Native land, and he will tell you enough to convince you that something should be done so as to avert a dispersion of these settlers.

Mr. Rees: We should like to get evidence of that sort, because it would strengthen the report.

Mr. Smith: Mr. Rennell states that he was told by the Government to go down amongst the Natives to whom I previously referred, in order to see if anything could be done in respect of these matters, and that on going there he found that some of the Natives were willing to deal, but that the remainder were not willing. A lot of the settlers assure me that there would be no difficulty if they were approached from a certain quarter. Whether they are correct I am not able to say. The settlers about Tikorangi have large families, which, as you know, is the rule in Taranaki, and the young men are imbued with the desire to take up land for themselves; but they do not wish to be too far off from the girls on the other side of the river. That is why they are anxious to see these Native lands thrown open for settlement.

Mr. Rees.] The young generation want to make new homes?—Yes.

Mr. Rees: We shall be glad if any gentleman present who has anything to say on any one of these subjects will lay his views before us. Any of those who suffer from any of these inconveniences, and who is in a position to speak for neighbours as well as for himself, is invited to address us.

Mr. Haigh: I hold a lease under the Native Reserves Act of 1882.

Mr. Rees.] What is your full name?—George Bates Haigh. I first took up the land in 1862, on a twenty-one years' lease. On the expiration of that term I renewed for ten years, which will expire in about a year and nine months from the present time. I find it to be a great hardship that, after making all the improvements I have done, I am to be obliged at the end of my term to go out or to compete in public competition for the land with my improvements upon it. After I have spent all these years upon the land, and made these improvements upon it, I feel a little entitled to some compensation.

Have you been improving the land to any extent more than merely using it?—As to that, I should like to refer you to Mr. Rennell.

What sort of improvements have you made?—The holding is a 75-acre section. It is all down in grass, fenced, and buildings and outbuildings erected upon it.

The whole of the improvements have been done by yourself at your own cost and trouble?—Yes.

What do you value your improvements at? What do you think it would cost to bring the land into that condition from a state of nature?—More than the prairie-cost. It was all bush when I took it up.

What would be the unimproved value of your land in the first instance?—About £2 an acre.

What do you suppose would be the fair value of it with the improvements as they stand to-day?—From £4 to £5 an acre.

Then, it has somewhat more than doubled in value?—Yes.

Then, under the present law you have no power either to get an allowance for your improvements in a new lease or payment for them?—No.

You are in the position of the Irish tenants before the recent Acts came into force, and you want to be put in the same position as they now occupy—that is to say, you want tenant right?—I should like to see it.

So far as you know, is what you state the rule which obtains in respect of all these leases?—I believe so—those under the Act of 1882.

Then, you are not speaking of your own case only, although you give evidence about it: it would apply to all those who are similarly situated under the same Act?—Yes, those that I am acquainted with.

Then, under the present Act you have absolutely to go and pay for your improvements?

Mr. Rennell: He would lose the improvements.

Mr. Rees: Unless he leased again.

Mr. Rennell: In these cases I can positively say there would be no new leases. The Natives see that these lands are so much improved, and they would not re-lease. There is an instance of it in the case of Mr. Haigh's next-door neighbour. He held one of these leases, and at the end of his term the Natives would not relet, and the property therefore fell into their hands. I am sorry to say it is in very bad order now.

Mr. Rees.] Would you be satisfied, Mr. Haigh, with the privilege which is contained in the perpetual-lease system, without any power to purchase, but the full value of your improvements to be guaranteed to you; and, in default of a renewal of lease, the value of those improvements to be paid you by the incoming tenant?—Yes.

Do you think that others in like position would be similarly satisfied?—I think that is their wish.

As a matter of choice, you would sooner have the lease renewed?—I would, sir.

If the Native lessor claimed to exercise his right to re-enter and take possession, you would say, "Very well, pay for my improvements"?—Yes.

Mr. Mackay.] How far is your land from town?—A little over four miles.

In which direction?—Waitara way.

Between that and Sentry Hill?—Yes.

Mr. Oliver Samuel, barrister and solicitor, then gave evidence at some length. [See Minutes of Evidence.]

Mr. Mackay: I suppose Mr. Haigh represents the case of the other gentlemen who are here?

Mr. Smith: Yes.

Mr. Mackay: It will save our time if they are satisfied that their views have been represented by Mr. Haigh, as in that case it will be unnecessary to examine them separately; but if any of them has any special case to mention that is not covered by what Mr. Haigh dealt with he may be examined.

Mr. Samuel: I mentioned Mr. Mitchinson's case.

Mr. Rees: It is governed by the same principles, what is wanted being security of tenure and payment for improvements from the incoming tenant.

Mr. Smith: It would be a national calamity if Mr. Mitchinson were to lose his land. I have asked these gentlemen, and they are satisfied that Mr. Haigh has stated their case.

WANGANUI, 27TH APRIL, 1891.

The Commission sat in the Native Land Courthouse at 11.30 a.m. Present: Messrs. J. Carroll, M.H.R., and Thomas Mackay. A number of Natives were in attendance.

Mr. Carroll: We are a Commission appointed by the Parliament to inquire into the existing state of the law in reference to dealings between Natives and Europeans for the lands of the former, and we have also to make inquiry with regard to Native Land Court matters. It is more than probable that in the approaching session Parliament will make new laws on these subjects. Whether such laws will be favourable to the views and interests of the Natives I cannot say. At any rate, you are now afforded this opportunity of expressing your opinions on the subject, with the view of enabling the Commission to place those opinions before Parliament. We have visited several other Native districts in the North Island, and we have received the ideas of the different tribes whom we have met. We have ascertained that there is a strong feeling in the direction of reform, the consensus of opinion being that it is desirable to do away with the individual dealing in Native land, and to resort instead to the old principle of settling everything by tribal consent. In regard to the Native Land Court, it seems to be the general wish of the Natives in other parts to affiliate the Native Committees with the Native Land Court; and especially that in original cases, where it is purely Native title, all tribal boundaries and hapu divisions should be settled by the Maori Committees, and afterwards submitted to the Native Land Court for confirmation. These are the leading points; and it is for you now to offer us your ideas with respect to them.

Takerengi Mete Kingi: I rise to express my congratulations at the arrival of the Commissioners in this part of the Island. There has been very little time since I received your wire for me to communicate with the Committee of the district. The great body of the people of this part of the district have been for two weeks engaged with the Committee up the river considering the laws that were passed by the last Government. I am therefore not able to explain fully the results of the labours of the Committees of Wanganui for the past couple of weeks, because their labours are not yet completed. If a messenger should come from the Committee that is now sitting, and should I learn from him anything of moment, I will inform the Commissioners of it. I am very sorry indeed at the absence of the Natives; but it will be for the Commissioners to consider whether the report which the Committee will draw up should not be submitted to them. Matters that are within our cognisance we shall lay before the Commissioners. As to the matters that the Committee have taken in hand, I cannot undertake to say what their decisions may be.

Mr. Carroll: It is quite right; you cannot let us know that.

Takerengi Mete Kingi: Would it not be well for the Chairman of the Committee to furnish you with the result of the Committee's deliberations?

Mr. Mackay: It can be sent to Mr. Dickson, of the Native Land Court here, with whom we shall leave our address, and he can forward it to us.

Takerengi Mete Kingi: Should there be any delay I will write to the Chairman of the Committee to hurry matters on. If you were staying here any time I could write to him to come down.

Mr. Mackay: The arrangement with Mr. Dickson does not necessitate any hurry in the matter. If we have it within ten days it will do.

Takerengi Mete Kingi: I saw some of the chiefs on Saturday and spoke to them about the matter, but they thought it better to wait until the Committee had finished its work. With reference to the West Coast matters from Kai Iwi this way, there is a section of Natives in the hall at present who may have something to say on that subject. I shall ask them to state whatever they have to say. As for myself, I have nothing more to say. When Topia, Chairman of our Committee, comes down we shall be able to let Mr. Dickson have the report of the Committee.

Te Waka Hakaraia: I desire to express my congratulations to the Commissioners for coming here to-day and informing us of the object for which they have been going round the country. I am very sorry we did not know you were coming before—that is to say, the people of Kai Iwi and Ngarauru. If notice had been received we would have understood you were coming, and the people would have been prepared to meet you here to-day. All I can say is to express my satisfaction with what Mete Kingi has said with respect to the meeting that is being held up the Wanganui River in the direction of seeking out matters with reference to the Land Court. There is also to be a meeting of Ngarauru at Patea on the 6th May next, with the object of investigating the same matters that the meeting spoken of by Mete Kingi has under consideration. We who are here are not in a position to express our views, owing to the absence of those other persons. Therefore I think that Mete Kingi's suggestion should be adopted, and that the conclusions arrived at by the meeting to be held on the 6th May should also be forwarded to the Commissioners.

Mr. Mackay: Is the meeting up the river here being held at Jerusalem?—Yes, the Wanganui Natives are holding their meeting at Jerusalem; and the Ngarauru meeting will be held on the 6th May at Hukatere, close to Patea, at Tauru's place.

Te Aro: Salutations to the Commissioners! I have seen Captain McDonald who on Saturday came down from the Committee meeting up the river, and he told me that one resolution the Committee had passed while he was there was that they should be allowed to lease their lands.

Takerengi Mete Kingi: I have merely to repeat my expression of gratification at the Commissioners' arrival here, and to state that we are very satisfied to find that they consent to receive the report of the Committee when it has been drawn up. There are many matters that we would wish to speak about, but we do not wish any division to take place in our deliberations.

Mr. Carroll: The same arrangement has been made with the Ngatikahungunu. They are having a meeting, and will send the result to the Commissioners.

Kahukaka te Kupenga: Will the Commissioners take into consideration matters affecting the West Coast reserves?

Mr. Mackay: We cannot take into consideration anything connected with those leases. These are all practically *sub judice* in the Supreme Court. Have you any interest in those reserves?—Yes.

Are you a joint owner with another?—Yes.

In what reserve?—Ihupukatete, Waitotara.

WAIPAWA, 5TH MAY, 1891.

By arrangement, the Commissioners (Messrs. W. L. Rees, M.H.R. (Chairman), J. Carroll, M.H.R., and Mackay) met a large gathering of Natives of the Ngatikahungunu Tribe in the Oddfellows' Hall, at 10.30 a.m.

Mr. Rees: The Commissioners have come to meet the Natives here, and are pleased to see so many of the leaders of the people gathered together. As Mr. Carroll is the representative in Parliament for this Native electorate, and is also a member of the Commission, he will address the Natives who are present, and will tell them the objects of the Commission, leaving the matter then open for them to discuss.

Mr. Carroll: In the last session of the Parliament great confusion was seen to exist in regard to the Native-land laws. It was seen that for many years past Parliament had been passing laws in regard to Native-land matters. And it was seen that out of these laws only confusion and trouble have arisen, and that this confusion and trouble have affected injuriously both the Natives and the Europeans. It was perceived that the lamentations of the Maoris were continually ascending to the Houses of Parliament. It was recognised that the operation of the Native-land laws was not good, and that the working of the Native Land Court was not giving satisfaction. It was then determined, in order to get rid of these difficulties, that fresh legislation should take place. With the view of carrying out that idea, this Commission was appointed to traverse the whole Island, investigating this Native-land question, meeting the Natives face to face, and ascertaining from them their views on the question, and eliciting from them their opinions as to the particular points in the various laws that pressed most severely upon them. It was the desire of Parliament that if the Natives complained of defects in the laws they should have the opportunity of pointing out where those defects where. It was also considered desirable to have their opinion whether amendments should be made in the laws or whether there should be a complete change in the laws. Parliament also requested the Commission to ascertain from the Natives in different parts of the country what changes, in their opinion, should take place with regard to the administering of their lands, and with regard to the selling and leasing of their lands; and likewise to ascertain their opinions with regard to the operation of the Native Land Court—whether or not it was burdensome to them. These are the matters that were submitted to the Commission for investigation. Its object is to enable the Natives to make known their wants, so that it may not be said hereafter that the laws which are to be made were made upon the responsibility of Parliament itself, and without any reference to the Natives. That is a general explanation of the business of the Commission.

Henare Matua: I wish to express my congratulations to the people who are called Commissioners. May you be long preserved. We are, all of us who are assembled here, very glad indeed to have been asked to state our opinions upon the subjects embraced in the inquiry that is now being held. Many of the grievances that the Natives suffer from have arisen out of land-sales. The difficulties and the grievances of which we complain in connection with sales arise out of lands that have been reserved—lands that were set apart as reserves, but from which the Maoris have not derived the advantage. The grievances in connection with these reserved lands are of long standing, and if it is necessary we can specify the names of the blocks. Ruataniwha, extending to the summit of Ruahine, is one of them. The disposal of that land is not understood by the Natives who really have a claim to it. They were ignorant of the transaction. It was not included in the sale of Waipukurau, but after Waipukurau had been sold it was found by the owners to be included. Pourere is the name of another block. That is land that was reserved at the time of the Waipukurau sale, and the person who is occupying that land at the present time says it belongs to him—that it is not a reserve. Yet the people know that that land was not sold to the Government. The European who occupies that land, however, persists in saying that it belongs to him, and the Natives claim the land, notwithstanding. Manukaroa is the name of another block that was reserved at the time of the Porangahau sale. It was set apart as a reserve for the Natives. Two people sold that land, and those for whom the reserve was made were not parties to the disposal of this land. Makahua is the name of another block. That land was set apart as a reserve for the benefit of the Natives, and yet a Native mortgaged it, and the mortgage was foreclosed upon. I wish to say something further that I omitted with regard to the Waipukurau sale: According to the conditions of that sale there were 100 acres reserved near the northern portion of the township. That land was reserved for the whole tribe, and it was not passed through the Court. It was sold, however,

by four of the Natives to a European who desired to purchase it. The tribe for whom it was reserved were left out in the cold. There were two eel-swamps included in that reserve: these were also included for the benefit of the people. Whatuma was the name of this reserve. One of these reserves, or a part of it, is now claimed by the European as a portion of his purchase. When the Seventy-mile Bush went through the Court a large number of Natives were put in as owners, and a majority of them received the greater portion of the land. Pukehou is the name of another block, and 7,000 acres of that was excluded during the investigation, and called Pukehou No. 6. Now, the Government claim 4,000 acres of that 7,000, leaving only 3,000 acres for the Maoris. There are other lands in the same position, but some one else will explain the circumstances connected with them to the Commissioners after I have finished. There is yet another block, called Raukawa No. 1, comprising 7,900 acres, which was reserved for the Natives; but all the Natives have got is 3,000 acres, and the Government have taken the balance of that land. The Natives did not sell the other 4,900 acres; the Government took them. Another reserve is that on which the Waipawa Native pa is situated. When the Waipukurau Block was sold a reserve was made at Waipawa. A portion of that reserve has been taken by the Europeans, and there is only a small balance in the possession of the Natives now. Matauomaui is the name of another block: that was sold by two people. The people for whom that reserve was made were not parties to the sale; and yet it is maintained by the Europeans that that is a valid sale, though made by only the two people; and they maintain that they have a proper right to the land. That is all I have to say on this subject, but somebody else will follow me upon it. That, however, is all I have to say to the Commissioners with regard to the troubles the Natives labour under through alleged sales of land. Now, with regard to the Native Land Court I wish to point out that great injury is inflicted upon the Natives, and on their lands, through its operations. From the year 1866 right down to the present time the evils arising from that Court have been very grievously felt by the Natives. The first evil was that, even although there might be fifty people entitled to a block of land, yet only ten men were put in the certificate as owners. All the lands that were adjudicated on at that time were associated with and conveyed that evil; the majority of the true owners being excluded from the certificates. These people who were thus excluded from the ownership had no opportunity of applying for these cases to be reinvestigated. There was no appeal. Then, when at last the evil resulting from this system of procedure was recognised, the law was altered, so that large numbers of names could be inserted in the titles; and, after this law, which allowed hundreds of names to go into these instruments of title, had been passed, other alterations were made in the law to provide for subdivisions and successions. Under the first law there was one decision given, and it was final; but under the subsequent laws there were repeated investigations. A particular block has been known to be reinvestigated no less than five times. I want to know where this sort of thing is to stop. It is these things that are the parents of a great many of the evils of which the Natives bitterly complain in connection with the administration of their lands. Down to the present time these laws have generated nothing of good to the Natives, but, on the contrary, they have been fruitful of evil consequences; and upon all these things—the Land Court, surveys, and so on—a great deal of money has been expended. Now, with regard to those subjects of inquiry intrusted to the Commission which relate to the future: The first of them is, as to the best steps to be taken for the future; and upon that point I shall now speak. The plan that the Natives would approve of is that Native Committees should be constituted, and endowed with full power, as in the case of the Committees provided for under the Act of 1883. These District Committees should be thoroughly established. There may be other sorts of committees, for which the speakers who will follow me may have a preference. But some change in that direction is required, as the Natives have suffered greatly from the evils resulting from the operation of the Native Land Court. The opinion of the Natives whom you see assembled here is decidedly that they should have their own Committee to control their lands, and that this Committee should have the control of all matters relating to their land, such as subdivisions, and so on. Their wish is to save the enormous expense that is now attendant upon these operations. This completes the explanation I have to offer to the Commissioners. There are plenty of other chiefs here ready to give utterance to their thoughts. [Henare Matua then handed in a list of the blocks to which he had referred.]

Henare Tomoana: Let me first of all congratulate the Commissioners for having come here. The heart rejoices at the action of the Government in sending Commissioners to the Native people. It is an entirely new departure on the part of the Government to seek out the evils under which the Natives labour. The Native people here are therefore very pleased indeed at the step that has been taken. I stand up now to support what has been said by the previous speaker, and I desire also to mention matters that were omitted by him. I do not say that there has been great injustice done to the Natives in consequence of the Native Land Court. But what I do say is this: that great evils have befallen the Natives in consequence of the laws made by the European members of Parliament. The action of members in that way has borne with great oppressiveness indeed upon the Natives. The laws under which the Native Land Court worked in the beginning were better than those under which it works now. When the Government assumed control of the Native Land Court, then the evil results became severe indeed. Ever since the Government took control the evils have been great and manifold. I will now condense what further I have to say. What Henare has stated with regard to the Natives having control of their own affairs I thoroughly coincide with. Let the Natives have especially control of their own lands, because there is one important matter that I have heard of in this connection: It is that the Government in New Zealand informed the Government in England that the Maoris were represented in the Parliament of the colony, where these laws are made. That is true enough, but then there are only four Maori members in the House of Representatives. The Native members are quite capable of doing their duty there, but they are overwhelmed by the superior numbers of the pakehas in that House. Therefore we ask now that we may be allowed to make our own laws.

The second word that I wish to say to you is this: With regard to the agents and the lawyers who at present appear in the Native Land Court, let the Commissioners report that these persons be on longer allowed to practise in that Court. Let the Commissioners be very strenuous in enforcing this request. And let immediate action be taken so soon as the Commissioners arrive in Wellington, instead of waiting until the present Waikopiro case be concluded. I desire to explain some of the particulars connected with several of the reserves alluded to generally by the last speaker. First of all with regard to Matauomaui. That land was reserved for the benefit of the tribe. But when Te Moananui died Te Karauria rose up and sold that reserve. There is another block of land that I wish also to bring under the notice of the Commissioners. It is named Petene. That is land held under Crown grant. At the time it was Crown-granted there were ten persons included in the grant to act as for the tribe. Subsequently that block was leased, but a portion of it, comprising some six hundred odd acres, was set apart for the Native people. Then afterwards those ten persons who were included in the grant sold their interests at different periods and to different persons. Two of the grantees sold, and in consequence of their sale a European took the portion of the reserve that was made for the use of the whole people. When these had sold, the interest of another person in the grant was also purchased. I was appointed trustee for two minors, and I did not consent to the sale that was made by these minors. Those two people who sold had their shares cut out, and the only right that the people now have to the land is through my position as trustee in declining to sell the interest of the minors; and for the last twenty years the tribe have been relying on my protection in the matter. What the European desires is to get hold of that land. To this matter I would very much like the Commissioners to give some attention, because the Natives have suffered great injury through it. One of the interests of the children I have leased to the European for the purpose of getting something out of the land to be applied to the maintenance of the children. I draw the rent from that lease and hand it over to the Public Trustee. That is all I have to say.

Mr. Carroll:] You desire that the whole of the people should be admitted as owners?—My desire is that the tribe should be included in the title of ownership to the portion reserved—that is to say, the six hundred odd acres. That is the portion remaining over after the sale.

Henare Matua: I wish now to supply something that I omitted when I previously addressed the Commissioners. There is another block of land that I desire to mention to them. The boundaries of this particular land were quite clear when it was surveyed, but the Government have since interfered and altered those boundaries. Tawaputahi is the name of the block. In respect of another block of land, called Ngatarawa, some of the persons in the grant for it have sold. The reason why that sale took place is that certain people signed other persons' names to the deed. The people whose names were so signed did not sign before witnesses. There is yet another block, named Whakapirau, in respect of which the people entitled to do so did not sign the conveyance. Another block is Pukehou. That was land reserved for the benefit of the whole tribe, at the time that the Government purchases were made. These are all the cases. Other persons can mention any other cases there may be.

Renata Pukututu: I wish first of all to congratulate the several visitors who are here. I welcome the Commissioners who have come here to make inquiry of the Natives of this part of the country—Heretaunga—with regard to the matters that they have been appointed to investigate. These are all the complimentary remarks I desire to make. What I more particularly wish to refer to now is the explanation which Mr. Carroll offered as to the inquiries that the Commissioners address to the Natives. Let me speak in the first place concerning the good laws and the bad laws. My idea is that no good law at all has come from the Government to the Natives. There are many other things that are, in my opinion, instigated by the Government, and which I consider to be wrong. I do not believe in the Native Land Administration Act of 1886. What I think is that the Maori people should make their own law; and I also support what Henare Matua said about having a Native Committee for the Hawke's Bay District. At present the District Committees of Hawke's Bay are just "fooling round" with small and trivial cases, and, in fact, doing nothing in particular. Their time is altogether taken up with the investigation of petty cases. We hope that the Government will clothe the Native Committees with proper and sufficient power. That is all I have to say.

Hori Ropiha: I congratulate the Commissioners upon their visit to this place under the authority of the present Government. I wish prosperity to the Queen, the ruler of nations, to the Government of the colony, and to both the races inhabiting it. What I have to say with regard to the matters with which the Commission is dealing is to express my hope that the laws proposed for the Native people will be made light and easy, because there are a great many troubles and difficulties existing at present between us and the Government. Those weighty matters mentioned by Henare Matua, connected with the reserves, are the things that especially trouble us. We wish that the laws which affect us should be more closely assimilated to our own customs and usages, and that the laws relating to our lands should be made far more simple. At the present time these too-cumbrous laws hamper us greatly. The Natives should have power to lease their own lands, and not the Government. I also desire that the process followed by the Native Land Court with regard to the leasing of Native land should be made simpler and easier, for the present system is weighty and oppressive towards us. I likewise think that for the ensuing year the existing District Committees should have extended powers and jurisdiction. At the present time their powers are very feeble indeed. I consider that if they were clothed with larger powers these would stimulate them to ampler duties, and to greater activity in the performance of those duties. I fully indorse what has been said by Henare Matua and Henare Tomoana. There are a great number of these Native blocks in a bad position, and we hope that things will be made simpler, clearer, and lighter than they are at present. We hope that the Government will see that exhaustive inquiry is made regarding these lands, because very many of our blocks are surrounded with confusion and difficulty.

At Eparaima and in other parts of the district there are lands concerning which we are beset with difficulties. In conclusion I wish success and prosperity to the Commissioners.

Whata Korari: I also have something to say with regard to the inquiry which the Commissioners are conducting. I am very pleased indeed to find that the Natives are being consulted, and asked to express their opinions concerning the Native Land Court. I wish to assure the Commissioners that great injury is inflicted upon the Natives in consequence of the operations of this Court, and that the laws controlling and regulating the Native Land Court are the instruments of oppression towards the Natives. I am unable to explain fully and clearly the evils that spring from these Native-land laws. My own opinion, however, is that it would be a good thing for the present assembly of Natives to adjourn and place in writing a statement of their views, and then submit it to the Commissioners; because there is ample time at our disposal, seeing that Parliament does not meet before the 11th June. There is one point with respect to the Native laws that I wish to make clear to the Commissioners. I do not know the particular clause of the Act that I propose to refer to. It is in relation to the power given to the Chief Judge to adjourn the sittings of the Native Land Court from place to place. That practice is very burdensome to the Natives. We have all seen what the real purport of that power is. Let me make this clear to the Commissioners: that of all the cases from Wairarapa to Heretaunga there has been nothing definitely concluded. Before the Court has finished its labours in one district the Chief Judge orders that Court to some other part of the Island, and the cases that are still awaiting or before that Court are then abandoned. These cases have to be abandoned even after the people concerned in them have been put to heavy expense in bringing them before the Court. Despite all this they are left unfinished. The same thing applies to the Court now sitting here. So soon as the Waikopiro case is finished, the Court will adjourn to Marton. What I think should be done is this: When the Court sits in a certain locality it should remain there and conclude its business before leaving. I instance the case of the Waimarama Block. This large and important block has been before the Court for the last three years, and is still undealt-with. Over £8,000 of rent has accrued in respect of that block, and during the time it has been before the Court many of the owners have died, and of course the survivors are unable to touch this money. Some effort is being made to so arrange things that the money shall not come to the people who are entitled to it. Steps are being taken to prevent them getting it. That is the reason why I wish to make it clear to the Commissioners that this power of the Chief Judge to adjourn the Court from place to place is a very weighty matter. We all say, with Henare Matua, that the present Court should sit here until it concludes its business. If, however, it is shifted away before it concludes the business awaiting its determination, great loss will result to the country. If it is to continue travelling about the country as it is now doing all we say is: Do away with it altogether, for it is useless to us. That is the great trouble I see in connection with the law: there are so many blocks of land that cannot be dealt with at all owing to this irregularity. There is another thing that I have noticed: when inquiries are being made by the Court it carries on its investigations at a time when the maps are not authenticated. If decisions are given, then the maps are approved. After the adjudication is concluded, and when the map is approved, there may be £500 in survey-charges—equivalent, perhaps, to 1,000 acres of the land. When a proper survey is subsequently made, it is found that the area is considerably reduced. Instead of 1,000 acres there may be only 700 acres. The survey shows afterwards that the people have paid more than they have got. When the map is put before the Court the area is supposed to be very large, but when the resurvey is made it is found to be very much less. The Court will sometimes award land to the wrong parties, and thus afford facilities for rehearings. This is done with the distinct object of increasing the business of the Court. It should be recognised that we have paid all the costs in the first case, and rehearings should therefore be free. As it is we have to bear the additional expense of the rehearings. There are many other matters of serious complaint. Lawyers who understand very little of Maori come into the Court, and build up cases to the detriment of the Native people. Then, when the case concludes, if the Natives have not the means of paying their lawyers' charges, these lawyers seize upon the land in satisfaction thereof. I object altogether to lawyers and agents appearing in the Native Land Court to make up cases, as it results in great expense to the Natives. The lawyers hold out splendid prospects to the Natives of their ability to win the cases, and they persuade them to sell the land and go on with them, and so on. Then the land is sold to provide for the costs of the lawyers, but when the case comes into the Native Land Court it is found that it cannot be established, and great loss is the result to the individual concerned. That is the way the Native is had on both sides: first he sacrifices his land, and then, when he goes into Court to establish his position, he loses his case. Here, then, are the two great evils that afflict the Natives: first, the Native Land Court; secondly, the lawyers. I therefore indorse what Henare Tomoana said about having a new Court established. Let me explain to the Commissioners circumstances under which adjournments may be made with advantage. Let us suppose there is a Court sitting here at Waipawa and another Court sitting simultaneously in the Wairarapa. Then, let us suppose that some of the people in attendance upon the Court sitting here at Waipawa are also concerned in cases that are being heard by the Court in the Wairarapa. Under such circumstances as these it would be wise to adjourn one of the Courts for the convenience of the Natives who want to attend the sitting of the other Court. To that extent I approve of the principle of adjournment. That is why I think there should be some new arrangement with regard to the sittings of the Court. It should also be made with the view of facilitating a settlement of all cases now in dispute. In fact, there should be some new tribunal for adjusting all existing disputes and troubles. I wish again to express my regards to the Commissioners. I am extremely pleased that the Commissioners have gone among the Natives and ascertained their opinions. As it is, so far as the Natives can judge, the course which the Commissioners are adopting is a satisfactory one. I liken you unto a beautiful maiden.

Mr. W. H. Grace: On behalf of a few Europeans who would like to appear before the Commission, I would ask when the Commission would be prepared to grant them a hearing.

Mr. Carroll: We would like to finish with the Natives first.

Mr. Grace: If you do not fix a time they will talk on for ever; but if they know that a time is fixed they will curtail their speeches.

Mr. Rees: This evening will do for the purpose. The more evidence we get the better the Commission and Parliament will be pleased. We want to make an exhaustive inquiry.

[Subsequently it was arranged that the Europeans should appear before the Commission the following morning, and that their remarks should be interpreted to the Natives, so that the latter might reply if they chose.]

Pene te Ua: The first thing I wish to say is, to express my congratulations to the visitors who are here, and on behalf of the residents here to welcome them for coming, although they had no expectation of our being able to treat them with customary hospitality. I desire also to support what the previous speakers have said. Although some of us may have read the contents of the document printed and circulated by the Commissioners, yet there are others of us who may not have read that document. At any rate, we support what has been said here to-day. I wish to offer some explanation with regard to three blocks of land that have been already referred to. Ngatarawa and Whakapirau have been mentioned, but these are really two names for the one block. That is a block of land that was sold improperly. There is a dispute in relation to it between the Natives and some Europeans. The transaction in respect to it was concluded between Sir Donald McLean and Renata Kawepo. There are three people included in the Crown grant who have not signed the conveyance. Renata Kawepo and Sir Donald McLean signed their names. Then, there is another block of land, named Raukawa No. 1. The investigation of the title of that block was not known, but all the portion of the block belonging to the Ngatiupokoiri went. That is the trouble in connection with that land. The Pukehou is another block that has already been mentioned. The Natives were asked by the Government to pay for that reserve, and the Natives paid Captain Preece in regard to that. There was one person to pay the Government for that land, and after that one person had paid Captain Preece application was made for the whole of the Natives to be included in that land. After the man had paid the Government for the land, Captain Preece said all the people were to go into it. There is trouble now in connection with it, and that is the reason why it is now brought before the Commissioners. There is also trouble in connection with another block that has been mentioned, and which is situated at Cape Kidnappers. That land was sold simply by two people, and the whole tribe had no knowledge of it being parted with. When the Natives went upon the land, they found that they were banished from it by the Europeans; and that dispute exists down even to the present time, between the man who has purchased it and the Natives.

Henare Tomoana: I wish to ask for an adjournment until 2 o'clock, so as to obtain further copies of the Commissioners' circular, to enable the people to deliberate upon the matters contained in it. We shall then be able to formulate what we have to say.

Mr. Rees: If any one wishes to speak before we adjourn, it is better that he should be allowed to do so, as we may be pushed for time.

Arapeta Meha: I wish to state now what I have to say. I desire in the first place to congratulate the Commissioners on their coming here. This is a new plan of ascertaining what the views of the Natives are. In former times there was only one means through which utterance could be given to the views of the Natives, and that was through their parliamentary representatives. Now, this great work has been undertaken of appointing a Commission to meet us face to face, and we rejoice very much indeed at it. That concludes my greeting to the Commissioners. The first evil that we discovered in the working of the Native Land Court was the inclusion of only ten people in each Crown grant, no matter how many might be the owners of the land for which it gave a title. In consequence of that law people who should have been included were left out. Recently an alteration has been made in that law, providing for the inclusion of those who had a right in the lands. That is the Equitable Owners Act. We say now that that is not as perfect a law as it might be, because it relates only to lands that passed under the Act of 1865. My complaint to the Commissioners is this: that the Equitable Owners Act should be extended to cases under any Act up to the time when it became the practice of the Court to put in all the people in the certificates. That is all I wish to explain on that point. Another matter which I wish to explain to the Commismissioners is with regard to some land which is reserved at Eparaima. That reserve was included in the sale of the Porangahau Block.

How was it included?—It was excepted from the sale of that block. At the time of that sale there were three separate reserves made. The name of this particular reserve is Ohineuha. At the time that reserve was made the Natives were living on and cultivating it. Mr. Ormond was the first European who settled alongside that block. He was living for many years on his own land, and then he asked the Natives to allow him to use the Native reserve. After that, my mother, who was the owner of that reserve, died. One of her brothers sold the timber rights to Mr. McLean. The Natives at the time knew that they only parted with the timber rights, but retained the land. Subsequently, however, it was discovered that the land was also sold. Parliament was petitioned in reference to this land. In 1877 the old chief here, named Matiu, went to Mr. Ormond, and mentioned the matter to him, and Mr. Ormond then said that he was aware it really was Native land, and he added that the error made in relation to it was made by McLean. The error was in claiming the land, instead of the timber merely. Mr. Ormond also told Matiu that if he would go to Wellington he would try and get the land back for the Natives. But nothing was done.

The Natives, then, did not get the land back?—No; nothing was done in respect of it. That is all I have to say with regard to that subject. There is another block of land that was reserved—Pukemaho, on the northern side of Waipawa. That was a reserve made at the time of the sale, and the portion that was reserved for the Natives is between Tarahi and Haowhenua; in extent it

is about 250 acres. Now, it is contended that the land which has been purchased includes this portion that was reserved. The Natives do not know where their reserve is. That is all I have to say about that. I congratulate the Commissioners upon their very excellent work.

Nepe te Apitu: I wish to express my feelings of praise to the Commissioners, and to say that we wish them prosperity for their efforts in coming among the Natives in this new way, giving the Natives matters for reflection and consideration—subjects to turn over in their minds, and express their opinions upon. I wish first of all to support what has already been said to the Commissioners here. The matters mentioned in the paper handed in by Henare Matua are the troubles that affect us. That is in relation to the reserves which have been referred to, and disputed sales, and lands wrongfully absorbed in Government purchases; also land included in certain Crown grants given to the ten only, the rest of the people interested being kept out. That is with regard to the law affecting cases where some sold and some did not sell. All these matters have been brought before the Commissioners already. With regard to the plan which should be adopted for the administration of the lands of the Natives in this district, we have come to the conclusion that the plan of having a Native Committee should be adopted, because it will lighten the business that the Natives will have to take into the Native Land Court. That is why we think the question of the Committee is one deserving the earnest consideration of the General Assembly. With respect to the Committee that already exists in this district, I may say that it is rather weak, because only small matters are submitted to it. For that reason we pray the Commissioners to obtain for the Committee extended power, because the matter that presses heavily upon the Natives has its origin in questions affecting their lands. I cannot compress into the short compass allowed me at this meeting all that I have to say with regard to the Native Land Court. But we would place our opinion before you for your consideration. The Europeans are fully aware how the Native Land Court bears heavily on the Natives. There is, for instance, the long time that it takes the Court to investigate the title to small blocks of land. To that matter, therefore, we beg the Commissioners to give their attention. That is all upon that head. With respect to the Ruataniwha Block, which Hehare Matua mentioned as extending to the summit of the high hill known as Ruahine, I may just state, so as to make more clear in the evidence its exact locality, that it is near Waipawa.

Ihaia Hutena: At the very outset I desire to express my good feeling towards the Commissioners who are sitting here. I wish them success and prosperity in their labours in connection with the matters that have been submitted to us. It is a subject of large importance. For many years past there have been meetings of the Natives for the purpose of establishing some plan or scheme with the aid of Parliament; and, while those Native gatherings entailed much expense, their desires and ends were never realised. Some of the chiefs of this part of the country have passed away with these hopes unrealised. Now we witness a new departure in the form of a Commission being appointed to meet the Natives and ask them to make known their thoughts to them; and this plan is similar to the one striven for and desired by the Natives in times past. The action of the Commissioners at the present time is what the Natives have long looked forward to. We are united in the expression of the opinion that has already been given utterance to by the first speakers. I refer to the opinion stated in answer to the Commissioners' request for our views to be set forth. I should like the Commissioners to give some thought to the Native law that was passed in 1886. I mean the Native Equitable Owners Act. That law was made to meet special cases only. It applies merely to lands held by ten grantees, where really the number of owners is greater than the ten. At the present time that Act is a dead-letter, and not much result has been seen from it since it was passed. Having now disposed of this branch of the subject, I wish to take the opportunity of making clear to the minds of the Commissioners the error of which we complain in connection with the Waipukurau Block. That land was a reserve Crown-granted to four or five people. But it was not a claim that was formally gazetted. That is the complaint of the Natives—that the Crown grant was issued for this land when the claim was not formally gazetted. I merely mention this in order to throw a little more light upon the account of the matter given by some of the other speakers. Pukemaho, which was referred to by another speaker, was the portion of land excluded from the Haowhenua Block for the benefit of the Natives. Some years afterwards that portion was included in the land that was already Crown-granted, and it is in connection with it that the trouble now exists, this trouble being through the improper inclusion in the Haowhenua Block of a part of the reserve.

Mr. Rees: We shall be glad to hear any other Native before we proceed to ask questions.

Hori Niania: I wish to inform the Commissioners that I support what Henare Matua and Henare Tomoana have said. I agree with them that the Native Committee should have power delegated to it by the Government in respect of the Native district of Hawke's Bay. I personally have suffered very much through the operation of the Native Land Court, owing to the action of sales, and through the question of surveys and other interferences in connection with the Native lands. Hence it is that I uphold what Henare Matua and Henare Tomoana have said about having a Native Committee for the District of Hawke's Bay. Should this Committee be empowered and recognised by the Government it would be enabled to award and divide the land up fairly, and allot it to the proper owners. I have nothing to say beyond indorsing the action taken by those two speakers with regard to the Committee.

Wi Rangirangi: I wish to bring before the Commissioners a question with regard to some land that has been improperly sold. Te Mokopeki is the name of the block. It comprises 6,000 acres, and was sold for one horse. Another block is named Tarawera—land that was reserved. These are the only matters I wish to speak about.

Aperahama te Kume (Taupo): I wish to express my pleasure at this new work that is being done—with this appointment of a Commission by the Government to investigate matters in relation to Natives and Europeans. Salutations to you! I differ from the others. It has been said that the

Native Land Court should be discontinued and brought to an end. It is known to the people that there is trouble arising from the Native Land Court, and, notwithstanding that, they still send in their applications to the Court, to be dealt with by the Court. And the Court has to consent to deal with the applications sent in to it, even although the lamentations are great indeed that are rendered up by the Natives. In spite of these lamentations they still avail themselves of the services of the Court. My idea is that perhaps it would be as well to bring gradually to a close the operation of the Native Land Court, and give careful deliberation to the question of what should be done. If I laid my view regarding that before the Commissioners, other speakers might arise who would take a different view from that entertained by myself, and there would therefore be a conflict of opinion. I consider that the Natives throughout the whole Island should carefully consider the matter, and arrive at a common agreement before anything should be done. There is one matter referred to by those who spoke first, that I uphold: that is, that unreserved power should be given the District Native Committees. If their powers are sufficiently increased they could do all the necessary work connected with the administration of their lands. Although the Ngatarawa Block has already been mentioned to the Commissioners, I wish to refer to it again, in order that the matter connected with it may be made quite clear to the Commissioners. Ngatarawa was a block that was not surveyed at the time the Oamarunui Block was surveyed. Ngatarawa was specially reserved for the Natives. When the Oamarunui Block went through the Court, two persons were put in the title as owners, and these two people sold Oamarunui, besides mortgaging Ngatarawa, the land that was set apart for the benefit of the tribe. That land has in consequence passed to the European, and the hardship and injury thus inflicted upon the Natives have been impressed upon their minds ever since. When the Natives knew that this land had passed into the hands of the European they took possession of it. And when the men had to go away to engage in their shearing operations advantage was taken of their absence to turn the women off, and that land became the subject of litigation in the Supreme Court; but the Natives have lost their case. This is a matter that the Commissioners may be familiar with. The land did not belong—even through their ancestors—to the two men who dealt with it, and the Commissioners must understand that the land belongs to the tribe. This is a matter that should be thoroughly gone into, because the people are loudly complaining of the wrong that has been done in connection with it.

Mr. Carroll.] You say that your view is different from the view expressed by the other speakers with regard to the Native Land Court?—Yes.

In your opinion, should the Court remain in force?—Yes, that is what I think.

And that the Native Committees should have powers conferred upon them in respect of the districts for which they are elected?—Yes.

And that the Committee should act in concert with the Native Land Court?—Yes.

In what way should they act in conjunction with the Native Land Court?—The Committee should act along with the Native Land Court.

And the Committee and the Court should proceed jointly in investigating the titles to land?—Yes; and they should investigate together.

Do you mean that the Committee should act like a jury in the Supreme Court?—No; they should act, having a defined power.

Do you think that if the Committee acts in conjunction with the Court it would simplify the investigation of titles and the style of procedure?—I cannot say.

How would this do: The Court to give certain powers to the Committee, and then the results of its labours to be reported to the Court in order to be confirmed by the latter body?—I would be agreeable to that.

In your opinion, would the Committee be a more effective body for ascertaining the title to Native land?—I think so, because it would be composed of Maoris. They would know the title to the land better than the Court.

Would you, then, transfer the whole power of investigating the title to Native land to the Committee?—The Committee and the Native Land Court should have equal power.

Are there difficulties in connection with the Native Land Court at the present time—obstacles in the way which render its procedure cumbrous?—I do not know what difficulties, obstacles, or encumbrances there may be in connection with the Native Land Court. I am not in the habit of having my lands subdivided by the Court, and I am not, therefore, in a position to give any decided answer to your question. Those who are in the habit of having cases before the Court are in a position to say if there is any cumbrousness, and what that cumbrousness may be.

Are you familiar with the operations of the Native Land Court in its mode of procedure?—I have seen a good deal of the working of the Native Land Court.

And have you not seen any cumbrousness in its operations?—No, I have not seen it, because I have been acting as an agent.

Do you think there are any means of simplifying the operations of the Native Land Court?—It would be an excellent thing if the operations of the Court could be simplified and made lighter and easier. Those who have seen where the evils are will be in a position to mention them to the Commissioners.

Would it not be a good thing for the Native Committees to ascertain the titles of the hapus and the tribes to land, and then submit the result of their work to the Native Land Court?—Yes, that is what should be done; and that is the reason why application is made for the Committees to have power given them.

Hamiora Mangakahia: I wish to offer an explanation regarding my appearance on this occasion before the Commission. The Commissioners will remember that I appeared before them in Auckland. What I stated then in my opening remarks to the Commission was that the Commissioners should examine and see into the existing Native laws, and ascertain what good points there are in them. I thought there were some good points, but I was unable at the time to mention these particular

points to the Commission. I thought, however, that on some subsequent occasion, when there would be a large assembly of the Natives, I would be able then to select the particular portions of the existing law that we approved of, and make them known to the Commission. I now stand up to explain the position, and to let the Commissioners know what I have since done. The Native assemblage that I had in my mind when I last addressed you was the meeting that subsequently took place at the Wairoa. The object of that meeting was to consider and lay down plans for what should be done by Parliament with respect to the grievances under which the Natives labour; and on my arrival here I was not made acquainted with what that meeting did. And on account of the scattered position of the Natives I was unable to make known to them what had transpired in Auckland when I appeared before the Commissioners. Now, for the first time since my return, do I see the people assembled together, and in the brief period at my disposal now I shall not be able to state what took place up in Auckland. Nor can I go into the question relating to all these Acts, beginning with that of 1865, and coming down to the present matters that were referred to by me when I was in Auckland. There is no opportunity at present, therefore, for the Natives to single out the particular objectionable features that are in those Acts that have been passed. It is a new matter to the Natives here with the exception of myself, and I am appearing for the second time before the Commissioners. I wish to speak with regard to what Mr. Carroll said this morning when he mentioned the particular scope of the duties for the performance of which the Commission was constituted—that is to say, the several orders of reference in their commission. I am going through the different points under their respective headings, and I would like to know in this connection, are they the particular heads on which it is desired that the present assembly of Natives should express their opinions to the Commissioners?

Mr. Rees: Yes.

Hamiora Mangakahia: Now, this is what I have heard from the Commissioners this morning: that with regard to the old laws that have been passed the Natives are loud indeed in their lamentations, as they operate very oppressively towards the Natives. Hence it was that the Government now in power considered it advisable to appoint a Commission like this to ascertain from the Natives of this Island their opinions as to what they would think advisable to have done in regard to making laws for the Natives and their lands, and then to state if the laws previously passed were bad or not, or whether some of those laws were bad, or whether all of those laws were bad. It would be simply a matter for the Natives themselves to express their opinions, and state what they desired should be done. That is the note that I made of what the Commissioners said this morning. That is what I glean from their remarks. Now, I wish to make clear my meaning with respect to those reasons that have been stated—that we are not in a position to-day to place lucidly and distinctly before the Commissioners our views on all these matters, because we have not the means of presenting the Commissioners with absolute proof in support of any contention we may make in condemnation of the existing laws passed by Parliament in former times. In the first place we are not in possession of a copy of the laws that have been passed in former times by Parliament, and, not having access to them, of course we are not able to state distinctly what our views are concerning them. But what we are very pleased and gratified at is that the Commissioners have come amongst us and are taking steps to ascertain what our views are. The Commissioners on their part will recognise by the great number present here to-day that the Natives have been eager to meet them, and to make known their opinions on such subjects as they have been considering. All the chiefs of Heretaunga have come here to lay their views before the Commissioners. But we are unable at the present time to state distinctly and definitely what our views are with regard to the laws. We cannot point out the particular operation of the laws that is to our detriment. It must not be imagined that we do not approve of the investigation that the Commission is making. That is not the reason. But we have not the laws before us to refer to. Salutations to you!

Mr. Carroll: Then, those who have not access to the laws should not have any objection to replying to any question, that may be put to them?—Certainly not.

In your opinion, is there a strong feeling of objection amongst the Natives to the old laws?—Yes.

And your meaning is that, although there are presumably defects, you cannot point out the precise defective operations in the laws?—Yes.

What is your opinion in regard to this idea: That all the Native-land laws from the beginning should be repealed?—I would be in favour of repealing all of them.

And that a new law should be commenced from the present time?—Yes; there should be a new law made. The reason why I agree to the repeal of the past laws is that under the old laws we have Crown grants, certificates of title, and memorials of ownership—different classes of title—and each class is different in its effect. Some of these are not equal in power and effect to the Crown grants. There are so many provisions and alterations on the subject that the Natives are unable to grasp their meaning. As time goes on provisions relative to the Crown grants become attached to other titles than the certificate of title, and the transition from the memorial-of-ownership title to the Crown grant is surrounded with so many provisions that the Natives cannot follow it. That is the reason why I think all the other laws should be wiped out.

Now, supposing a new law were to be made, what would be your own opinion with regard to it—that there should be only one law to deal with disputes arising out of transactions in the past?—I am not able to give a reply to that question. It is not that there is any desire on my part to shirk the question.

We are seeking out a way of dealing in a comprehensive and satisfactory manner with past transactions that are in dispute, and we wish also to have a separate law for dealing with all future transactions?—This is a very important matter, requiring grave consideration, and I have not been able to give it the attention it deserves; consequently I am unable to state definitely what should be done.

What is your own opinion with regard to having Native Committees constituted? Do you think that the Native Committee would be able to carry out the work that is now being done by the Native Land Court?—With regard to that I would say this to the Commissioners: that the work which the Native Land Court has to perform is arduous, and if the present functions of the Native Land Court were imposed upon the Native Committee I do not think the Native Committee could carry out all the functions of the Native Land Court. The reason why I give that answer is this: The people who would be concerned in the Native Committee would be of the one tribe, and the different members of that tribe would be bound together by ties of relationship. There would also be family ties connecting together all the people in that particular district. The people bound together by these family ties and connections would be dealing with their own personal interests. In that way differences of opinion would arise—family matters would be introduced. That is why I doubt whether the Native Committee would be able to carry on the work of the Native Land Court.

You do not think that the Native Committee could do everything the Court does, but that it could do some portion of that work?—Yes.

What particular work of the Court do you think the Native Committee could do?—The Committee of the Heretaunga District should deal with the subdivisions of land in the District of Gisborne, and carry out the subdivisions, as well as undertake the duty of appointing successors in cases where such appointments are called for.

Do you think that the District Committees would be capable of ascertaining the boundaries between different hapus?—Yes. These are things that the Natives could do themselves, because they are conversant with their own ancestral boundaries.

Would you have original investigations of title to land made by the Committee?—The Committee could deal with Native land that is in its original state, and which at present is undealt-with—lands untrammelled by the existing laws.

What is your opinion with regard to leases and sales of land?—Do you mean with regard to disputed matters in relation to leases, or simply with regard to leasing where no disputes are involved?

Yes?—The Natives should have power to lease their own lands.

In a case where there would be a large number of owners in a block of land, would you allow the individuals to have the power to lease or sell their particular interests?—No, I would not agree to empowering individual transactions for leasing or selling.

Supposing, for instance, there were a hundred people in a particular block of land, and they wanted to deal with it, in what way would you suggest that effect should be given to their desire?—That would be a matter that should be left for the majority to determine.

Supposing there were a hundred people, including women and children, and that each one of these required individually to sign the lease?—Yes; every one of them should execute the lease before it should have effect.

Would not that be a costly proceeding both to the European and to the Native, and would it not absorb a considerable portion of the monetary value of the land?—I recognise that it would be a costly proceeding indeed, but it would be the proper way to carry out the transaction.

Would it not be a beneficial thing for the Natives if some simpler method of dealing could be devised with regard to leasing, so that the incidental expense would not be so great?—If some simpler and less expensive way could be devised it would undoubtedly be a very good thing.

Now, supposing that the hundred owners would nominate a Committee to carry out their ideas with regard to leasing, but that, instead of the members of the Committee receiving the rent that would accrue from the land, it should be distributed among the whole of the owners by some one appointed for the purpose?—That is the plan that was adopted by a former law. That scheme has been tried before—a few people acting on behalf of the greater number—and many tribes suffered in consequence, and it is difficult now to see a better course which would act satisfactorily. At any rate, the old system that you refer to empowered the few to receive the proceeds.

That was the cause of the trouble that arose then. Now, supposing that the few would not have the power of receiving the money, what would be your opinion as to some such system as that?—I am not prepared to answer right off. I should like very much to be able to answer, but I cannot do it off-hand.

How would it do if, along with the Committee, a Government officer were appointed to see to the proper distribution of the funds?—That is the idea that I have entertained—that a Government officer should be appointed to see that the thing was properly carried out. There is a variety of standpoints from which that question could be viewed. I hope the Commissioners will not be displeased if I am not ready with my answers. Now, in regard to the West Coast reserves, they are administered by an officer of the Government, and yet we hear of complaints being made by these people to Parliament, and they object to such laws being made in respect of their lands.

That is correct. These lands are under a special Act, and they are managed by the Public Trustee.—I do not know in what particular manner the Government officer would act. The Natives would always feel suspicious about the carrying-out of the affair if any Government officer were to be associated with it.

Supposing the Native Land Court Judge of the district were appointed instead—that it would be for the Native Land Court Judge of the district to see into the matter, the colony being divided into Native districts, and a Judge appointed to each of them, each Judge acting within his own boundary. Supposing, then, that this Judge would supervise the payment and distribution of the money, so that no trouble and difficulty should arise in connection with it. What would be your opinion as to that?—I should like to reserve those questions that I am unable to answer off-hand, so that I may consider them. I would be glad if the Commission would favour me with a memorandum of the particular points that I am not now able to make any definite statement of opinion

upon. These are very important matters, and it would be well, therefore, if they were reduced to writing, so that the people could consider them more leisurely.

Supposing that the people would carefully consider some plan for leasing their land; that they would then regulate the amount of money for which they would lease their land, and the term for which it would be leased; and that they would then arrange among themselves what portion of the land should be excluded from operation; and if they could not arrange between themselves as to their respective interests, that the Court should then declare what those interests were without having a survey made of the individual interests. Then, when all this would have been done, the Committee which would be appointed would ratify and validate the transaction. Then, say that the money accruing from it would be paid to the Court of the district, and that the Court should then pay to each of the owners his proportionate share of the rent, based on his relative interest in the block. What, then, would be your opinion of some such scheme as that; because the Commissioners are seeking information on this point?—These are the things that I refer to when I say that I am not in a position to deal with them now. I would like to have them written down first.

If it is your desire to consider these matters, well and good; so that you may make what suggestions you think desirable. I have another question to put to you. What is your opinion as to this particular practice in connection with the Native Land Court? Supposing we had the colony divided into Native districts—say, for instance, one for Hawke's Bay, one for the Wairarapa, another for Gisborne—and for each district to have a permanent local Judge, who would have his office there, and carry on the whole of the business there?—What about rehearing cases?

I shall come to that presently. Would the course that I have suggested be a better one than the system which prevails at present?—I want that included with the other questions that I have asked to be written down and sent to me.

Now, with reference to rehearing-Courts, how do you think this plan would suit: That the Chief Judge should not be told off for any particular district, but that he and the Judge of any particular district would in conjunction attend to any rehearings within its bounds? First of all, your opinion is that it would be a good thing to have the Committees acting along with the District Judges?—I would like time to consider.

Perhaps the best thing to do would be to leave these matters over for your consideration, and you could let the Commissioners know the result early to-morrow?—I just want to know if the others consent to that arrangement.

Mr. Rees: Before the Natives make up their minds to go away let them ask any questions they please. Hamiora may have a clear understanding, but others may not, as to the questions submitted to them. Let them all understand clearly the questions they have to decide.

[The same evening Hamiora Mangakahia was furnished with a memorandum setting forth the questions that he desired time to consider.]

Hiraka Ti Rongo: I come from Patea. Perhaps I had better begin what I have to say by referring to the Native Land Court. Myself and hapu are people who have suffered grievously through the operation of the Native Land Court. The way in which we have been afflicted by it is through having to repair to distant places in order to attend the sittings of the Court. Another grievance under which we labour is having our cases gazetted for hearing and called on, say, at Napier, and then, on our attending there, finding that our cases had been adjourned without being proceeded with at all. Yet another grievance under which myself and hapu labour is what has already been referred to with respect to the employment of agents in the Court. A further grievance of which we have to complain relates to the Assessors and interpreters, and likewise to the Judges. The fault that we find with the Judges, the Assessors, and the interpreters is that they have feelings of partisanship with one side or the other before the Court. In fact, they take sides. The interpreters in the Court will not correctly interpret all the evidence, but it will be misinterpreted to the Court. I object to them also on the ground of their incompetency. But the source of all these troubles is the Native Land Court itself. During the year that has just passed there was a block of land called Awarua, belonging to myself and hapu, under adjudication by the Native Land Court at Marton. We, the hapus who owned that land, applied and endeavoured to obtain permission to settle the inter-hapu boundaries among ourselves. The Court consented to our going outside the Court and settling this business among ourselves. Three hapus satisfactorily arranged the boundaries between themselves, but the other two hapus, which did not join in the agreement, asked the Court to deal with the subdivision. It went before the Court, and in consequence of the Court's investigation the contention of one of the objecting hapus fell to the ground. Then, if that dissentient hapu had listened to what the others had arranged, there would not have been the expense of fighting the matter before the Court. The case of the other dissentient hapu was then proceeded with, and the case of this particular hapu was before the Court for eight months. If the Court, however, had listened to the suggestion thrown out by the Native Committee—and that was to confine the investigation to such portion of the block as was in dispute—the entire hearing could have been shortened considerably. But the investigation was extended to the whole block, and hence it was that it occupied such a long time. In fact, it is not over yet, and the Court has adjourned.

Mr. Carroll.] Is it ever going to end?—I do not know. I do not believe it will end in the time of this generation.

Do you know any way that could be adopted to meet cases in respect of which one of the hapus did not agree with the arrangement proposed by the others?—I think that a Committee should be appointed from the tribe that owned the land, to deal with the matter.

But who would say what the tribe was that owned the land?—The tribe that would be lodging the claim to the land should select the Committee. The claim should be made known before the Court, and the objectors to it.

Supposing the Committee were selected on the principle of one member being chosen from each

hapu, how would that work?—I am afraid it would work evil, in the same way that the Native Land Court does.

Mr. Rees.] Supposing a joint Committee had been chosen from all the hapus claiming in respect of the Awarua Block, how long do you think they would have taken to settle this disputed case?—I think they would have settled it in two months.

How many agents, conductors of cases, and solicitors have been appearing in the Awarua case?—There were five hapus interested, and there were therefore five conductors or agents.

Mr. Carroll.] From your observation, would you say that a lot of irrelevant evidence is given now in the Native Land Court?—Yes, there is a great deal of unnecessary evidence given—matters altogether outside the investigation are imported into it.

Mr. Rees.] Is there such evidence given before the Native Land Court as would not be given before the runanga?—Yes; a lot of new matter is introduced that would not be mentioned before the runanga.

The Commissioners have heard in several places that there is a custom growing up among some of the Natives of making up claims to land, not giving truthful evidence. Have you heard anything at all of that sort of thing?—I have heard of an instance in which that has been done, and the name given for the hapu making the imaginary claim was "Ngatitekakore" (the men without rights). I refer to the Rangikopani Block. This was the nickname given to these bogus claimants. When the Court came to subdivide the block it found that these people had no rights whatever in respect of it, and that they had simply made application for themselves, and for no hapu at all; hence the nickname.

How many owners are there in the Awarua Block?—Four hundred and forty.

Any children amongst them?—Yes, children, and grandchildren as well.

Do you think it would be possible to get the signatures of these little children to deeds, in order to complete transactions for selling or leasing the land, or in respect of any other transaction concerning it?—Their trustees might be applied to to carry out these things, once they had power.

Do you think it would take some time to get the 440 signatures?—I could not tell. I think, as far as my hapu is concerned, if they consent—I think it could be done in three weeks.

Supposing they wanted to cut the block up into farms, and that there were to be a hundred of such farms, do you think it would be possible to get a hundred deeds signed by these people, in order to lease the farms to Europeans?—My great desire is that that should be done.

No doubt. The Commission is with you there. We want to find out a method of accomplishing it, so that the transaction would not cost you any money—either you, the European, or the Government—and so that it could be carried out easily. Now, do you think that in respect of the Awarua Block the joint Committee could fix upon the different interests of the hapus, families, and then of the individual, in regular runangas?—Yes; we could do it very quickly.

In doing this could not the people themselves settle what reserves they wanted out of the block for cultivations, burying-grounds, and any other purpose for which they required reserves?—Yes.

Then, could the Committee, along with the District Judge—Judge Ward, for instance, or any man of independence and integrity, appointed for the purpose—arrange to have the land cut up into farms, and leased?—I think they could do it.

Then, supposing that, instead of 440 people signing the deeds, only two or three of the Committee, and the Judge, had to sign when the runanga of the whole people had decided how the land was to be cut up, would not that be a simple method of dealing with the land?—Yes; that is what I should like.

Then, supposing the agreement was that the money was to be paid by all these hundred farmers who took up the farms, to the Judge, and that the Committee had to distribute it among all the people, in accordance with the interests they had decided upon themselves, how would that do?—That is also my idea of what should be done. I wish to explain with regard to a certain block of land that I have got which is not yet subdivided. There are 134 of us owners in the Owhaoka Block. Seven of us were appointed a Committee in respect of it, three to be a quorum; and the people who appointed that committee were the 134 owners: but, because there was no legal authority or means of empowering this Committee to act for the whole number, as was intended they should act, we had to get a deed prepared and signed, at great expense to the people, and after that our work was carried out in a satisfactory manner through the Committee.

Do you think that if, in addition to the appointment of the Committees, there was a law to regulate the Committees so that there should be no need for a deed, it would be cheaper and better?—That is that I think—that something should be done to give proper power to these Committees.

Now, supposing that, in addition to the Committee, the resident Judge of the district had the power of seeing that the Committee distributed all the moneys properly, would not that give the people still greater confidence?—Yes; the Judge to exercise supervision.

Do you think such a plan as that would suit the Natives in your part of the country?—I think it would be a very good arrangement; and my hapu and tribe would consent to it, because we have been carrying out this principle ourselves for a long time, and yet we had not the power of the law to assist us.

Do you think that in certain places men of understanding would like the law so made that they could have farms cut out for themselves?—I think that the separate families might have the right of getting their family interests cut off—that is, that each family would have its own portion cut out.

Do you think that the law I have indicated should be made compulsory—that a certain time should be allowed the Natives, and if they did not come to an agreement it should take effect?—I think it would be a very good law to have made.

Do you think it better in such cases that the Committee and the people should arrange, instead of going to the expense of fighting questions of ancestral boundaries in the Court, that the best men of every family should talk it over, and then take the matter to the Court, and have a title given to each family?—I think that the hapus occupying the land should settle these matters among themselves, and, after they had come to their decisions, go into Court and have their actions confirmed by it.

Do you know the Te Aute School?—I am not conversant with what goes on in this immediate locality.

But you know generally?—Yes.

Do you think it would be a good thing if, out of the great lands that belong to the Maoris, each tribe should set apart lands as endowments for the education of their children, schools being erected where they could be taught to farm, to take care of sheep and cattle, and where they could acquire such trades as shoemaking, carpentering, and other things of that sort?—I do not approve of that.

Why not?—My objection is this: that, if I own certain land, why should I give it up for the purpose of providing education for other people's children.

I mean, that the tribes should set apart these lands for the education of their own children?—It is all right to give up land for my own child, but to give it up for the children of other people I cannot see why I should do it. My hapu has set apart some portion of land for school purposes.

In questioning Hiraka I have travelled over this ground about the management of the land in order that the other Natives might get more familiar with the subject?—The Owhaoka school reserve was given as an endowment for the school. Renata Kawepo set that land apart for school purposes, and yet there is no school established. It was one year at Omaho, and we do not know what has become of the money.

We do not mean that kind of endowment or school. Do you think it would be a good thing for the Judge or an officer of the Government to assist and advise the Natives in all things, and not merely those I have mentioned?—I think it would be wise; and he should maintain an independent and neutral position, and be properly appointed. I look with suspicion upon one or two of the officers in the Native Department. I have good reasons for thinking that in matters affecting the Natives themselves, and in dispute among themselves, these two officers become friends merely of one of the contesting sides. The Native Department should not be used for such purposes. It belongs to the people of the colony, and as a Government officer in that department he should only perform public duties. I am now referring to Mr. Lewis. I was thinking about speaking to you about a grievance connected with a case in respect of which myself and people wish for a rehearing.

I do not know that we can hear that. We have no power to grant rehearings?—Salutations, then, to the Commissioners!

Horomona: I want to know whether it is right for a deed executed by a man in respect of his own land to be exercised over another block. Difficulty and trouble have arisen in connection with a case of that kind.

Mr. Rees: It is hardly within our powers to consider a case of that sort. We can hear what you have to say.

Emeri Te Whetu: I wish to explain something in relation to this matter. The name of the block is Oromatai.

Mr. Carroll.] Is that a block of land that has been adjudicated upon?—Yes; a portion of it has been adjudicated upon.

Has the portion of land with which your complaint is connected been adjudicated upon?—It was dealt with some time ago by Henare Matua's Native Committee. It was not dealt with by the District Committee.

What was the result of the investigation?—No decision was given. That land is in the vicinity of land claimed by the Government. It is included in lands that were improperly disposed of. Where money had been drawn in respect of lands the Government took this particular land in satisfaction. That land remains in its present state, but the Government have no right over it. My husband, when he went to Napier in connection with this business, got a map of the land, and I have it now. A portion of the land is now occupied by Mr. Johnston.

Do you desire that that land should be adjudicated upon?—Yes; I wish it dealt with, and I have handed it over to the Committee of the district to deal with.

Mr. Rees: Although this does not fall within the scope of what we have got to do, we can make a recommendation to the Government that such cases as that should be examined into?—I made application with regard to this land to the Registrar of the Native Land Court to have the title investigated.

Mr. Carroll: You should apply at the Land Office, and ascertain what the real position is.

Mr. Rees: We can only recommend that such cases be looked into, and that what is right shall be done.

Mr. Carroll.] What is the name of the place?—Te Matataike.

WAIPAWA, 6TH MAY, 1891.

Messrs. W. L. Rees, M.H.R., Chairman, and J. Carroll, M.H.R. (Commissioners), sat in the Oddfellows' Hall at 9.30 a.m., a number of Maoris and Europeans being present.

Mr. Rees: The Commission is now ready to hear any of the gentlemen who intimated to us yesterday their desire to have an opportunity of stating their views. The statements they may make will be interpreted to the Maoris, so that they may know what is being spoken on the matter. I would ask the gentlemen who wish to speak to remember that the Native Land Court has only adjourned till 11 a.m., so as to afford opportunity for the Native agents who are here to place their opinions before us.

Mr. William Henry Grace: I am a licensed interpreter, and I may say that I have been acting as such since 1866, having been amongst the first to be appointed. Since that time I have been brought into frequent connection with the Native Land Court at its sittings in various parts of the colony, and I have also appeared before the Court as a *kaiwhakahaere* (Native agent) in many instances, on and off. First of all, I would like to state how matters are conducted before the Native Land Court. From the earliest time the Judges of the Native Land Court have always found that intelligent *kaiwhakahaeres* were absolutely necessary. They were of assistance to the Court in ascertaining the title to the land which the Court was engaged in investigating. The Natives, if left to themselves, do not understand how to bring their cases properly before the Court, the consequence being that the Judges of the Court had really to be *kaiwhakahaeres* as well as Judges; and that has the effect of prolonging the proceedings very much. I have been in the Court when Natives have brought their cases before it unassisted by *kaiwhakahaeres*. And one of the Judges at the time I speak of was Judge Fenton. The Natives made such a jumble of their business that Mr. Fenton turned to me and asked me if I would not, with the assistance of some other intelligent man, take up these cases, and lay them before the Court in an intelligent way. I did so, and the consequence was that the time of the Court was very much economized, and it was enabled to get through its work satisfactorily. The Natives had wasted a whole day before that. If *kaiwhakahaeres* are abolished, one hapu may have a very intelligent man amongst them, while the other contesting hapu may not. The consequence would be that the hapu which were fortunate to have the services of the intelligent individual would have things all their own way in the Court, and the other hapu would be placed at a great disadvantage. Under these circumstances I say that *kaiwhakahaeres* are really wanted in the Native Land Court, and I think the system now in vogue of licensing *kaiwhakahaeres* is an admirable one. Of course, as things are now, only men that are recommended, and that are known to have a thorough knowledge of Native matters, are allowed to appear. I shall now proceed to the consideration of the Native Land Acts. With respect to these, in my opinion the Native Land Act of 1865 was about the best Native Land Act that ever was passed. The only fault to be found with that Act was that no provision was made for the tribe. Had some provision been made for the bulk of the people the ten owners in each block who were put in the grant could have acted as trustees; and some provision ought to have been made for the tribe. I say that, in respect of transactions with Maoris under the present system, where there are, say, a hundred owners in a particular block, it would be an advantage if a few individuals could be made to transact the business for the entire number who were interested. Some provision should be made to see that the people are protected, because when the power goes into the hands of a few individuals they are liable not to act quite honestly. Therefore, perhaps the Government could arrange in some way or other to have somebody to see that the bulk of the Maoris get their money. With respect to past transactions, I consider that all honest transactions ought to be made valid.

Mr. Rees.] You mean that in cases where they are merely technically wrong through some formal omission?—Yes. But where the transactions are of such a nature that that cannot be done, then some permanent Commission should sit and put them right. All the present Native Land Acts should be wiped out, and a new Act passed giving power to adjust all wrongs of the past; for, as the Acts are now, no one can understand or interpret them—they have become so complicated by amendments, &c. I think there ought to be absolutely free trade in Native land—that is, the Maoris ought to be allowed to do just as they like with what they have. I know from my own knowledge that the Natives prefer this; so that if they get into trouble they get into trouble by their own acts, and not by the acts of others. I do not think I have much more to say. I forgot to speak about Native Committees. Under the District Committee system I know that these Committees had power to make investigations into Maori titles; but they have never been able to ascertain a title. They have themselves held a kind of Court over various blocks; but they never could come to a settlement of the matter in dispute. I have known them to sit for three months over two or three acres of land, and at the end of the three months they had done nothing. The people who took their cases before them were not satisfied with their decision. They always found, or reckoned, that some individual on the Committee was biassed, and therefore I say a European Court would satisfy the Maoris far more than a Maori Court. Hence the Native Land Court is absolutely necessary in any case. That Court cannot be abolished, because there must be some tribunal to investigate titles to Maori land.

Mr. Carroll.] When you say you think that absolute free trade should be allowed in the disposal of Native lands, would you go so far as to affirm that any one should sell his land if he so wished it?—Yes; a Native should be allowed to sell his land if he wished to do so.

Even if he holds it jointly with ninety-nine others, and it is undivided?—If it is to his interest, let him sell it if he pleases.

In the event of a Maori selling his undivided shares in a block, what title would you give the purchaser?—I would get the interest defined, and then let a title be got under the Land Transfer Act.

Would it not be better to get the interest defined first, before entering into any transactions?—It is the duty of the Court to define the interests under the present system. If you are going to leave matters alone until the Native takes it into his head to get his interest defined, it will never be done. He will never move in the matter.

Then, after the Native has had his interest defined—not individualised—in a block of land, you will let him sell to the pakeha. Then, what position is the pakeha in?—The pakeha is in the position of being able to apply to the Native Land Court for the piece of land of so many acres to be cut off for him.

Then, do you think, if the onus of procuring the subdivision of that share were left to the pakeha, that in coming to terms with the Maori for his share the pakeha would give its equivalent in money?

—The cost in any case would be the same. If the Maori applied for the subdivision he would have to pay so much for getting it done, and if the pakeha applied he would have to pay just the same.

Mr. Rees.] That is, supposing in all cases the individual interests should be sold?—Yes.

Mr. Carroll.] Do you not think it is possible for an intelligent Committee to be appointed with advantage to assist the Court in its investigations?—You mean a Committee that will help to investigate the title?

Yes. To which the Court at any time could submit certain issues for settlement?—It might be done; but I do not think it will be of any advantage. It will not shorten the proceedings at all.

If the Court had some means within its power whereby it could empanel a Maori jury, when the occasion required it, to decide certain matters of fact, do you think that that would be satisfactory?—I think that is unnecessary. There is another thing to be considered: *papatipu* lands (lands held under Native tenure) are becoming very scarce now.

Mr. Rees.] How can anybody expect, in cases where a European purchases an undefined share in a block of Native land, or a share defined but not cut off, that, either to the European who buys or the Native who sells, such a dealing as that can yield the real value of the land, having in view all the incidental expenses—the Court fees, and the cost of the survey to determine the exact locality of the interest which is the subject of the transaction?—There may be something in what you say, but I do not see how you are going to devise any other means.

Mr. Carroll.] Then, supposing that, in a block in which there are fifty owners, twenty Europeans acquire distinct shares, what will be the position of those unhappy Europeans?—It will be the Court's duty to mark off each man's piece.

Mr. Rees.] Would not each European fight for the best piece?—They must leave it to the discretion of the Court to say which piece each shall have. That is a very far-fetched case, however; I do not think such a case will be found in New Zealand.

I can find you plenty such. I can refer you to the Makauri case, in which the costs amounted to about £18,000 after fifteen years of litigation. It was in every Court—in the Native Land Court four times for subdivision, four times in the Supreme Court during fourteen years. How would you prevent any Europeans who purchased certain Native lands, and who then began to contend amongst themselves, from carrying their case from the Native Land Court into the Supreme Court?—But the dividing of the land amongst them by the Native Land Court ought to be final.

Do you suppose that, if questions of law arise, any European who thus bought Native land would be content to take the Native Land Court's decision if he thought he was aggrieved?—If it was the law he would have to do so.

It is impossible, Mr. Grace. The individual dealings with tribal lands have been the source of all the difficulties among and with the Maoris. And this Commission will report that to the Parliament, and it will not report that it is advisable that any one out of seventy, eighty, a hundred, or two hundred Native owners in a block of land shall be able to involve the whole people in litigation because he wants to sell or lease his share of the land—at least, that he shall not be able to do so until his share is cut out.

Mr. Carroll: As subdivision must precede any action on the part of individual owners.

Mr. Rees: In case any individual wants to sell or lease his share, absolute subdivision must precede any transaction in respect of such disposition of the individual interest, so that he shall not be able to launch the whole of the other people into trouble and litigation.

Mr. Grace: Under one of the late Acts you will find it provided that no block can be purchased unless the land therein is subdivided so as not to have more than twenty owners in it. If there are more than twenty owners they could not sell.

Mr. Rees: But the Acts are nonsense. Every Act of the Assembly bearing upon Native land is simply nonsense, if it is not worse. It is not a pleasant thing for Europeans to confess that their own Parliament has made bad laws, but this Commission does confess it. And this Commission is going to tell the Parliament it has been altogether wrong, and will have to reverse its course.

Mr. Grace: We want a simple Act—one that can be worked and understood.

Mr. Rees: That is quite right, Mr. Grace. I may say that the Commissioners are quite of your opinion that agents, whether they be lawyers or simple agents, and, in fact, Native agents more often than lawyers, because they know the Maori custom better, are probably useful in the Native Land Court; and the statements which are made as against the *kaiwhakahaeres*, or Native agents, are really brought about, it seems to us, because, either from zeal or less worthy motives, they are sometimes found transgressing what is their duty. Of course, lawyers in all Courts are open to blame in certain instances, and that might be obviated or cured if the Judges of the Court had a little more authority and a little more strength of mind to stop anything when they thought it was going wrong.

Captain Richard Thomas Blake: My experience with the Natives and matters connected with Native land really began in 1872. I was then appointed by Sir Donald McLean to act as a Deputy Civil Commissioner on the West Coast. I left the Government service in 1877, and from that time began my experience with dealings for Native land in the Native Land Court. I have had experience since then in connection with many large blocks of land and very toughly-contested cases in the Native Land Court. We are all agreed that the present laws require to be rightly amended, and consolidated in one Act. I need not go into details. A Royal Commission should be appointed to inquire into and set at rest for ever all disputed transactions between Natives and Europeans or between the Natives and the Government, such Commission to have the fullest powers to make its decisions in accordance with equity and good conscience, irrespective of technical law points. Would it be right for me to make suggestions as to the *personnel* of such proposed Commission?

Mr. Rees: It is not for this Commission to do that: it will merely recommend the Government to employ the best men they can get.

Captain Blake: In all blocks of land brought before the Native Land Court, not only must the outer boundaries be accurately laid down, but the internal features as well must be correctly shown and fixed by minor triangulation and topographical survey; the work of surveying the outer boundaries to be a charge against the land, the minor triangulation and topographical survey to be paid for by the Government, and to be a charge against the Survey Department; the Court to have power to order surveys to be made, so that for any land brought forward the Court might order survey required to be done to be made forthwith. The country should be divided into districts, and a Court appointed to each—a Judge, an Assessor, an Interpreter, and a Clerk, the Clerk to act as Registrar. The Head Office and the Court should be fixed at one suitable place in each district; but the Court might, for special reasons, adjourn the hearing of any particular case to some other place more convenient to the Court and the parties interested. For instance, Oruamatua, at Inland Patea, might be gazetted to be heard at Hastings, but the Court should have power to adjourn to Patea, and have the case heard as near as possible to the land to be dealt with. A map for each district to be made at once, showing all Native land within the said district on a large scale, together with a schedule or a reference-book stating the present condition of each block or allotment.

Mr. Rees: Such a map as is now being prepared on the motion proposed by Mr. T. K. Macdonald in the House of Representatives last session.

Mr. Carroll: Captain Blake means a map for each of these suggested districts.

Captain Blake: I do not know whether I should make any suggestion as to my idea of what should constitute the several districts.

Mr. Rees: Oh, yes!

Captain Blake: I would arrange the thing on the basis of the Judges whom we have now. These are the districts that I should suggest: (1) Wellington and South Island, (2) Waikato and Thames, (3) Wanganui and Taranaki, (4) Hawke's Bay and Inland Patea, (5) Gisborne and Wairoa, (6) North or Ngapuhi District, (7) East Coast and Rotorua, each District Court to sit continuously, going steadily on with its work, settling and determining *papatipu*, subdivision, individualising, succession and equitable owners' cases; causing the necessary *panui* (notices) to be issued from time to time as required. The procedure in Court proceedings should be simplified; occupation to be the crucial test in determining Native title to land. In all *papatipu*, rehearings and subdivision claims the claimants shall open by stating fully in writing the grounds of their case, and a complete list of the names of those whom they admit to be owners. We have often started with an inquiry as to the hapu claiming the land, when, after all, it turned out that the claimants were only two or three men of the hapu, and, in some cases, only one person. Each party of counter-claimants should state fully in writing the nature of their claims and the names of those whom they seek to be admitted as owners with themselves, such writing to be handed in under cover to the presiding Judge. When the claimants' and counter-claimants' statements are so handed into Court, then the said claims and list of names should be read over, after which the same may be amended and rearranged by the Court, so as to consolidate the parties and make each distinct and clear. The Court should have power to arrange these people into parties. In the course of my experience in the Court I have often seen three or four cases set up which really ought to have been formed into one. After the parties have been arranged ample time should be allowed them, so as to afford them an opportunity of coming to terms outside the Court by forming a joint committee from all the parties in the case to discuss terms and make arrangements on behalf of the whole number. Any agreement that might be come to by a majority the Court should have power to accept, so far as those agreeing are concerned, and then the Court could proceed to inquire into and deal with the issues that could not be agreed upon, and give its judgment upon the same, the majority being then in the position of claimants and the objectors in that of counter-claimants, thus leaving only two cases to be fought out. When judgment is given as to who are the owners of any block, the Court should forthwith call upon the owners to submit schedules as to how they wish the land divided, and as to how much land each family group or each individual is entitled to, giving them ample time to agree amongst themselves. And, should they fail in coming to a unanimous agreement, then the Court should take the matter in hand and settle the questions at issue between them, always providing that if there is a majority one way they should be taken as the claimants, the minority consequently being placed in the position of counter-claimants. There should not be separate hearings for the purpose of ascertaining title to Native land, as hitherto has been the case. The procedure should be, a first hearing, then subdivision, and next the individualising of interests. All should be done at the one hearing, whilst all matters connected with the inquiry are fresh in the mind of the Court. All applications for rehearing ought to be made at once by the party or parties feeling aggrieved by the judgment, and the same should be inquired into immediately, or as soon after as can possibly be arranged by the Chief Judge. There is no reason at all why any one should be allowed three months to find out that he has a grievance. Rehearing cases should be heard by the Chief Judge and a Judge from some other district. Native agents should remain as at present provided for in the rules of the Native Land Court. I am sure that agents are of great assistance to the Court, but, being a conductor myself, I leave this matter to be dealt with by the Native Land Court Judges, as they are the proper persons to give an opinion upon it. Succession cases should be determined in accordance with Maori custom. No Maori ought to be allowed to "will" away to the detriment of his natural heirs his interest in any Native land where his share has not been individualised and is not held under separate Crown grant or Land Transfer title free of any restrictions. Sections 44 and 48, &c., in the Native Land Court Act of 1886 should be immediately repealed, and never again revived in the statute-book, as under them any sort of document has been recognised as a will.

Mr. Carroll.] No will should be allowed to be executed unless executed before a Justice of the Peace or other responsible person?—Yes. I hold strong opinions upon this subject. No Maori will should be recognised in anything unless properly executed, and attested before two witnesses in the presence of a Resident Magistrate or a Judge of the Native Land Court. If any Native wishes to dispossess his natural heirs he should be put to some considerable trouble in doing so.

Mr. Rees.] It should be made certain that that was his deliberate intention?—Yes. With regard to trustees, the law relating to trustees requires to be altered, so as to give absolute protection to the interests of minors. With respect to survey-liens, I am a surveyor myself, and I do not see any necessity for altering the law. I would allow the law at present in force for the protection of these liens to remain as it is, but I would have provision made that there should not be more than one survey authorised and made chargeable against the one piece of land. With regard to Court fees and agents' charges, I think it should be enacted that in all cases brought before the Court the Court may make an order against the land so dealt with for payment of Court fees and agents' charges. I think this would assist the Natives themselves, because no agent would care to take up a case in respect of any land unless the money was right. If the agents were put on the same footing as the surveyors, so far as their fees were concerned, it would only be right and just. Any act of a Committee acting for any party before the Court in a first hearing, a rehearing, a subdivision case, or a case for individualisation of interests, should be binding on themselves and the other persons of the party as to any agreement for the payment of their agent's charges for conducting their case.

Why do you not say that in all cases it should be binding? Why do you not propose that the arrangement which may be made by the Committee properly appointed by the people shall be binding upon them?—I shall come to that presently. My experience of the Native Land Court has shown me that a few of the people interested in any case bear the whole of the expense connected with it. Over a hundred people may be interested in the case, and four or five of these people bear all the expense, and the others get into the title without any expense. I say, therefore, the Court might make an order on the land according to the individual interests in it of each of the owners in the said party. My object in this is not only to protect the agents, but to insure a means of making each person pay his share of the expenses. As the law is now, a few only bear the expense, and the majority get off without paying anything. In all blocks of land where incomplete leases or sales have been made—that is, where some of the owners have sold or leased and some have not—the Court should make subdivision between the sellers and non-sellers, or lessors and non-lessors. I have had large experience in free trade for Native lands, and I must say I do not, and never did, believe in free trade for individual interests in Native lands. Then, I think that immediate steps should be taken towards preventing any further sales or leases taking place by Natives to Europeans until new legislation has been fully introduced directing and regulating how such transactions may be carried out. It should also be enacted that no Native owner should be allowed to sell or lease his interest in any block of land before the same shall have been individualised and allocated. In all cases where a Native has succeeded in getting his interest individualised and allocated he should be free to do as he likes with the same. In respect of all lands which have not yet been subdivided or individualised, it should be lawful for the owners, or a majority of them, to appoint certain persons from amongst themselves as a Committee to give effect to the wishes of the people respecting the disposal of their land, the portions to be made permanent reserves, the pieces to be apportioned to families or individuals as farms, the parts which may be leased, and the portions they wish to have sold. Of course it is for the people to say what the reserves are for, some of them being rather touchy on the question of education reserves. These divisions should be submitted by the Committee to the Court in order to be confirmed. Should there be any opposition made to the scheme of divisions submitted by the Committee, the Court should thereupon inquire into and decide upon the objections advanced by those opposing the Committee's proposals. It is recommended that the Government should appoint a Commissioner to each district, whose duty will be to assist the Natives and their Committees in arranging amongst themselves matters connected with hapu boundaries, and all other things necessary to be done towards marking off and determining the lands for reserves, farms, leases, and sales. I do not hold that the Judge should be that person. I think he should be an independent person.

A person having administrative functions, and not judicial functions?—Yes. In respect of all lands agreed upon by a hapu to be sold or leased their Committee should have power to execute all deeds of conveyance or lease required in the disposal of the said lands. All such deeds to be executed before the Commissioner, who should certify to the transactions being just and fair. All moneys payable on sales or leases should be paid to the Commissioner, who should lodge the same to a special account. As to matters of detail, of course regulations would have to be provided, directing how moneys received by the Commissioner on sales and leases should be paid out to the owners in proportion to their individual interests. No one should have power to give credit to any Native owner against the security of lands. Payment of duty on leases should be extended over the whole term of the lease, instead of being payable in advance.

If, by the proposed new system, the expense can be reduced very largely, would it not be wise and just that that 10-per-cent. stamp duty should be also reduced?—I am of opinion that the 10-per-cent. duty is excessive; 5 per cent. should be ample. I am satisfied that with new legislation, empowering Committees to be appointed to assist the Court, and the Court being given power to accept and confirm decisions come to by the Committees, and to empower Committees to execute deeds of conveyance or leases before a Commissioner, expenses would be very much reduced, and should be more than provided for by the 5-per-cent. duty. It would both simplify the proceedings and reduce the expenses very much. When a man has got his title individualised and allocated he should have power to do what he pleased with it.

Mr. Rees: With his own, unless for some particular case or purpose restrictions are imposed.

Mr. Alfred La Vavasour Durell Fraser: It is with a certain amount of diffidence that I address myself to the Commission. My experience has not been so extensive or deep as that of the former speakers; but I feel that there has been an uncalled-for attack upon the profession of which I have the honour to be a member—that is, of Native agents—and that an injustice has been inflicted upon us. I consider, therefore, that it is a duty both to my brother agents and myself to say something by way of defence. I do this more especially as I perceive that the visit of the Commission to this place affords me the necessary opportunity; and this Commission must recognise that it is no use presenting a report to the House founded on *ex parte* statements as to any matters affecting the Native Land Court. I can indorse, but need not reiterate, many of the statements that have fallen from Mr. Grace and Captain Blake in reference to the procedure of the Native Land Court, especially with regard to Native agents; but I would go further by stating that, from the experience I have gained in this district, the rightful owners of Native land would be placed in a most unfair position through not having the assistance of expert European agents. I wish the Commission to understand that I include in the term "European" those half-caste gentlemen who are practising as agents. I shall proceed to give my reason why I think a great injustice is likely to be done to the genuine owners of Native lands if they are denied the aid of Native agents. The position of the Native Land Court has altered very much within the last few years, and now we have a class of Maoris who make a practice of setting up a claim to every block that comes into the Court. They not only set up spurious cases, but this practice has been cultivated to such an extent that it has almost been elaborated into one of the fine arts wherein they invent evidence. One of the only protections the rightful owners have as against these people are the former Court records, and, as these records are written in English, without the assistance of an expert European agent they are valueless to the Maoris. It seems to be very generally admitted hy the authorities who have expressed their opinions before this Commission that it is advisable to have Courts in distinct districts, a separate Judge sitting in each such district. Taking this, then, as the general opinion on the subject, I think the Commission is justified in accepting that as a very admirable mode of procedure. The great drawback that we have always had to contend with in discussing the subject of having Courts in separate districts was this: How was that Court to deal with rehearings? It has occurred to me that the difficulty may be got over in this way: that the whole procedure of rehearings be altered, and that, instead of, as we do now, applying to the Chief Judge, and he taking evidence and ruling whether the rehearing shall be granted or not, and then, if granted, a long rehearing taking place, I suggest a tribunal something on the lines of the Supreme Court Appeal Court should be set up for the purpose. This Appeal Court to be constituted as follows: The Chief Judge to sit, with the Judge of the district and not less than one other Judge, once, say, every two or four months, in four Native districts in the North Island, and that they hear argument on the original hearing, the Judge's notes to be accepted as the record, and, if necessary, take fresh evidence; the decision of this Court to be final. This Court to have power to indorse or remodel to any extent the original judgment. There is one subject that possibly the Commission may think is beyond the scope of their inquiry, and outside the questions they are empowered to put to the Natives; but it is one that has lately exercised the minds of members of the House of Representatives and the minds of all persons interested in these matters, and one in respect of which the Natives consider they have a distinct grievance. I allude to the investigation of the Native Land Court in respect of a block of Native land known as the Awarua. All the newspapers have made the most extravagant statements in connection with it, and the *Lyttelton Times* and Auckland *Herald* in particular have felt justified in publishing with reference to that proceeding what I have no hesitation in stigmatising as utter nonsense. Then, too, a member of the present Ministry is reported to have stated in Auckland, as an instance of the iniquities of the present system, that a subdivision case lately heard on the West Coast has cost the Natives £25,000; and those gentlemen who have spoken as oracles and authorities on this subject have generally condemned the procedure in that case, and attributed the length of the proceedings to the sixteen or twenty Native agents who were supposed to be engaged therein. I especially want to allude to this case. I trust the Commission will bear with me, for we wish to point out that the Government, or one of the departments of the Government, are to blame for the protracted nature of the investigation. The Awarua is a block of land containing 275,000 acres, and in the original Court, held in 1886, 437 persons were registered as owners of it. Under the existing law the Court had to define the relative interests of each of these 437 owners. By what Native custom or law they had to do it is a mystery, but the fact is that "The Native Land Court Amendment Act, 1888," section 21, said they had to do it. On account of this every one of these 437 people was justified in standing up and asking permission to give evidence on behalf of his or her individual claims. The case opened on the 2nd July, and the first difficulty we had to contend with was in respect of an error in the map. Numerous complaints were made by the Natives. Two officers were sent from Wellington to Marton in order to correct the map. I may as well refer just here to Maori Committees. The Court thought it would be better if they could leave the arrangement of the subdivision to the Natives, and therefore adjourned for three weeks to allow them, if possible, to come to an amicable arrangement. At the end of the three weeks the confusion was worse confounded; the Natives had done nothing. This is a fair sample of the working of Maori Committees. Then it was found that the Government claimed, out of the original block investigated in 1886, 23,000 acres, and the plan before the Court was only approved so far as the land outside the 23,000 acres was concerned. A Royal Commission was appointed to inquire into the ownership of the 23,000 acres, and, after sitting in Hawke's Bay and on the West Coast, they found that the Government were only entitled to some 1,900 acres out of the 23,000 acres which they claimed. Subdivision proceeded with the balance of the block. When the whole of the evidence was done, the Court stated that it could not give judgment because it had no approved plan before it of the whole block as originally investigated, and that consequently the Court would have to adjourn the proceedings until a survey of the land had been made between the

portion found to belong to the Government by that Commission and the remainder of the block. Now, here is where the Government were to blame. The Government knew in September that only 1,900 acres or 2,000 acres belonged to them, and if they had proceeded at once with the survey the whole matter would have been concluded in the first week of March. As it is now, the Court, the Judges, and those engaged have to return to Marton on the 3rd June and possibly go through a great amount of evidence to define the ownership of that 23,000 acres. With regard to the map numerous complaints have been made, and one of the officers of the Survey Department, who came to Marton, stated that when the map was presented to him for approval he did not think it was in a fit state to be approved, and declined to give his certificate, but that such pressure was brought to bear upon him at head-quarters that he had to approve of it. This was openly stated in the Court.

Did he mention "head-quarters"?—He mentioned the Surveyor-General. He stated when the map was brought to him that it did not comply with the rules, but the Surveyor-General told him nevertheless to approve of it; and he had to do it. The Natives are responsible for £2,300 for that survey, and the plan is of no more use for the Subdivision Court than that painted scene behind you. One more word, and that is with regard to what it cost the Natives for that Subdivision Court at Marton. There have been statements made, both in public prints and by members of the present Government, which I may say are highly exaggerated. The supposed sixteen or twenty agents engaged in that case were Captain Blake, Mr. J. M. Fraser, Mr. Alex. Macdonald, and myself. These were the licensed European agents in that case. When the case was concluded in March, as far as it had gone, I asked two of these agents if they could possibly compute what was the probable amount of the cost the Natives had been put to up till March. One gentleman sent me a memorandum: he had gone into the matter, and he thought the outside cost the Natives had been put to was £10,000. Another gentleman sent me his estimate that the amount was £4,500. I went into the calculation very carefully myself, and I calculated that it had cost the Natives £5,000. Taking the average of these three sums, it cost those 437 people £16 a head for eight months' working, paying living and Court expenses. If the land had been divided into equal interests each of these parties would have had about 650 acres, which they get subdivided at the infinitessimal cost of 6d. an acre, including all living-expenses for eight months. I do not think I need delay the Commission by saying anything more, but I thought it might possibly come within the province of your investigations to afford opportunity for clearing up a matter that has exercised the minds of a great many people interested in Native matters, and one in which the Natives feel they have just cause of complaint. I can assure the Commission that everything I have stated with regard to the Awarua Block is strictly correct. I have to thank the Commission for giving me permission to make this statement.

Mr. Rees: The Commission is very much obliged for the evidence given and statements made by the gentlemen who have appeared before us this morning. If the Europeans have now finished, we shall be prepared to hear what further the Natives may have to say.

Paora Ropiha: I will finish now what we had to say yesterday. Something, however, was omitted by my friends yesterday. I think some clear law should be set up with regard to the unworkable surveys that the Government have made of our lands. The Government have carried on surveys, and paid the cost of them, and then the Government wait for a couple of years to be recouped. Then, if the Government does not get refunded within the two years what they have paid for the survey, they cut off some portion of the land, and thus pay themselves. I think that the people who own the land should be the ones to order the survey, and the people so ordering should pay the cost of their own survey. I wish to say something also with regard to railways. A great deal of our money is ignorantly wasted in connection with these railways. There should be two sets of railway-tickets, one printed in English, and the other in Maori, so that the Natives would know what they have to pay. They may be charged 7s. or 9s., and they have no means at present of testing whether the proper charge is made or not. That is the reason why I think the fares chargeable should be put both in Maori and in English. Now, continuing this subject of the railway, four Natives in Hawke's Bay have been killed by it, and recently a Maori woman was killed by the railway, which seems to be managed differently in Hawke's Bay from the manner in which the railways are managed in other parts of the country. There is greater care taken here for the safety of sheep than for the security of human lives. I wish to speak of this subject, because in no other part of the country are the railways conducted as they are in Hawke's Bay, and I bring up this matter so that the Commissioners will be able to say something definite with regard to this question of the railways. This is all I have to say about that.

Mr. Rees.] We have only a limited time at our disposal, and we want, therefore, to know whether the people who spoke yesterday, and who were to meet last night for consultation, are going to reply on the incidental questions?—They will follow me. I am the concluding person on this matter. There is another thing that I wish to refer to, and that is in relation to our young girls. They are frequently abducted, and married by the Registrar away out of their parents' sight. I think some law should be passed with reference to that matter. Notification should be given some six months before the marriage is to take place, so that the parents may know what is intended. I have also to state, with regard to the wills of deceased persons, that if a person prepares a will for another, no one in the hapu of the deceased should be any party to it, or write it. The leading chief of the hapu should see to it, and some Judge should be the witness. There should be no secrecy about it.

Piripi Make: The matter I desire to bring before the Commissioners is with regard to a block of land that was reserved. It was included in some land given to us. Maungaroa is the name of the block. There are three subdivisions of that block. One portion of it went to Mr. McLean, Campbell had another portion, and Watt the third. The arrangement with Watt was that he should return the Natives a portion of that which he bought, as a reserve; but we have not got that portion. We got our reserve out of Campbell's portion, but not out of Watt's.

Mr. Rees.] This is exactly the class of cases which would come before the Court which we intend to propose should be set up. The Maoris would then bring all such cases before it?—I wish, then, to speak with respect to deceased persons, and the relations who apply to be successors of the persons deceased. At the adjudication it was found that these people had the right to be so appointed, and the Court issued an order accordingly in their favour. But, although that order was issued, it has transpired that there is really no land at all. I will explain why it is that the Court says there is no land. These deceased persons had the right to the Maungaroa Block at the time it was adjudicated. The Judge did not give any reason why there was no land there for the Native successors.

Horiana: I also wish to offer a word of explanation with reference to this matter. I appeared before you, Mr. Rees, and Jury, about this matter some time ago, seeking what was the interest of Peti te Owai. She went to Whatahoro (Jury), and went to the Registry Office, and found the shares all right. We made application to have the case heard.

Mr. Rees.] There is a number of cases like that, which I was not able to look after when I went to Gisborne. We are going to propose that a Court shall be set up which shall take all these cases and go right through them from beginning to end and finish them. Then it will go through all these things, sitting in the various places, calling all these people up, examining the deeds and seeing what is right, and making orders about them. If that Court finds that Peti te Owai did not sell, of course she will have to get her share?—In the beginning, when these sales were commenced, we, the children at the time, did not understand this selling business.

Mr. Rees: The Commission does not want to stop Horiana or anybody else from stating a grievance, but we have already made up our minds to ask that for these cases a Court shall be constituted to hear them. So, if a dozen persons were to come before us it does not make any difference. We are already going to do what I have indicated. Then the Maoris will get full notice that the Commission for the purpose is appointed, and they can then bring their cases before the Commission.

Henare Matua: I wish to speak with regard to the agents who have appeared before the Commissioners. I am not at all clear that these people should give indications as to what laws should be made for us. The position is this: that they appear in our cases in Court. We have Captain Blake and others engaged to conduct our cases, and for this reason I do not see that they have a right to state what laws should be made for us. I do not think it is a matter which concerns them, seeing that it is not a question of the Government passing a law to deal with them. The cases are ours, and it is we who ask Captain Blake to appear for us in the Court. With regard to what Mr. Grace has said, I know him. He belongs to Ngatimaniapoto. Mr. Grace is satisfactory in what he said, but there may be some other reason in it with regard to Ngatimaniapoto than that which appears. Perhaps Grace and the Ngatimaniapoto will make application to the Parliament. That is all I have to say about that. I am now going to make clear to the Commissioners our views with regard to certain questions that were asked. There were eight questions submitted, and the matter was considered last evening by the Committee, and the replies they have to furnish. The replies they will have to give will not be from the Committee alone, but from the whole of the Committees on the East Coast. That is why the Committee think some little time should be allowed them to consider their replies, so that all the chiefs of Ngatikahungunu can join in and confirm what is agreed to. When the people of this part of the country have assembled, and these things are submitted to them, it can then be known that this is the opinion of those people. The one portion that they have come to a definite conclusion upon is that the Native Committees should be furnished with extended powers, enabling them to adjudicate upon their land: that is because the Natives have had injustice inflicted upon them through the operation of the Native Land Court. And the Natives now think they should have this power given them, so that they may deal with their own affairs. The Native Land Court has been in operation for a great number of years, and no good has resulted to the Natives from it: that is the first point that is laid before the Commissioners. But the other questions will be considered when there is a great assemblage of the people of Heretaunga and Wairoa. This is what I rose to explain to the Commissioners.

Pene te Ua: I wish to state that I uphold the two subjects that have been mentioned to the Commissioners to-day. The first thing that we object to is what the Native agents have said in the presence of the Commissioners, because we, the Maoris, do not think all these agents should lay down principles to the Commissioners on which laws should be made. What the agents can talk about is as to their fees—whether they should not be reduced. But the question of the land belongs to the Maoris. That is why I object altogether to the Native agents saying what sort of laws should be passed, and particularly so when this new thing has come before us—that is to say, the Commission which has been specially appointed to elicit our views. I do not see why agents or lawyers should appear before the Commission and say what laws should be made. I wish to bring to a close what I have to say upon that subject by stating that a great number of Natives will indorse what I have said. I wish now to speak about what Henare Matua referred to—that is, the matter which is now under the consideration of the Committee; and I support what he mentioned in that connection. There is a great number of chiefs in this district that have not been present. They are absent from this place. That is the reason why I support what Henare Matua said about having the subjects which you submitted to us relegated to a large meeting of the people. The chiefs will sign their replies to the questions that have been submitted to them by the Commissioners. That is all I have to say upon that point.

Mohi te Ataihikoia (Chairman of the District Committee): Salutations to the Commissioners! I am very pleased and glad at this new work that has been done by the present Government. The first thing I would like to say would be to ask the Commissioners not to give effect to what the Native agents said here to-day with regard to having laws made, because what they have recommended to the Commissioners is the very thing that the Natives themselves are complaining about. That is, then, the reason why I think the Commissioners should wait until they know what

the Natives of this district have got to say. The subjects mentioned by the Commissioners, and referred to by Henare Matua, will have to be considered by the Natives. That is what I have to say in support of that. Another reason that has influenced me to stand up and speak is that, although the Commissioners have stated that another Commission will be set up to inquire into matters of complaint on the part of the Natives, I should like, notwithstanding this, to refer now to a special matter. I support what has been said about the people having their shares in the land cut out before leasing or selling, for my opinion is that there should be no individual dealing until subdivision has taken place. I wish now to explain to the Commissioners about a certain block of land in connection with which there is a great deal of difficulty. It is named Waimarama. There are three blocks—Waimarama, Okaihau, and Waipuka—blocks under lease to Mr. Moore. A new lease was negotiated before the old one expired. Donnelly was the man who instigated the new lease. Before the original term had expired he tried to get a new lease for himself; and then dissension and confusion took place among the owners. Minets Hagon, and the others went away on Donnelly's suit. In consequence of this confusion, the lease was not concluded. Then, afterwards Donnelly applied to the Native Land Court for a subdivision, the total area of the land being 35,000 acres. Donnelly got 30,000 acres, and 3,000 acres were given to the people. After a good deal of fighting in the Court, Donnelly's lot got 25,000 acres, and my people, who were the majority, got 10,000 acres. I did not agree to that subdivision of the Court, and I applied, therefore, to have the case reheard. I represented the majority of the owners. My application for a rehearing was not agreed to by the Chief Judge, and I then carried on my application to the Supreme Court. An arrangement, however, was come to between the parties, the result of which was that, with the consent of the Chief Judge, a subdivision order was made by the Native Land Court, and the land went back to its original state, in which it is now. When it reverted to its original state, Donnelly wanted a renewal of the lease. After this, a new lease was granted to Thomas Moore by me. There were three years of the term of the old lease remaining unexpired when we got the new lease prepared. Assuming friendship, the Donnelly party joined in this lease, but after it was executed they started an action which had the effect of preventing the rents from being paid, and this, too, after they had signed. We have not received any rents, in consequence, since the time of signing the new lease. There is £8,100 of rent now due to us, and we cannot get sixpence of it. Donnelly and his lawyers have taken such steps as have had the effect of preventing that money being paid, and during the interim he is seeking to purchase the shares of the Natives who are interested.

Mr. Rees.] Has there been a petition before the House of Representatives about this matter?—Yes.

The best thing for you to do will be to have another petition sent down before Parliament meets next month, asking Parliament to look into the former petition as well. Then we can report that the matter has been brought before us, and we can say that, although it is impossible for us to deal with it, yet we recommend Parliament to at once take it in hand, and have the matter settled properly. That will strengthen your petition?—That is why I mention the matter before this Commission, so as to strengthen my hands.

We will report the matter to Parliament, and ask to have it finally settled. I understand that Mr. Carroll, your member, has brought this case twice before Parliament already—that is to say, in two separate sessions. He was enabled to get a clause passed in one of the Acts, which prevented injustice being done; but then the other side got another clause in which neutralised part of that which Mr. Carroll was doing. But we shall recommend to the Government and to the Parliament that they shall not be humbugged by false dealing in the matter, but that light shall be let into it, and that what is right and proper shall be done. And we shall recommend the Parliament also that, wherever the Commission finds persons are interesting themselves to sow dissension for their own purposes, the Commission shall have power to punish them right away?—That is the reason why I have mentioned this matter to the Commissioners.

Perhaps it would be better not to say any more about it, lest it be said we are taking a side?—We have been praying for a subdivision time after time, and we cannot get it.

Arapeta Meha: I wish to say something to the Commissioners. I support what Pene te Ua said—that the Natives should have time to lay their views before the Commissioners with regard to the laws affecting them. We do not want the half-castes or agents to lay down laws for us.

Captain Blake: Half-castes are as much Maoris in the eyes of the law as the Maoris themselves.

Mr. Rees: That is so.

Arapeta Meha: My remarks apply to agents in conducting cases. Of course, Captain Blake is an agent conducting cases in the Native Land Courts that sit in Heretaunga. What our earnest conviction is, is that the agents should be dispensed with, and that the owners of the land should conduct their own cases. As it is, we are suffering a good deal from the action of the agents. There is more money paid away for the services of these agents than is absorbed in the payment of the Court fees. Should a lawyer be engaged in one of these cases it would cost about £5 a day for his services. It is not as if it were through the agents that the claims were established.

Mr. Carroll.] What you mean, then, is that you object to agents?—Yes; that is what I mean. There is one part of what Captain Blake has said that the Natives here are sore about, and that is his recommendation that the Native Land Court should be empowered to cut land off in order to pay the agents' charges. The Native agents should only have the ordinary remedy at law for their claims. Let them sue in Court in the ordinary way any person who has engaged them, and to whom they have rendered a service. That is what I think: the agents should be paid in money, not in land. Another matter upon which I wish to make complaint is as to the removal of the Tapaeru Flag-station on the railway-line here. I hope it will be re-established. Its removal is a

great hardship to the Native people here, who have frequently to come into Waipawa at night across the bridge to the station here. Many invalids are put to great trouble and inconvenience on that account. When the flag-station was used it was a very great convenience.

That is a matter that is in the hands of the Railway Commissioners themselves. Application should therefore be made to the Railway Commissioners, who are specially appointed for looking after the railways of the country?—That is satisfactory.

Then, all that the Natives here have decided on is that they approve of the Native Committees, and that the other matters are left in abeyance at present.

Emeri te Whetu: Salutations to the Commissioners, who are carrying out their duty under the guidance of Providence! I want to show you a map in reference to the matter that I brought before you yesterday.

Mr. Carroll: The Commissioners will recommend that a Commission be appointed to investigate all these matters that are in dispute.

Hiraka ti Rongo: The chiefs of Ngatikahungunu have spoken for their own part of the country—the East Coast—and with regard to their own particular grievances. I told the Commissioners yesterday of the injustice that afflicts the Native people of my district. I ask that some scheme should be devised to remedy the evils that have been complained of. I have no bad feeling towards the agents who appear in the Native Land Court. If the Commissioners see anything worth their while to take notice of in what the agents have said, well and good; let it be availed of. What I apply for is that good may be done. My lands are very extensive. The evils that the Ngatikahungunu complain about have not reached my part of the country.

Mr. Rees: We have met the people here with a very great deal of pleasure, and we have also listened with pleasure to what they have said, because it was evidently the expression of their own thoughts. Now, we shall have to render a report to the Governor, because the Government have to prepare these new Acts; but, while rendering our report, we will tell the Government that there are communications to come to us from various quarters from the Native chiefs, and that if, when we receive such communications, not only from Te Rawiti (East Coast), but from other places, we see any reason to alter our report in any way, we shall do so. I do not think we shall alter it, because we have been round among all the Maori tribes, and have also gathered the sense of nearly all the Europeans who know anything about the matter. We have heard from all the great tribes so far, and now that the Hawke's Bay people have spoken we go on to-morrow to meet the Wairarapa Natives, and on Monday to meet the Natives at Otaki; so that we may understand what the Natives complain of generally, what they wish for, and what they think to be advisable. In respect of all the great matters they are wonderfully agreed—both Europeans and Maoris, in fact—on matters of importance; and the things in respect of which we have yet to hear from any of them are only matters of detail. We shall go carefully through the evidence which has been given, so as to get the main principles on which they all agree, and we shall submit them to the Government and to Parliament. In the meantime the Maoris may be certain of this: that the Government and the Parliament are anxious to find out a proper road, and then to walk in that road. Everybody is tired of this long succession of difficulties, and expenses, and troubles, and scandals; and the people at large are determined to go down to the foundation, so as to understand the whole concern, and start afresh. Now, Pene te Ua, and the other chiefs of this district with him, must see that their recommendations are sent to us as soon as possible.

Pene te Ua: There are three points on which I want to reply: First, that I think it would be advisable that the Commissioners should direct the Commission of which they have spoken to appear before the Natives. In the second place, I am very pleased to hear Mr. Rees's statement that the Commission will carefully consider the evidence they have taken, and will base their report on it. I express my gratification at that. The third matter I would like to mention is with reference to what Hiraka said to the Commissioners. To that I say there is no separate law for Ngatiwhiti or for Heretaunga.

Captain Blake: I may just be permitted, before the Commission adjourns, to mention that the Maoris had made a contract with a private surveyor to survey the Manawakaitoi and Waikopiro Blocks for a sum of £840, this arrangement being made by a number of the people and the Chairman of the Committee. The Government, however, would not grant authority for this, saying that they would undertake the work themselves. They did so, and, as a consequence, the Natives were charged £1,200, while the work was not as well done as it would have been by the private surveyor. I produce the Government plan for the inspection of the Commission. [Survey-plan produced, showing only the external boundaries, and giving no indication as to the internal features of the land.]

GREYTOWN, WAIRARAPA, 8TH MAY, 1891.

In conformity with previous arrangement, the Commission sat in the Foresters' Hall at 9.45 a.m. to meet the Natives of the Wairarapa. Present: Messrs. W. L. Rees, M.H.R. (Chairman), and J. Carroll, M.H.R. There was a fair attendance of Natives.

Mr. Rees: The Commission has come here in accordance with a promise that was made to meet the people of this district in their own home. We have now been to all the tribes—from the Ngapuhi down to this part of the Island—from the head of the fish right down to the tail. There is only one other section of the Native people that we have yet to see, and this section is a part of the Ngatiraukawa Tribe, who are at Otaki along with Kemp and Taipua. These people we intend to see next week. After that the Commission will have been to the whole of the Maori people, and will have seen them face to face. We are aware that a portion of the Committee of this district were sent to Wairoa some time ago to attend the Native meeting there. And we also understand that the resolutions which were arrived at by the Wairoa meeting substantially express the feelings of the people here. Of course you may have some local matters, such as complaints about lands,

like those complaints in reference to the Wairarapa Lake which have just been inquired into. Cases like this affect the people here only; but, in regard to the principles which affect the whole of the Maori race as to what ought to be done with their lands, we understand that those resolutions, passed at the Wairoa meeting, express the views which the Native people here entertain. We therefore leave it to the people to take what steps they think wise in relation to bringing matters before us, hoping at the same time they will not fancy that we wish to cut them short in speaking, but that they will condense what they have to say within reasonable limits.

Mr. Carroll: We do not desire to check the Natives who may wish to address us, but they need not be unnecessarily long. Mr. Rees has explained generally the reason why we are going about the country, and it now rests with you to bring up any local matters you desire to speak about.

Piripi te Maari: I wish to express my satisfaction with the explanation which the Commissioners have given with regard to their travelling throughout the country, and in relation to their present visit here. I desire to reciprocate the feelings you have uttered in desiring to become acquainted with the views which we hold on the subjects committed to you for your investigation. You are the persons who were appointed by the Government to go through the country and investigate the matters relating to the Natives; and, as you say, only one district now remains unvisited—Otaki—which when you have visited your work will cease. All that the Natives of the Wairarapa district have to say to the Commissioners is to make known to them the subjects dealt with by the Wairoa meeting, and the result of the deliberations which took place there. The whole of the Native people within the boundaries of the East Coast assembled at Gisborne or were represented there. Our own people were there, and they joined with the others in laying down such principles as, in the general opinion, ought to be adopted for the benefit of the Maori race. The chiefs, the men of learning, the Committees, and capable persons of all degrees were present at that meeting. Te Whatahoro and myself were also present at that meeting, and all the subjects dealt with thereat are completed, and we have brought the results here. Now that you have come here to-day in the prosecution of the work for which you were appointed, we shall place in your hands the subjects dealt with at the Wairoa meeting, and we ask you to look carefully into them, and to have them presented to the Houses of Parliament during the forthcoming session. That completes the explanation I had to make to you. We wish prosperity to all of us who are engaged in promoting this work.

Tunuiarangi: I have very little to speak about to the Commissioners. We have received the various subjects of discussion for which the meeting at the Wairoa was held. So far as I am able to see, the subjects dealt with by that meeting in relation to the important matters affecting the Islands are similar to those to which the Commissioners have referred. There may be some minor points that have not been touched upon, but those who were investigating the subject will be able to ascertain and point out what they are. My reason for standing up before the Commission is merely to say that I consent to what was adopted at that meeting. That meeting at the Wairoa was a large and representative one of all places and of all the tribes in the constituency of the Native member for the East Coast; and after a good deal of consideration certain resolutions were adopted, in respect to which it would now be difficult and unbecoming for the few to keep outside. There may, perhaps, be another Native meeting, in some other part of the Island, at which the Maoris will be seeking out some plans for adoption with respect to Native affairs. In my opinion the subject is a very difficult one to deal with, because there may be a great divergence of opinion among the various tribes—the Ngapuhi, Ngatimaniapoto, Wanganui, and the people in this district; but, so far as I can judge, what has been agreed upon at the Wairoa meeting is suitable to all parts of the colony. Therefore I express my satisfaction with it, and perhaps at some other meeting, if anything has been omitted, it may be found out and supplied. That is all I have to say.

Hamiora Mahupuku: Prosperity to the Commissioners, prosperity to the interpreter of the Commissioners, and prosperity to their secretary! I wish to address the Commissioners in relation to what took place at the Wairoa meeting. What took place there was published among us; and when the resolutions of that meeting were made known, the people of the Wairarapa assembled together. Upon four of the subjects dealt with at that Wairoa meeting I wish now to speak. The first is the matter of the District Committees; the second is as to the Committee dealing with the equitable disposition of land; the third subject is with regard to the appointment of trustees for minors; and the fourth is with respect to thirty-year leases of land to Europeans. Let me make known my thoughts upon subject No. 2. What I have to say upon that subject will refer only to the lands in the Wairarapa district. In this district the Natives have their boundaries settled, and their individual portions are known, and the Natives are occupying the land in a similar way to that which obtains amongst the Europeans. The Native Land Court sat for two years in this district, and carried out the various subdivisions. All that remains to be done, therefore, is the surveying of the individual portions. For that reason I do not think there is any necessity for the Native Committees to act here, as each man's portion of land is known. That is why I thought it but right to put this matter clearly before the Commissioners, so that they may be fully aware that our individual interests are known and are subdivided. We are not now in the position that formerly obtained, when twenty or thirty people were in the certificate as holding undivided interests. For such cases as that the Committee would be the right thing. With regard to the interests of minors, I think that the people whom the Court appoints as trustees for minors should have absolute authority. At the Wairoa meeting it was said that the Chairmen of the Committees should consent to the manner in which the minors' interests should be dealt with in leasing or otherwise, and that they should have the power of vetoing any action of the trustees if they thought it necessary. I think that the law passed by Parliament and in force at the present time is a proper one, because the person who is appointed is known as the Public Trustee. He has to look after all these matters. I think that the existing law, affording protection to Natives in the disposition of their lands, is quite sufficient, because it is seen by that law that provision is made that a Native does not part with the whole of his land. That is the reason why, in regard to this district, wherein all

the surplus Native lands are leased, that I hold the view I have expressed in relation to the subject of Native Committees. There is really nothing here for a Committee to do. It is only right and proper that I should lay this matter before the Commissioners, because I myself am a landowner. My individual interests in the land are ascertained, and if I wish to lease to a European I am in a position to do so, for I am a person of experience and knowledge, and I know, therefore, how to regulate terms and conditions with the European. The members of the Committee could act for that class of people who are incapable of managing their own affairs. Now, with regard to leases being for terms of thirty years: It is said in reference to this that, if the lands are within the town, the lease should be for a term of seven years; if the land is situated two miles away from the town, the terms of the leases should be fourteen years, and up to a limit of thirty years. What I wish to say upon that point with regard to my own land is, that I do not propose to lease my land to Europeans for thirty years, but merely for twenty-one years, or for fourteen years, or seven years, or three years. There may be some good work for the Committees to carry out in those parts of the country where there are great numbers of owners in the land, and where these lands are not individualised among the Native owners. Now, in regard to the work of the Committees in investigating the title to Native land, it is said that the Committees to investigate these titles should be selected from the Natives in the district in which such land is situated. Well, I am not clear with reference to that. I am rather inclined to think that the services of outside Committees should be obtained for such work; and my reason is this: that the whole of the Natives in a particular district would be connected by ties of relationship, even if there were five generations removed. Consequently I do not think the Natives of the district should investigate the claims to land in that district in which they are residing. As an illustration of the force of this contention, I would point out that the Native Land Court does not avail itself of the services of an Assessor residing in any district in which land is to be dealt with, but obtains the services of Assessors residing in other parts of the country. The reason why it pursues that practice is this: that, if an Assessor was obtained to assist the Court in dealing with lands situated in his own district, it would at once be concluded by the Natives who were interested that he would be influenced by feelings of partisanship, and that consequently he would not act impartially. I think, therefore, that the Committee which should deal with any Native land in this district should come from Wanganui, Taranaki, or some remote place. That is all I wish to say to the Commissioners. I did not attend the meeting at the Wairoa, because I did not receive notice; but others of us who did receive notice went there.

Te Whatahoro: I stand up for the purpose of laying before the Commissioners what took place at the meeting at the Wairoa. Before I enter upon my explanation of the subjects dealt with there I should like to make a few remarks. Notice was received from the people in the Wairoa that their meeting would be held on the 26th February last. All the Natives of the Wairarapa thereupon assembled in the Fire Brigade building at Greytown, to consider whom we should send to that meeting. The notification of the meeting came to us at the time that we were engaged in the Native Land Court that was sitting here. Ngawakaakupe was the name of the block that was being investigated at the time. We therefore decided that the people of the Wairarapa could not attend that Wairoa meeting, owing to their being so busily engaged in the Native Land Court. But it was suggested to the chiefs of the Wairoa that it might be possible to have their meeting adjourned. Subsequently some of us went to Wellington, and we there heard that Wi Pere would agree to the Wairoa meeting being adjourned as we had suggested. Then we received a second notice, informing us of the adjournment of that meeting to the 9th April. The Committees of the whole of the Wairarapa district accordingly held another meeting, to ascertain who should be the persons who should attend that meeting at the Wairoa, and what were the subjects that should be brought before it. All the matters to be brought before the Wairoa meeting were fully discussed, and were written down, and finally it was decided that Piripi and myself should go as representatives to the Wairoa. It was also arranged that if the Ngatiraukawa or Wanganui should likewise hold a large meeting these same subjects should be submitted to them, and that Tunuiarangi and others should attend at such meeting as our representatives. That was the clear arrangement arrived at by the Wairarapa Natives. I have also an observation to make with regard to what Hamiora has said. It is quite correct that he did not join in that meeting. He was unavoidably absent. I shall now proceed to read out the resolutions that were passed at the Wairoa meeting.

Mr. Rees.] How many people do you think there were at the Wairoa?—According to the calculation of the newspaper writer who was there, there were about four thousand men, women, and children. In my own opinion, the number of men there was over a thousand. Included in that number there were fifty of the Urewera, who took part in that meeting. Then, from the Ngatiporou country, extending southwards to Mohaka, there were a hundred and fifty. Of the Ngatiporou at Mohaka the greater number of the men attended the meeting; the women and children returned to their homes. The tribe that was unrepresented there was the Ngatikahungunu, from the Heretaunga district.

Mr. Rees.] We met them at Waipawa, and, although they were willing to act, they were all in confusion as to what to do, because they had not attended the meeting at the Wairoa. They are going to send us the result of their deliberations?—On the 9th day of April the business of the Wairoa meeting commenced, and at the outset the course pursued was to select two or three persons from the different tribes to sit as a Committee. The number of persons so chosen amounted to forty. The subjects that I am about to refer to were those that were considered by this Committee of forty. The proceedings were opened by the reading of the notice that appeared in the newspaper with reference to the Commissioners who were then travelling throughout this Island.

These, then, were the resolutions that the meeting finally arrived at and passed:—

"1. That the name of the Court shall be the District Native Land Court.—Passed.

"2. That the Chief Judge of the District Native Land Court shall preside in virtue of the powers he now holds as Chief Judge, and in like manner as he has hitherto done prior to this law, having the same full powers, notwithstanding alterations in the law hereunder made.—Passed.

"3. The Chief Judge and Judges of this Court shall choose the most intelligent, well-informed, sober, and exemplary men to be Assessors—men who will not be guilty of those objectionable practices not unknown to the Assessors both of this Island and Waipounamu. The Assessors to be associated with the Chief Judge only in carrying on his investigations or his inquiries into applications for rehearings or such other investigations by Commission ordered by the Chief Judge or the Government in pursuance of the public necessities of the colony in relation to Native lands, the duties of such Assessors, Chief Judge, and Commission being more specifically set forth hereinafter.

"4. Six competent Assessors to be selected from the Assessors of the colony, or the whole tribes of the two Islands.—Passed.

"5. All such Assessors to be paid an annual salary, the Government, together with the Chief Judge to determine the rate of annual remuneration.

"6. Should any Assessor be guilty of improper conduct, drunkenness, or show partiality to any of the suitors in cases before the Court, or any investigation or Commission of Inquiry, such Assessor to be removed from his position and a substitute appointed.—Passed.

"7. Should the Chief Judge of this District Native Land Court preside over any case, let there be not less than two Assessors sitting with him to hear the case that is being adjudicated upon or the subject of investigation.

"8. The Chief Judge of this District Native Land Court may adjudicate upon any claim submitted to him by the Committee for investigation claims; such applications to be sealed with the seal of the Committee, or to be signed by the Chairman, together with an explanation by the Chairman as to the grounds of the application or claim, whether or not such application or claim relates to land in the *papatipu* state, land for subdivision, or to cases where successors are to be appointed. The District Committee of the Court, along with the Chairman, to be the proper parties to deal with such cases as are mentioned in clause 8 of this law.

"9. In investigations only of applications for rehearings shall it be proper for two Assessors to sit along with the Chief Judge of the District Native Land Court.

"10. No applications made by any person or persons to the Chief Judge of this Court in relation to *papatipu* lands, subdivisions, or succession shall be dealt with. All such applications for adjudicating upon *papatipu* lands, subdivision, succession claims must be sent to the office of the Chief Judge of this Court or to such place as the Chief Judge may determine. Upon the receipt of all such applications by the Chief Judge he will forward them to the Chairman of the Committee of the district for investigating claims, and to which such applications as aforesaid relate. The same mode of procedure in reference to applications to be observed throughout both Islands. The Chief Judge of the Native Land Court shall appoint such time as he may think fit for the members of the Committees for investigating titles to meet in their respective districts hereinafter to be specified.

"11. Upon applications for adjudicating claims, such as are specified in the preceding section 10, being received by the Chief Judge of this Court, he will transmit them to the Chairman of the Committee of Investigation, to be considered by his Committee. The Chief Judge of this Court to publicly notify the date upon which the Chairman and the Committee of Investigation shall consider the nature and circumstances of all such applications, whether the same relate to *papatipu* lands, subdivision succession, cases, sales, leases, surveys, mortgages, wills, and all such similar subjects of contention, forming the subject-matter of applications to the Chief Judge. The names of applicants shall be published, and the nature of their applications, together with the intimation setting forth the name of the place where, and the month and the day when, the Committee of Investigation shall proceed to consider the nature and purport of all such applications submitted to it.

"12. Applications for rehearing *papatipu* claims, claims for subdivision, and succession, not included in the provisions set forth in clause 10 of this law, shall be dealt with by the Chief Judge and such Assessors as he may choose to sit with him.

"13. On the Committee for Investigation having completed their inquiry into all matters pertaining to applications as set forth in clause 10 above enumerated, the proceedings should be permanently recorded in writing in the Committee's records, and in duplicate, one copy to be forwarded to the Chief Judge for his information and the information of the Judges of the Court and the Committee of the Native Land Court of the district, one copy to be retained in the office of the Committee of Investigation as a record of the proceedings.

"14. All such applications as are enumerated in clause 10 of this law, approved by the majority of this Committee as correct, shall be signed by the Chairman, who shall affix his signature to each application, certifying that himself and the Committee are satisfied. After the seal of the Committee has been affixed to all such applications, they shall be declared as finally passed. The Clerk of the Committee shall record the Committee's decision in the minutes of proceedings, quoting the number of each application so passed, together with the numbers of all such applications as are not indorsed or approved of by the Committee. The Chairman shall note that all such applications are not approved of by the Committee, signifying the reason why the Committee disapprove. All applications so disapproved of shall not have affixed to them the seal of the Committee.

"15. When the Committee for inquiring into all such claims for investigation of cases as set forth in clause 10 of this law has concluded its proceedings, it shall be proper to transmit to the office of the Chief Judge one of the duplicate copies referred to, together with all the applications forwarded by the Chief Judge to that Committee, including all such matters as are comprised within the *Gazette* notice. The inquiry, and the duty of the Committee, shall then be deemed to be determined and concluded.

"16. Thereafter it shall be the duty of the Chief Judge of this Court to forward the applications, so signed by the Chairman of the Committee of Investigation of Claims, and sealed with the Committee's seal, and duly approved, to the Registrar, to be gazetted, in like manner as applications are gazetted for the Native Land Court, now known as the District Native Land Court.

"17. It shall also be notified in the *Gazette* notice referred to in the preceding clause, numbered 16, that the District Committee shall assemble, along with the Chairman, at the place named by the Chief Judge for the Court to sit, on a day arranged for the Court to open, for the purpose of adjudicating upon the claims published in the *Gazette*.

"18. The evidence of the claimants and counter-claimants, whether or not the counter-claimants have put in a claim, shall be all written in the minutes of the proceedings of the Court, clearly entering the evidence given by each person. When the evidence so entered is finished it shall be read over to the witness, to make any correction if necessary, after which he will sign the same in full, and the end of his written evidence. Each separate sheet of his evidence he must initial, doing so either at the top or bottom of the page. He must also initial any alterations that may appear. This course to be pursued with reference to all witnesses giving evidence before this. Let the Judge certify as follows: 'That the evidence has been read over to the witness, and corrected by him, the Judge and the Chairman of the Committee of the District to sign the same.

"19. When the Committee have given judgment, the Chairman of the Committee shall make known to the Judge the result of the Committee's decision, fully and clearly, and the judgment shall be fully entered in writing in the Court books. After which the Chairman and Committee shall sign the judgment, the Judge signing his name at the end of the judgment, stating that he fully confirms the decision of the District Native Land Court on the day of at a sitting of the Court held at , before him. Hereto he will append his name in full.

"20. Before proceeding with the investigation of the case, the *Gazette* containing the notices of the claim shall be read out by the Judge or the Chairman of the Committee, as the Judge may deem fit. On ascertaining who are the counter-claimants, together with the chief claimants, to the block about to be adjudicated upon, or to any portion of the said block, thereupon they shall proceed to choose a Committee—that is, the members of the Committee having no interest in the land, or connected by close relationship with the parties to any of the cases. Such persons, if four or five generations removed, shall not be objected to on the grounds of relationship, nor be disqualified from being a member of any such Committee of Investigation of Claim. On this being completed the members of the Committee so chosen shall sign a document prepared by the Judge certifying that they are the persons selected by the parties to the various suits before the Court to adjudicate upon the particular claim then before the Court. When this document is executed, a person interested in each case before the Court shall assent in writing to the persons so chosen to adjudicate upon the particular claim before the Court and to give final judgment.

"21. The District Committee for adjudicating upon Native land, when proceeding to adjudicate upon a claim, shall not consist of less than two members, and, including the Chairman, making altogether three in number. Should the number, including the Chairman, be less than three, the investigation of title shall not proceed until the proper number to constitute the Committee is obtained, providing that the number on the Committee may exceed three.

"21A. The Judge shall have power to invoke the aid of any Committee, or the members of any Native Land Court Committee of another district, in which no Court is sitting at the time, to act on the Committee of his Court at the time he is holding his Court at the advertised place, whether in this island or the South Island.

"22. Should any member of the Committee be detected in showing favouritism, accepting bribes in money or goods from any person in order to pervert the judgment of the Court, or the evidence or the decision of the Court, or any other work of a reprehensible character, the Judge may thereupon and forthwith stay proceedings, and summarily investigate the matter; and, upon inquiry, should the Judge find the accusation proved, the accused shall be fined in a sum not less than £5, nor more than £25, together with imprisonment as the Judge may deem fit. Should the accusation against the member of the Committee, or the Committee itself, be found to be improperly made, let punishment be inflicted upon the person so making the false accusation.

"23. The Chief Judge of the Court shall, at his own discretion, and upon such grounds as he may deem sufficient, discontinue forthwith the services of the Committee of the District Native Land Court, or any member of such Committee, and have a new Committee elected in accordance with the provisions for electing members for the District Committee, as authorised by Parliament.

"24. The Chief Judge of this Court shall also have power to discontinue the services of the Committee for investigating Claims, and cancel all its powers, or dismiss any member of that Committee, at such times as he may deem expedient, and for such reasons as he may deem right and just, and have a new Committee elected, or make any alteration, or, at such times as he may think fit, he may remove any of the members of the Committee, and have, if he so desires, an entirely new Committee elected, or have new members elected as he may deem expedient.

"25. That there be six districts for the whole Island, three districts to be situated on the East Coast, and three districts on the West Coast, in which the District Native Land Court will sit, as well as the Committees for investigating Claims to Land for each of those six districts; the Government, along with the Chief Judge of this Court, to arrange and decide upon the boundaries of those six districts above mentioned.

"26. The Government and the Chief Judge of this Court shall arrange the day and the month for the election of a Committee or Committees, herein called the Native Land Court Committee and the Committee for investigating Titles; the name of the locality where the voting is to take place to be also specified.

"27. Existing Committees, appointed according to law, to cease exercising their functions. All Committees to be elected anew in conformity with the provisions of this law. The members of the two Committees above mentioned to be men thoroughly well versed in Native-land matters and Native customs affecting Maori lands, the Maori people, their hapus and tribes.

"28. The Judges to be appointed under this Act for this District Native Land Court to be thoroughly well-informed as to the nature of Maori claims to land and property, their rights and privileges, their chiefs, and hapus, and tribes, and also to be well versed in the Native language. The Judges to be so appointed not to exceed six in number, exclusive of the Chief Judge, who is not to be affected by the observations contained in the preceding portion of this clause.

"29. The said Judges to interpret all necessary things for the information of the Chairman and members of the Committee, such as documents, &c., referred to before the Court.

"30. The Clerks for such Courts not to be those speaking English only; rather should they be persons thoroughly well versed in the Native language, and competent writers; and duly licensed in accordance with the law for licensing Native interpreters.

"31. All documents relating to this Court to be in the Maori language. Certificates of title, memorials of ownership, and Crown grants, and all other documents affecting Native lands—let the main or principal document be the one in the Maori language, and the English version to be regarded as the copy. And in like manner should all mortgages, leases, sales, deeds of exchange, and all deeds of a similar character, concerning Maori lands, be prepared.

"32. One copy of all records of the full evidence of every case, and of the judgments in *papatipu*, subdivision, or other cases of any nature whatsoever brought before the District Native Land Court, the Investigating Committee, and the Commission Court, to be deposited in the Native Land Office, and a copy also to be left with the Chairman of the Committee for safe custody; each copy to be a true copy of the other in every respect.

"33. Should the case of any person or persons relating to *papatipu*, subdivision, or succession, put forward, not succeed in any Court, and application be made for rehearing, should that same case again fail before the Court of Investigation, it shall be proper for that case to bear the cost of hearing only. Should application be made to Parliament to have the case heard a third time, and the application be acceded to, and should the applicant again fail to gain his case, then it shall be right and proper that the said party should defray all such costs of the case as the Judge of this Court and the Chairman may consider fit to demand; and, further, to pay the costs of the successful party or parties in such sum as not to exceed £100 or be less than £25.

"34. The law compelling the payment of duty in a lump sum on Maori lands should be repealed, and, in lieu, the duty so chargeable should be paid annually, and at a reduced rate. The rate of duty chargeable for leases and sales to be £5 per centum, and not £10 per centum.

"35. The £1 fee charged and collected by the Court for hearing-fees to be reduced by the Court to 10s. for each case per diem, or for the time the hearing may take place. This does not include succession fees.

"36. The Government and the Chief Judge to defray the travelling-expenses of any Committee, or member or members of any Committee, to the locality where the sittings of the Court take place, if the Committee called upon reside outside the district in which the Court is holding its sitting. No such payment, however, to be made to the Committee of the district in which the Court holds its sittings. On the date on which the Committee is chosen to sit along with the Judge in Court it shall be proper for the remuneration of members engaged in the adjudication to commence, the rate to be 10s. per day, until they cease to act in Court, or until such time as the services of the Committee shall be dispensed with. The rate and conditions of pay for the Chairman of the Committee shall be the same as above.

"37. The power enabling lawyers and agents to appear in Court on behalf of Native Land Court cases should be revoked.

"38. The Government to arrange the amount of salary to be paid to the Chief Judge of this Court and to the other Judges and Clerks, and the Commissioner and Clerk, irrespective of Assessors referred to in clause 5 of this law.

"39. That sittings of the Native Land Court be held in Native centres of population, not in European towns. The Chief Judge of this Court to write to the Chairman of the Committee of the district and inquire from him the locality best adapted for sittings of the Court to be held, where a suitable building may be had. On intimation to that effect being received from the Chairman, the Chief Judge to cause public notification of the same to be made, stating the locality where the Court shall be held.

"40. The Government to have certain records prepared, seven in number, six being for this Island and one for the Middle Island, to be deposited in each District Court in which the District Native Land Court will hold sittings. Such records to be for the purpose of showing the acreage of the blocks in each district, as also of the other Island, held by each Native male and female, including half-castes, every such person to be included in these record-books; also maps of each block, showing the area of each block and the individual acreage of each person, that the residue left to each person may be fully known, and also that the quality of such land may be known—whether it is good land or bad—thereby enabling the position of each owner to be known, as to whether or not assent should be given to sales, leases, mortgages, or exchanges, or whether or not such persons have any other land left for themselves.

"41. The Government to consolidate all the laws bearing upon Native lands and Native properties, that the said laws may be all contained in one book, and published in the Maori and English languages. The laws to be so published to date from the year 1865, and continue until the year 1890.

"42. In leasing Native land to any person, whether Native or European, the term of such lease not to exceed seven years for lands within town boundaries, commencing at the main road in the town and embracing an area of eight miles. Lands further distant than eight miles from town, to be leased for no longer period than fourteen years, if it be not bush-land. Should it be all bush-land, or a large portion of it bush-land, the period of lease not to exceed thirty years. This is for leasing forest-lands.

"43. All payments for rents of Native lands leased to Europeans to be paid before the day when the lessor or lessors sign, and in like manner all through during the term of the lease: the rent to be paid in advance. Should one month after the due time elapse without the rent being paid, the lease to be cancelled, and the lessor to re-enter and take possession, and the lease and all its conditions and covenants be declared annulled.

"44. This Court is not to agree to any land being adjudicated upon when there is only a sketch-map of the land before it. Let the land be first completely surveyed, and the survey approved of, as also the map, by the Surveyor-General. Then the Court will be justified in proceeding with the investigation.

"45. All applications for survey to be sent to the head of the Survey Department for the district—to the Government office for each district in which the Chief Surveyors are located. Such surveyor to make a memorandum, and attach the same to the application for survey, and transmit the application, with his memorandum. to the Chairman of the Committee for investigation Claims, in order that the Chairman of that Committee, and the Committee itself, may be aware of the opinion entertained by the Chief Surveyor with respect to the application for survey submitted to him—whether the boundaries indicated in the said application are proper or improper, or whether any portion of the boundaries may be wrong; or whether or not the application relates to land already Crown-granted to some other person; or whether the land may not have been already alienated to some European or to the Crown.

"46. No applications for surveys from Natives or others to be acceded to under this law unless they are forwarded in the first instance to the Chief Surveyor of the Government. Should any application for survey be received by the Surveyor-General, and should such application be not forwarded to the Chairman of the Committee for Investigation, together with an explanatory memorandum in reference to such application for survey, then, and in such case, it shall not be right for any surveyor to proceed with such survey. No survey to take place in pursuance of any application made until such application shall have the seal of the Committee affixed to it, and be duly signed by the Chairman of the aforesaid Committee.

"47. All such applications, sealed by the Committee and signed by the Chairman, to be forwarded to the Chief Surveyor of the district to which the applications relate. The Chief Surveyor to forward the applications, and have them publicly notified in the *Gazette*. The surveyor prepared to undertake such survey or surveys at the lowest price to be employed to make the surveys applied for. Should the Chief Surveyor find that such surveyor was duly licensed, and competent to undertake the work, he shall be empowered to execute the survey at the price fixed. The prices mentioned by the surveyors at which they may be prepared to carry out the surveys to be submitted to the Chief Surveyor, who will choose the tender of such surveyor as he may deem proper.

"48. In the case of any land being surveyed, for which the Natives have made application, and to which the Committee for investigating Titles have assented, and also the Chief Surveyor, should a portion of the boundary of such land be between Government and Native land, or land belonging to any Natives other than the applicants, the boundary between any such person and the applicant for the survey should be paid for by the former party. Should it be decided by the Chief Surveyor of the Government that such dividing boundary-line may be adopted as correct, then and in that case the Chief Surveyor will furnish the surveyor with a correct copy of such surveys, accepted as correct, and with the intimation that such survey-line between the Government land, or land owned by other persons, and the land owned by the Natives applying for the survey, shall not be charged for.

"49. There shall not be less than two trustees for minors under this Act; such trustees not to be empowered to sell, mortgage, or lease the property for which they are trustees without sending notice to the Chairman of the Committee for investigating Claims, for them to consider the conditions under which it is proposed to deal with the land. Should the seal of the Committee, and the name of the Chairman of the said Committee, be not affixed to their written assent, it shall not, under any circumstances, be proper for such trustees to lease, sell, mortgage, or exchange the property held by them in trust. Nor shall it be proper for the Judge, under this law, to accede to the desire of the said trustees.

"50. All proceeds arising by the way of leases, sales, or mortgages of land belonging to children who are not of the full legal age to be left deposited in a bank for safe custody until such child or children shall have attained their majority. Should the trustee of any minor or minors declare that such funds should be invested on behalf of and for the benefit of such minor or minors, then and in that case the trustees shall furnish to the Chairman of the Committee for investigating Claims particulars in relation to such proposed investment. Should the said Committee approve of the proposal, their assent shall be duly sealed with the seal of the Committee, and signed by the Chairman; and thereupon it will be right and proper for the Judge of the Court to give his assent to the course desired by the trustees.

"51. For the constitution of this Committee, the Government will insert notices in the *Gazette* notifying the day and the month when the election of members shall take place. The members to be elected shall not exceed twelve in number, nor be less than five. Should the number nominated be less than five, no election shall be considered as having taken place, and a new nomination and election shall be necessary. After an election has taken place the members of the Committee shall proceed to elect from their number one who will act as Chairman.

"52. On the appointment of Chairman and the election of the Committee having taken place, it will be the duty of the Chief Judge of this Court to publicly notify the month and the day on which the Committee shall assemble to consider the applications sent to him, or applications for surveys sent to the Chief Surveyor of the Government.

"53. The said applications to be considered by the aforesaid Committee are as follows:—

"54. Applications in relation to lands in the *papatipu* state—lands over which the Native title has not been extinguished—applications for subdivision, succession, for the appointment of trustees for minors or for persons incapacitated, such as lunatics, idiots, or persons who, through extreme old age, are unable to prudently manage their own affairs. Applicants for the appointment of trustees for certain lands to be set apart, for the benefit of the tribe, for cemeteries, roads, forests, for land, for personal or real estate. Applications relating to the administration of estates, farms, the sales, leases, or mortgages of properties or exchanges. Applications for surveys for Commission Court inquiries. Applications for trustees—such as above referred to—to make advances of money. Applications for removing restrictions off land, and all other similar matters of a proper character to be dealt with.

"55. All such applications as aforesaid to be sent to the Chief Judge of this Court by the applicants. Applications relating to surveys to be forwarded to the Chief Surveyor, who will cause the same to be published in the *Gazette*. All applications as aforesaid to be sent to the Chairman of the Committee for investigating Titles; the grounds of such applications, published as aforesaid, to be inquired into, and the result thereof to be indorsed on the said applications.

"56. Parliament to appoint a Commissioner to investigate and adjudicate upon all matters of dispute existing between the Government and the Natives; also to inquire into and adjudicate upon all disputes affecting the Natives relating to sales, leases, and mortgages of past years, beginning from 1865 and down to the present time, 1891. That the decision of such Commission be as effectual and binding as the decision of the District Native Land Court.

"57. That all such causes of complaints be adjudicated upon and dealt with under the laws that existed at the time the causes of complaint arose in regard to Native lands, or at the time of the administration of those laws. The said Commission Court to ascertain if the requirements of those said laws have or have not been complied with.

"58. The Commissioner to be appointed to be a thoroughly capable man, well versed in the law, and also to be well acquainted with the customs affecting Native lands, together with all the rights and usages relating to the same. The Government to be able to avail themselves of the services of some of the six Assessors hereinbefore referred to, as associates for the said Commissioner, when appointed by the Government to hold a Commission Court in any of the districts already mentioned in this Island.

"59. All claims and all applications whatsoever made to this Commission to be adjudicated upon to be forwarded to the office of the said Commissioner, who shall send the same to the Committee for investigating Titles, who will carefully inquire into the nature of all such applications, and ascertain the grounds upon which they are made. When such applications are passed by that Committee, and sealed with the seal of the Committee, and signed by the Chairman, and have attached to them the decision of the Committee, they shall be forwarded to the Commissioner to have them published, together with a notification of the date when the Commissioner will sit to adjudicate upon all such claims as are passed and approved of by the Committee. Should that Committee discover that any application as aforesaid is of an improper character, and that the grounds for such application are not made clear, they will not deal with any such application, but will refer it to the Commissioner to be adjudicated upon by him.

"60. All these applications, shall, however, that are sent to the Commissioner, be forwarded for publication in the *Gazette*, and the month and the day notified upon which the Committee for investigating Titles shall assemble, as well as the applicants themselves. Should an applicant not appear at the place so fixed for assembling at, while the Committee are in attendance, the claim shall be struck out of the *Gazette* and dismissed.

"61. None of the amendments made by Parliament to the Acts of 1865 and subsequent years up to the year 1890 to have any force or effect before this Commission Court, because these amendments were made for the purpose of rectifying wrongful acts of officers, and of laws passed from time to time. That the work done from time to time should be judged according to the law that prevailed at the particular the alleged irregularity took place in regard to Native lands, from those times past down to the present year, 1890."

With reference to clause 31, which provides that all documents relating to the Court should be in Maori, I may explain that the necessity for it arose from the fact that very often the interpreters do not do their work properly, and occasionally are drunk. And, moreover, there is no confidence in the interpreters, because they may be brought to act in the interest of particular parties. But if everything is in Maori there could be no mistake or misunderstanding. If a Maori signs his evidence written in Maori the interpreter cannot be blamed afterwards. These resolutions really constitute a draft bill of sixty-one clauses. Then, the Wairoa meeting, in addition to the foregoing, also passed the following resolutions:—"This committee considers that if the tribes and their hapus on the West Coast or South Island do not approve of this law, it is well. Let the law be passed and brought into force for the east coast alone of this Island, that is—within the boundary of Kahungunu, commencing at Te Kaha-nui-a-Tiki and ending at the Whanganui-a-Tara. We, the people of this tribe, and our hapus, pray to Parliament and to the chiefs and councillors of both Houses of Parliament, to grant this request of ours, to give effect to our prayer, and grant us such a law as this we ask for our part of this Island. This committee are also of opinion that the three Commissioners at present holding office should draft the necessary law of this committee, that the various clauses and provisions of this law may be clearly set out. This committee is also of opinion that the three Commissioners now appointed, along with three competent Judges, to be selected from the Judges of the Native Land Court of this Island, should take the conduct of this Bill in hand, so that it would be successfully dealt with. The Judges should be conversant with the Maori customs and usages in relation to their land. This committee is of opinion that three Maoris of great knowledge, and thoroughly well informed, should be associated with these Commissioners and Judges to aid in the preparation of this Bill before it would be submitted to Parliament. Sufficient."

Then, upon another matter altogether outside those to which I have been referring, the Wairoa meeting passed a resolution that the Government should be requested to give power to the District Native Committees to try cases in which there is domestic trouble—where, for instance, a man leaves his wife, or a wife leaves her husband—as marital desertions are now becoming rather frequent. [At this stage Mr. Thomas Mackay arrived and took his seat.] It was also decided that power should be requested for the Committees to suppress drunkenness at their meetings, and powers to deal with social matters; to have powers also to prevent persons draining swamps, lakes, and so on—all this, of course, in relation to lands held under lease, or in respect of other Native lands, so that persons may be restrained from damaging the property. Those are all the points.

Mr. Rees.] Does any of the clauses which you read in respect of the leasing of Native land specify how the leases are to be made, and who is to make them—whether all the people are to consent, or whether the power of leasing is to be placed in the hands of a Committee?—Yes; it is provided for there. Then, there were some other separate matters dealt with by the Wairoa meeting, and added on. Thus: No Maori should be allowed to have more than £10 credit a year from tradespeople; should any tradespeople allow a Maori to get into debt to a greater extent than £10, it should be at that tradesman's own risk, and he should have no power to recover from the lands or chattels of the Maori. Neither sales nor leases should be allowed for the payment of debts. In the case of mortgages, purchases, or sales, that no debts already incurred should be taken into account. The resource that is open to them, at any time where they find fault with the Judge, the Committee, or the members of the Committee during the investigation of a case is that they shall report the same to the Chief Judge and the Government; and every such complaint made to them and the Chief Judge shall be treated as a serious matter by the Chief Judge, and not ignored. Another matter that the Wairoa Committee requested Piripi and myself to ask the Commissioners was, that they would be good enough to have the whole of the resolutions which I have just read out translated, and printed, and circulated throughout the country amongst all the tribes, and particularly amongst those of the East Coast, so that they may be made known throughout the Island, and so that the various tribes may be clear in mind as to what steps were agreed upon before they are submitted to Parliament. Another request that the Committee made was that printed copies should be sent them, so that they may have them distributed amongst the Natives of the East Coast. We also intend to send to the Commissioners a fair copy of what I have read out. I wish now to inform the Commissioners that Piripi and myself have finished our work in laying before you in detail what was done by the Wairoa meeting, and my desire is that the Commissioners will attentively consider all these matters, and that they will be able to recommend something to Parliament that will prove of immense benefit to the Maoris throughout the Islands. We are not in a position to alter any of the principles contained in the resolutions that I have read out; and the reason is, that what is set forth there was agreed to at that Wairoa meeting, which represented the Natives of the entire East Coast district. Add that to the report you have got, or will get, from your other meetings throughout the colony, and then choose from the whole what you deem to be best and wisest. The great desire that the Natives have is, that, as the outcome of your labours, the welfare and prosperity of the people, whatever their opinions may be—Hauhaus and others—may be secured and promoted. We entertain the same feeling likewise as regards the European population; it is our wish that their interests, equally with our own, should be protected and advanced. Although it is suggested here that a special Commission should be appointed to settle all those old matters of dispute, dating from the present time backward, still I think I may be permitted to take advantage of this opportunity to lay before you some matters in which I am personally concerned. One of the blocks of land that are in dispute between ourselves and the Government and the Europeans is the Wairarapa Lake. This dispute has been investigated by a Commission, and probably its report has been sent in. A block of land that has not yet been dealt with by the Commission is Moroa. It is land that formed the subject of a gift to the Queen. It was arranged at the time that if a township were founded on that land, or if special improvements were made on it by the Europeans, the Natives should get back one acre in every ten—this principle of tenths in respect of the land being adopted with a distinct view to the benefit and advantage of the Natives. Another stipulation made at the time was that, in the event of the land being sold, the Natives should have refunded to them 5 per cent. of the proceeds of the sale. Now, the land has been disposed of, and yet the Natives have received neither the proportionate acreage nor the proportion of money that was promised them. Another matter that I desire to speak about has reference to the college endowments at Papawai and Masterton. The land endowment at Masterton was made over by the Natives to the Bishop for the establishment and maintenance of a school, and yet, from that day till this, no school has been established. The only things that we see upon that land are sheep and cattle and so forth. There is no school there. So long ago as 1862 a school was started at Papawai, but it lasted for three years only. The master went to the other Island, and the school was abandoned. It happened that just at that time the Rev. Mr. Völkner was murdered by the Hauhaus, and the teacher became alarmed at this, and abandoned the school in consequence. The Native people at Papawai are now maintaining a school at their own expense. It is held in one of their own houses, and they pay the teacher's salary. We commenced in 1885 to appeal to the Government to let us have a school for our children. The Government consented, and they applied to the Bishop to give us 10 acres out of our endowment. Its area is 400 acres, and we asked that 10 acres should be returned to us for this purpose. Now, as to the whole of the revenue derived from these two endowments, down to the present time we are in perfect ignorance how it has been disposed of, because there has never been any statement of accounts. Even the schoolhouse at Papawai was put up by the Government, not by the Bishop. We now make application that there may be a boarding-school established on that land at Papawai, so that the children of the district and outside places can

attend it. We also wish the Bishop's control over that property to be cancelled, and that the control of these endowments may be vested in the Native Committee of the district, together with some officer whom the Government may choose to appoint for the purpose. That is all I have to say with regard to the school at Papawai. Some of their lands were sold by the people of Wairarapa to McLean at a low price, so that provision should be made for a revenue to them out of the proceeds. The particular reasons are set forth in the deeds of conveyance, one of them being a promise to establish hospitals for the benefit of the Natives, that the Natives would have free medical attendance, and that the Government would give to the Natives flour-mills, and that the old chiefs would receive pensions; and that, moreover, the Government would refund to the Natives 5 per cent. out of the proceeds of the land. Then there was a sixth stipulation—namely, that the reserves to be made would be for the benefit of the whole of the Natives interested in these lands, as well as large reserves for the benefit of Natives outside of those who had sold. These are the conditions included in those deeds. The promise as to the flour-mill has been fulfilled, and the portion of the arrangement relating to the repayment of 5 per cent. of the proceeds has also been fulfilled; but a portion of those conditions remains as yet unfulfilled. The stipulation with regard to the hospital has been entirely neglected, while the promise to provide free medical attendance has only been partially carried out. It has been carried out to this extent: that medical attendance was supplied by the Government for a short time, and then discontinued. The promise by the Government to establish schools for the special benefit of the Native children has been fulfilled to the extent of erecting a Native school at Papawai; but, with regard to the reserves there, the Government have altogether failed to execute their promise. This failure arose from the fact that those persons who sold land to the Government also sold those reserves that were set apart for the non-sellers. These are our troubles in connection with the Native land sold in this district. I do not include disputes with regard to lands in other places. The promises I have mentioned also apply in the cases of the Whareama, Turanganui, Turakerai, and Tauherenikau Blocks, and are set forth in the deeds of conveyance which were drawn up in respect of them. The stipulation with regard to the 5 per cent. relates to the Whareama and other blocks.

Mr. Rees: We shall have all these deeds searched. Then the Maoris can bring up block after block before the Commission, and have the transactions in respect of them thoroughly inquired into.

Mr. Carroll: We are precluded by the terms of the reference to us from going into these things now, but we can recommend the Government to appoint a special Commission to investigate and settle all existing grievances between Natives and Europeans or between Natives and the Government, dating back from this time to the time when these transactions between Natives and Europeans commenced, and that this settlement shall be a final settlement.

Te Whatahoro: I have now made matters clear, and concluded the expression of my views. The ideas of those who are concerned in and affected by these troubles are the same as mine. That is all I have to say.

Mr. Carroll: The Commissioners are very much gratified at hearing what has been said to them, because they have seen that a great deal of time, and attention, and careful preparation has been devoted to the subjects laid before them by the Natives of this place. They have received statements of Native opinion at all the different places they have visited, and they perceive that wherever differences exist they relate mainly to minor questions, while on all the really important questions there is a considerable agreement. The Commissioners have taken evidence from both sides, and the Native feeling seems everywhere to follow the same general lines as have been laid down here; while some of the evidence is of a different character from that adduced at this place. The labours of the Commission are now approaching an end, and when the Commissioners go to Wellington the whole of the evidence taken by them will be carefully considered, for the purpose of laying before the Government the views they have formed upon the various matters submitted to them. The Government on their part have consented, upon the report of the Commission being furnished to them, to have the same printed, and circulated among the Natives of this Island, and then you will have an opportunity of ascertaining for yourselves if any matters which require attention have been omitted from the report. This is all that I have to say. We have now almost finished our journeyings, and we shall conclude them shortly at the head of the fish—Wellington. When we were at Palmerston North we intended to go thence to Otaki; but we learnt at the former place that the Natives had just assembled in connection with the death of Wi Parata's wife, and so we deferred our visit for a time.

Mr. Rees: The Commissioners are very much pleased to find that, in regard to their general ideas on the subjects submitted to the Commission for investigation, the Natives throughout the Island are practically of one mind. And this is the more remarkable because there has been no interchange of ideas between the Maoris. There has been no intercommunication, and no common principles laid down for their adoption, and yet they agree in the main in the opinions they have expressed. There are minor differences, of course—differences in relation to small matters—in every place, but they are really only matters of detail; and the result will be this: that, whilst the Commission will be able to propose such laws as will meet generally with the acceptance of all, there will be some things in which the smaller wishes of each will be left out. The Parliament and the Government are very anxious to settle for ever all outstanding matters of dispute and of grievance, so that there may be no difference and no dissatisfaction afterwards. It is therefore very strange, and at the same time very pleasant to the Commissioners, to find that the minds of the Europeans whom they have examined run in the same general direction as the minds of the Maoris as to what ought to be done. Now, we shall have no opportunity of testifying our gratitude to the people who assembled at that meeting at the Wairoa for the very elaborate report with which they have furnished us, excepting this occasion, and therefore we have much pleasure in remarking upon the ability displayed in that report, which, of course, will be printed along with the evidence taken by and the

proceedings of the Commission. We shall see also that our report, so soon as it has been printed in Maori, is circulated far and wide among the whole of the Native tribes in both the North and South Islands of the colony. We are very glad to have met the Natives here, and, as Mr. Carroll has already said, we are especially glad to find that they are prepared to give proper and reasonable attention, to the best of their ability, to finding a way out of the difficulties that hitherto have interposed themselves between Natives and Europeans in dealing with the Native lands. It shall not be our fault if anything be left undone to fulfil the best wishes they have for their own prosperity and happiness.

OTAKI, 11TH MAY, 1891.

The Commission sat in the Maori runanga-house at 2 p.m., and was met by a large assemblage of the Ngatiraukawa Tribe, who extended a very cordial welcome. Present: Messrs. W. L. Rees, M.H.R., J. Carroll, M.H.R., and Thomas Mackay.

Mr. Rees: The Commissioners have come here, having been authorised by the Governor to meet the Maoris in their own homes. We commenced our labours at Gisborne, and since then we have worked all round the Island, and now are bringing our duties to an end at Otaki. Year after year for a long time past Parliament has had petitions sent to it from all the Maori tribes, complaining of very many injuries which the Natives have suffered by reason of the dealings with their lands, and by reason of the operation of the Native Land Courts. The Parliament itself was unable to find out the truth of these statements, because some of the people cry out for one thing, and others of them cry out for some other thing, and it was therefore difficult for the Parliament, not knowing the facts, to decide which was right and which was wrong. At last it was determined that Commissioners should be chosen, some of them being members of the Parliament, and that they should go round and meet the Native people face to face, writing down everything that was said to them, hearing the statements that the different tribes had to make, and then that they should return to Wellington and report to the Parliament itself. We are those Commissioners, and our duty therefore is to meet the Maoris as we are meeting them here to-day, elicit their views and their grievances, and then make a full report on everything we have seen and heard, and send it to the Governor, who will cause it to be laid before the Parliament for the Parliament to determine what action is called for. Now, the subjects we have to bring before the Natives I shall proceed to state to them. First of all, the Native Land Courts: whether the operation of these Courts—their method of conducting the business that comes before them—is satisfactory to the Maoris, and whether the Maoris themselves can suggest any alterations that might be made for the greater benefit of the people. The second point is, as to disputes between Natives and Europeans regarding the Native lands. The third is, as to what would be a better means of dealing with Maori lands in the future than has obtained in the past. The fourth is, as to a satisfactory method of ascertaining the Maori title to lands—that is to say, finding out what tribes and hapus, and what individuals, own the various lands of the Maoris. And then we are commanded, in addition to all these special heads or classes of cases, to inquire into any other things, and get the opinions of the Maoris about any other things, which are not included in those I have mentioned, but which have also to do with the Maoris and their lands, and their general prosperity. I shall just illustrate this last subject by saying that I went up into the village this morning and I saw there a schoolhouse, and I heard from the Maoris that they had given land for the purposes of a school, but that, although the schoolhouse is there, no school is conducted in it. The Natives also say that the revenues arising from this endowment are not being spent for the benefit of the Maoris. That, then, would be one of the additional subjects to which I have generally referred. Any grievances, therefore, which the Maoris complain of—any sort of injury which they believe themselves to labour under—they are at liberty to bring before the Commission. Their evidence will be taken down, and will be laid by the Governor before the Parliament, and we shall state in our report what we think of the justice of any complaints which the Natives think fit to bring before us. Now, we are aware that a great part of the Native lands here are subdivided and in the possession of the different individual owners. That is not the case, as the Natives here very well know, with many other tribes in other districts. And, although the dealing with the Native lands by Native Committees and runangas of the people may not affect the Natives of the Otaki district so much as it would affect others, yet we shall be anxious to get their opinions for the benefit of the other Maoris, as well as for their own benefit in the management of their lands. They must remember that they also are Maoris, and that therefore anything which conduces to the welfare of the whole Maori people they should be ready to speak upon and to act upon.

Mr. Carroll: The business of this Commission has now been made clear to you. Its presence here and its visits to other parts of the Island arise, as Mr. Rees has stated, from an anxiety on the part of Parliament to ascertain the truth in relation to the statements which have been made to it from time to time for a long period in relation to the Natives and their lands. That anxiety led to the appointment of the Commissioners who are now before you, so that they might ascertain the truth or otherwise of the lamentations that were sent up on account of the variety of complaints that are made, and the facts concerning which the existing Parliament found itself unable to decide. With the object, therefore, of ascertaining what remedial action was called for, the Parliament resolved to appoint this Commission to elicit the opinions of the Natives themselves. It is in the performance of this duty that we have travelled through the various parts of this Island. The various expressions of opinion that have been made to us by the Natives in the different districts that we have visited have been carefully recorded, and will be duly considered by the Commissioners, who will submit the result of their labours to the Parliament, and thereby shall the Parliament be enabled to arrive at a correct solution of the question that now agitates the minds of both races. In the past the general statement was that Parliament, in passing its laws, did not consult the Natives with respect to them; and to prevent any such allegations in the future it was decided that

this Commission should ascertain what laws were desired, so that the Natives may have no reason to say for the future that they were not consulted as to the legislation that was to be passed. We are aware that dissatisfaction has always existed from the very commencement of the passing of laws affecting the Natives in this colony. In some respects the object sought to be attained by these laws was good, but the hands to which the carrying-out of those laws was committed were bad; while in other cases the performing hands were good and effective, but the laws themselves were bad —that is to say, in some of the cases the laws were good but the administration of them was bad, while in other cases the administration was good but the laws themselves were inherently bad. The main thing upon which legislation has to take place now is with regard to the land. The question to be determined is, by what means can the best legislation be decided upon in order that the greatest amount of benefit may accrue, and in what respect can such alterations be made that pace can be kept with the progress of the time? Shall we revert to the ways of our ancestors in dealing with our lands; shall we let things proceed as they are now; or shall we advance and build up a system of dealing more in accordance with European ways? Now, in the pursuance of our investigations into all these matters we have travelled round the Island; we have heard the expression of the opinions entertained by the various tribes settled in the different parts of the country, and I shall be very glad to make known to you what is the general opinion of the Natives of this Island. Now, my opinion is that the Natives are united in regard to the main principles, but as to how these principles are to be administered there is a variance between different parties. That, perhaps, is sufficient for me to say upon that particular head. We have arrived now at a time when matters cannot be allowed to remain at a standstill. Powerful influences are at work at the present time, and the object should be to give tangible shape to our ideas with regard to the future. The main subjects have been mentioned to you. The first of these is in relation to the Native Land Court. That subject embraces a very wide field. Shall things remain in the condition that they are in now, or shall they be altered, or shall a system of Native Courts be amalgamated with the present system, or shall we constitute a system which will give the whole power of the Native Land Courts into the hands of the Natives? Another subject is as to the best means to be adopted for enabling persons to deal with their lands in the future. Well, that will be a matter for yourselves to look into. Another question is as to the various subjects of grievance that the Natives have been petitioning about year after year for a very long time past. What course shall be adopted with regard to this matter? Shall these things be left to be still petitioned about, or shall some tribunal be appointed to deal with them? However, this is a matter for yourselves to express an opinion upon. These are all the subjects that my friend Mr. Rees has explained to you, and I have merely mentioned some of the minor points connected with these subjects.

Hoani Taipua, M.H.R.: I am very much pleased at your visit here. I am, however, sorry that you did not let us know that you were coming. Had you let me know of your intention to visit this place and meet the Natives here, the whole of the tribes of this district would have been present to-day. But, coming upon us so suddenly as you have done, we are naturally somewhat taken by surprise. If I had received timely notice from you the whole of the people would have assembled here. Perhaps you were putting so much "side" on that you did not care to give us notice. At any rate I say to the people who are assembled here this afternoon, Now is the time for you to give utterance to your views on the subjects that have been referred to by the Commissioners. This is the proper course to adopt in proposing to legislate with reference to our affairs. Now is the time, therefore, to make known what should be done with regard to what concerns ourselves. It is not for me to reply at once, or be the first to express my opinions. I throw upon the people who are here, the onus of stating their own opinions. That is the reason why I ask you to say at once what you have to say; and I shall then support it as your member. Whether the things which the Commissioners have spoken to you about should be done away with or altered is a fair subject for discussion and investigation. This is an opportunity of which you may avail yourselves—you, the last but not the least section of the Natives whom the Commissioners have visited in the course of their travels over the Island. Speak, therefore, now what you have to say, dealing in the first instance with the most important subjects.

Ropata Ranapiri (Robert Ransfield): Let me speak in accordance with the manner the Natives would observe on an occasion of this sort. The meaning of this travelling party, in our acceptance of the term, is its special meaning: first, with regard to its actual travelling, and then as to those travelling being received by us as visitors. A person who remains in one place is called a resident. I thought that, in accordance with Maori custom, the guests should be welcomed in the Maori fashion by the residents. And, therefore, it is because this party is travelling in accordance with European custom that it has fallen to the visitors to commence the proceedings. Let me condense this portion of my remarks by simply saying that I indorse the welcome that has been given to the visitors. Welcome, Mr. Carroll, and welcome also to your companions who have travelled with you throughout the Island, and who have come here with you to let us know the plans that may or may not be advantageous to the Native people for the future. I desire that prosperity may be yours, and that God may give you many days. That is all I have to say by way of introduction. Now, I should like to speak about the subjects that the Commissioners have already mentioned to the people who are assembled here—the Ngatiraukawa. I am extremely pleased at your having come here, because it is by taking a course such as this that the thoughts of the people can best be ascertained, and that the subjects you are appointed to inquire into can be so laid before us as to be clearly apprehended, and the opinions which the people may have formed in relation to them fully stated. The only thing that I am dark about is the suddenness of your coming. If you had sent us notice during the past few weeks, and if you had apprised us beforehand of the objects of your intended visit, we should have had the requisite opportunity of assembling the people together in order to meet you. But, coming as you have in this unexpected manner, I am quite unable to see how the difficulty is to be surmounted. The notification that was given us, and what has been

made known to us to-day, were clear and were heard distinctly, but when you came to the end I was somewhat confused. I followed attentively the statements of the Commissioners, and the only thing I am grieved at is the short time I have for thinking the whole matter over. What I am most anxious about is that another opportunity should be given us to consider more thoroughly the subjects that have been laid before the meeting, so that we may be enabled to see clearly what course it is best to pursue, and whether good or evil is likely to arise if we follow it. Now, I am not at all clear as to what I should do, because the time at our disposal has been so very short. It must be evident that, if substantial knowledge is to be acquired, and if opinions of any worth are to be ascertained, a very considerable time is required to arrive at such results. Now, I wish to speak with respect to myself. The Ngatiraukawa Tribe can speak for themselves, and the Ngatitoa, Ngatiawa, and also the Ngatimaniapoto Tribes can speak for themselves, despite the fact that you have met members of the Ngatimaniapoto Tribe elsewhere. I am merely speaking for myself, and I may as well conclude my words here lest I should be hindering any one else from addressing the Commissioners.

Akapita te Tewe: Salutations to you, Mr. Carroll, and to your friends who have been chosen along with you for this work! I am very pleased indeed that you have come to this district to carry on the business you have in hand, in endeavouring to seek out aright the opinions of the Natives in relation to these matters that so closely concern them. The only thing that the Natives are grieved about is that the grievances and afflictions that have befallen them are deep and bitter. And the reason why we have gathered together is because you, the Europeans, are able to discern what is good and what is evil in the measures that may be suggested for our relief. You have come to see us because of the grievances we labour under, and you have made known to us the reasons why you have been travelling through the country. It is quite true that our grievances are solely owing to the Native Land Court laws, and not to the other laws of the pakeha. The first grievance that was inflicted upon us through the Native Land Court was the inclusion of only ten persons in a Crown grant. Great numbers of people, owning large areas of land, have suffered through that law. Then, when we realised the hardships arising from that law we applied to you, and another law was made. We, the Natives, looked to the law as the source of our salvation. Subsequently to that the Government passed a law making our lands inalienable. Then the law was so altered by the Government as to provide for removing the restrictions, and under that law also a great number of Natives suffered severely. All these grievances have arisen from the one source, the Native Land Court. After the establishment of the Native Land Court there came the Road Board system, and the rest of the machinery of local government, and the laws that were then made affected us severely. When we availed ourselves largely of the assistance of the Native Land Court in the beginning, we did not suffer so much as we do now. The troubles increase. It does not matter what area of land a block embraces—it may be 10,000 acres or 20,000 acres—in either case the investigation of the title costs a very large sum. After this main inquiry has concluded, then commences the subdivision, and £2,000 or £3,000 may be expended before we get our title. Hence it is that these laws which regulate the operation of the Native Land Court bring a great deal of trouble upon us. Those who get large areas of land come out well enough; those who only get small areas suffer very much. That is why I am clear about what you say in asking whether there are any evils resulting to us from the operation of the Native Land Court, and why I have no hesitation in saying "Yes" to that question. If it were possible the Committees should have the subdivision of the lands. It would suffice for the Court to deal with the block as a whole. Another complaint that we have to make with regard to the Native Land Court relates to the lying propensities that have been developed among the people; for it is the system pursued by the Court that affords encouragement to this sort of thing. The evidence given on oath in the Court might be of some account if God were present to chastise the man who lied; as it is there is no deterrent. The Native Land Court, therefore, is the great source of all the evil that befalls the Maoris. That is all I have to say.

Wiremu Kiriwehi: I wish, in the first place, to offer my greetings to the Commissioners for coming to this place. We have heard the explanation of the subjects that have been laid before us. In former times this class of people (the Commissioners) were land-purchasers, and it is only in these later days that we perceive that this class of people are changed, and that they now come amongst us to speak to us on matters affecting our welfare. It is for this reason that I welcome the Commissioners. I have something to say with regard to the first subject introduced to our notice to-day by the Commissioners—the Native Land Court. That is the true source of the evil that afflicts this Island. All the tribes have been bewailing its evil results, and have repeatedly sent up their lamentations to Parliament. If you have come to say that the Native Land Court shall be done away with, the people here will agree with you, because numerous indeed are the grievances of which the Natives have to complain in consequence of its operations. The speaker who immediately preceded me instanced some of the evils that have resulted from that Court and its work. There is but a small portion of land in this part of the Island remaining to the Natives at the present time. The greater portion has been operated on by the Court. If the Commissioners have the necessary power, then we ask them to return to the Maoris the balance of our land which has not yet been dealt with by the Court, and let us deal with it ourselves through our Committees. The whole of the Natives will be persistent in clamouring for the cessation of the Court's operations so long as the Court remains. If the Court is not abolished, the bitter grieving and the deep lamentations of the Natives will continue year after year, and their complaints will continue to be sent up to Parliament. The whole of the Ngatiraukawa recognise and deplore the evils that result from the Native Land Court, and all the tribes of the Island know that it is the root from which all their troubles spring. For this reason I strenuously urge the Commissioners to be strong in building up a plan by means of which the Native Land Court shall be swept away. That is all I have to say on that subject. With regard to a matter that was subsequently dealt with by the Commissioners—viz., the troubles that have arisen between Europeans and Natives respecting the Native

lands—I maintain that all these troubles are the offspring of the Native Land Court. I do not say that that class of troubles should be specially taken in hand by the Commissioners, but I would rather say, let them settle such troubles between themselves. There are persons—lawyers and others—who can adjust such difficulties. With regard to those lands that in past times were improperly parted with, one of the Commissioners has stated that he has seen land in this district that was set apart for the purposes of a Native school. That is true. That land was given by the Ngatiraukawa Tribe for the establishment and maintenance of a school. Our old men assembled, and agreed to the land being given for that purpose. But at that time the old people consented in their obtuseness, not clearly understanding what they were doing. If this is the time for going into that matter it would be well that the Commissioners should thoroughly investigate it. The Commissioners will then see whether these lands were improperly given, or whether there were difficulties in connection with these gifts. I will leave that matter in the hands of the Commissioners, for them to look into. With regard to the promoting of leases, and the character they should take, I say that for many years past the Europeans have been making laws in relation to dealings with Native lands in this Island. Now, I consider that the time has come when the Government should hand over to the Natives the making of a law—that is to say, the whole of the Natives of this Island. During the last thirty years, that the making of these laws has been in the hands of the Europeans, they have failed to make good laws, and the Government therefore should allow the Maoris to try what they can do in that direction, seeing that it is they who are vitally affected by them. I have nothing further to explain.

Kipa Whatanui: Salutations to you, the Commissioners, who are sent by the Government to seek out the difficulties under which the Natives labour. The Commissioners have explained the reasons for which they have come here, and those reasons are for us to consider and examine into. I support what the member for the Western Maori District has said as to our not having had time, so far, to deliberate upon the matters submitted to us. Time for that purpose is essential, in view of the very great importance of these matters. We certainly cannot complete our consideration of them to-day. I would therefore ask the Commissioners to let us have a statement of the reasons they have set before us, so that we may have an opportunity of going into them at our leisure; and the result of our deliberations will be forwarded on to them afterwards.

Mr. Rees: The Commissioners have been speaking among themselves about this matter since Taipua addressed us, and this is what we have decided to do: to hear now everything the Natives have to say to us, affording opportunity to as many chiefs to speak as desire to do so before we go. Then we shall leave with you copies of these printed papers (copies in Maori of the orders of reference and of the digest of Native evidence taken in the Auckland Province), and you may talk over among yourselves all these matters as fully as you like, sending the results to us in Wellington. But do not let that arrangement stop you from speaking now. You must remember that we have to send in our report as early as possible, and therefore no unnecessary time must be taken up in arriving at a decision on these matters.

Mr. Carroll addressed the Natives in Maori to a similar effect.

Kipa Whatanui: I am extremely pleased at your having come here to-day to Otaki. But the main difficulty affecting this country you have omitted to refer to. In the year 1835 a petition was sent to King William, in which we expressed to him our desire that "you will be a parent to us, your children." In 1840, when this colony was established, Her Majesty Queen Victoria had become the successor of King William. After that the Treaty of Waitangi was entered into. And in that treaty were these words: "Unto you will be the right, authority, and power over your own land, and that right, authority, and power will be conserved." In 1852 the Europeans in this country obtained the necessary power to set up a form of constitutional government. The Home Government consented to give a Constitution to New Zealand, and that the Maoris should have a Parliament for themselves. Then, after that the great Native meeting of Kohimarama was held, and at that meeting the elders of this country agreed that the Native Land Court should be established. In consequence of the assent then given, the Government agreed to four Native members being elected to Parliament. Then the European and Maori Parliaments became united; but the very great preponderance in number of the European over the Maori members gave rise to many evils that have afflicted us. Supposing a division takes place over any Maori matters, as there are only four Maori members in the House of Representatives they are defeated as a matter of course; and to the best of my understanding that is the cause of the evils that have grown up in New Zealand in connection with Native matters. It is true that the evils we have submitted to Parliament in reference to our lands are evils that do really exist; but when the matter comes before the House, and a division is called for, the great number of members vote on the European side, and but a very few vote on the side of the Natives. That is all I have to say about that. I have land that came to me from the date of the Treaty of Waitangi. It is called the Horowhenua Block. It is land that was acquired by my ancestors through conquest. But in 1873, when that land was brought before the Native Land Court, it was taken from me, and from us, the descendants of Whatanui. That land of mine was purchased with blood, and it would not be right to return it to the original owners. On the other hand, the lands of Taranaki, Waikato, and Tauranga were acquired through conquest by the Queen, and are known as confiscated lands. These conquests were made according to law, and these lands have never been returned. My desire is that the adjudication of the lands should be conducted on the same principle as the trial of a man for murder. The murderer is tried three times before he is executed. Hence my wish that the same principle of trial should obtain with respect to the right of ownership in land. I desire the questions as to this land of mine should be tried on the same principle—that there should be three hearings. Another grievance that the Natives complain of is with respect to lands of mine that were dealt with in 1874. Te Waka is the name of the block. The investigation of that land was applied for by my hapu, Ngatipari. Ngatihuia were the objectors. And when the Court gave its decision a portion went to Ngatipari,

and a portion went to Ngatihuia. I am connected with both hapus. Then the judgment of the Court stated that Kipa Whatanui should be excluded from Te Waka. The Court also said that when the survey was completed an order would issue. At this time the Ngatihuia had sold their land to Buller and somebody else. I applied to have the survey made, and the Government agreed to do it. My survey was approved of. But when it was brought before Judge Young in 1879, Dr. Buller stood up and objected and opposed.

Mr. Rees: We are forbidden by the terms of our commission to enter into particular cases We are anxious not to interrupt Kipa, but, without knowing it, he is forcing us to hear that which we are expressly forbidden to hear.

Kipa Whatanui: If you had told me that sooner I would not have gone on.

Mr. Rees: We were anxious not to interrupt you; but this matter is foreign to the scope of the Commission.

Kipa Whatanui: Well, you have heard that there are a great many grievances under which the Maoris labour. I do not know whether you will be able to deal with them. We have a voice in the Parliament of New Zealand, but we know that in one-half the Parliament of New Zealand we are not adequately represented. I think that the troubles in regard to these lands should be settled by Parliament; but, at the same time, the number of the Maori members should be increased. That is what I have to say.

Atanatiu Kairangi: Salutations to you who have come here to-day! I have much pleasure in expressing my sense of the honour you do us in coming here. Ngatiraukawa has practically said all that there is to be said. I stand up to speak with reference to another matter. The first subject that was explained by the Commissioners had reference to the Native Land Court. Ngatiraukawa has said that the matters you have dealt with are to be considered after you leave us. I have a word or two to give utterance to with respect to that Court. Some of us hold our lands in severalty, and others hold collectively, under Crown grant. I wish to speak to the Commissioners with regard to the land which we hold collectively. I say that in these cases Native Committees should be established to administer such lands, and that after the Committees had finished their investigations in respect of such lands they should be submitted to the Court. That is the idea I have myself entertained for some time past. The subdividing of these lands should also be carried out by the Native Committees defining the lands that each person or each hapu, as they deem best, should have. Then, when the subdivision of any block of land has been individualised, each particular owner should have the power of dealing with his own land for lease or for sale. That is all I have to say about that. With regard to matters of contention between Europeans and Natives, I have nothing to say. I shall now refer to the matter of the school endowments. There are two schools in my district. The school at Otaki is one of them. When that school was established I was one of the children who attended it. At that time—the time of our fathers—there were about three hundred Native children attending that school. In 1865 I left that school, and then the children ceased to live together there in large numbers. In 1874 I returned to this district, and I saw that instead of the three hundred children who formerly attended that school there were only twenty children in attendance. I have returned here once more on the present occasion, and now I do not see any children there at all. That is the reason why people like myself and these younger men are most anxious that that land which is no longer used for the purposes for which it was given away should be returned to us. I have nothing further to say about that particular school. The second school to which I alluded is situated upon the Porirua endowment. In the year 1847 Sir George Grey asked for land in the vicinity of Porirua to be given the Government. The Natives consented, and in 1848 the transaction was completed. And in 1848, also, Bishop Selwyn and Sir George Grey asked for a block of land called Whitireia to be used as a school endowment, and the high chiefs of Ngatitoa consented to that land going for the purposes of a school endowment. It was agreed that it should be an endowment for the sole benefit of their own children; and yet, from that year down to the present time there has neither been a school established there nor anything else. It is on account of nothing having been done there that we ask for the return of that land also. I have nothing more to say on that subject. I wish to speak about another matter which concerns myself. It will be for you to decide whether it is a subject that you are at liberty to consider, or whether it will oblige you to say to me what you have already said to Kipa. In 1884 I sent to Parliament a petition with reference to certain land situated nearer the middle of the Island. It was referred to the Native Affairs Committee of both Houses of Parliament, and a report was presented by the Committee in my favour. This is the fifth or sixth year—perhaps more—that I have been reminding the Government of that matter, but I have received no reply. I wish to know whether or not this is a matter to which you can give consideration.

Mr. Rees: Yes. It is not a matter of personal consideration of which you complain, but has reference to policy, and it therefore interests other Maoris as well as yourself.

Atanatiu Kairangi: Then, that is all I have to say. May God preserve you!

Hoani Taipua, M.H.R. (after briefly addressing the Natives): I now turn to address myself to the Commission. First of all as to my idea with regard to the Native Land Court. In reference to Native lands that are still under Native title, I think the Native Land Court should cease having anything to do with *papatipu* lands in large areas. Let the Government and the Commissioners look into the troubles that exist in connection with the lands that have already been dealt with by the Court. Let not the Government place restrictions upon our lands. Do not let us be reduced to the position of slaves. Even though the areas may be large, let any restriction that may rest upon them be removed. Another application that I have to make is, that Mr. Ballance's Act of 1886 may not be put in force over our lands. I appeal to the assembly of Natives before me to say whether they approve of Mr. Ballance's Act of 1886. [The whole assemblage with great vigour responded "No."] I would also have the Commission say that those Natives who have already parted with much of their lands should be debarred from selling what small portion they have left. There

should be reserves of not less than 200 acres, making them absolutely inalienable, and a Maori and a European being appointed Commissioners. If these safeguards are not imposed, who can tell at what time the Natives may not be "loafing" about the country as beggars. Pass, therefore, a law for the preservation of these Natives, so that they may not be allowed to altogether denude themselves of their lands. Now, with regard to land-selling. I do not think that the land should be restricted in such a way that the Government should be the sole purchaser. Let also the present restriction upon the Rohe Potae, in the King-country, be removed. I ask that that restriction may be removed at once, including the land down to the Awarua Block, in the Rangitikei district, because you are fully aware of the dishonest actions of the Government in having a restriction placed over that land. The object of that restriction is that the Government alone may purchase it, at 1s. 6d. or 2s. an acre. I say that that is an unjust thing. Many avenues would be opened up to the Natives of doing well for themselves if they were allowed to sell or lease portions of such lands; but they are denied all such opportunities while the market is kept closed against them. That is why I ask that the restriction may be removed from that land. I shall now speak with regard to the Courts that are sitting at the present time. I think that the Native Land Courts should be done away with, and that Native Committees should be appointed for the various districts; and that the Committees should have powers conferred on them by law. Then, when once they were fully empowered, they would be able to do their work at small cost. The Committee would be able to charge expenses for the day it travelled, instead of having a Judge charging travelling-expenses right through, besides getting his salary of £600 a year; and if there are ten Judges they all get their £600 a year at present, exclusive of the money paid to them on account of their travelling. I believe that the amount paid to the Judges, and the incidental expenses of the department, amount to something like £40,000 a year. If the Government are afraid about the cost, I think that they should allow the Committees to have the control during the present year; and then, when the Committees had arrived at their decisions, they could be sent to the Judge of the district, or to the Chief Judge, in order to be confirmed. I think that this would be a cheap method of doing the business at present done by the Court. Under the existing system the expenses for surveys, Court fees, and other incidental charges are very heavy indeed. I desire that a Commission should be appointed to inquire into and settle all past grievances, such as those Kipa and others referred to; and, with regard to confiscated land, I think the Government should relinquish its claim over it. Let the Government give to the people what they promised. There was no such word in the Treaty of Waitangi as that the people were to be killed and their lands taken possession of. No such statement as that was included in the Treaty of Waitangi, but, on the contrary, the Queen guaranteed her protection to the Maori race. In these days, however, there is a different law for each race. If the confiscated land is to be returned, return it unrestricted. With regard to rates upon Native land, I desire that these rates should be done away with. But let the rates fall upon the lands leased by the Europeans; but upon lands held by Natives—neglected and unproductive, and which the Natives are unable to improve—do not let rates be levied. Perhaps some old man will own a piece of land with bush upon it, but does not know how to work it, and perhaps year after year the rates will go on accumulating upon it until the accumulated arrears of rates amount to more than the value of the land. I say, then, that that is a law which confiscates the land, and takes it away from the people—from the old men, the women, and the children. Nor should rates be levied upon lands in their *papatipu* state, but lands that are leased by Natives to Europeans, or which are being utilised by the Natives themselves, should bear their share of the rates. There is a great amount of money paid by the Natives to the Government, which is really abstracted from the Natives in various ways. In connection with the making of roads, for instance, 5 per cent. of land is deducted from a block for that purpose without compensation being given. This is one instance of what I mean. If I lease my land to a European there is £10 per cent. deducted from the proceeds; but if you, the Europeans, lease your land only 15s. per cent. is taken. And if you sell land to one another that is the amount of duty that is chargeable. What is the reason, then, that I should have to pay at the rate of £10 per cent., when you have only to pay at the rate of 15s. per cent.? We have asked in the House of Representatives that the stamp duty should be abolished. If a lease is arranged for twenty-one years, why should the Government demand in a lump sum the duty payable for the whole of the twenty-one years? Let me say that the reason why that is done is to depreciate the value of the Native land, so that the Europeans proposing to lease these lands may be frightened from doing so. I now ask you to have that law abolished. These are all matters of very great importance, and ought to be included in your report. With respect to all the Native petitions which have been heard by the parliamentary Committees, and which they have reported to the Government for their consideration, I have no hesitation in saying that those reports have been a delusion and a snare, for nothing has come out of them. I suggest, therefore, to this Commission that some other steps be taken to give effect to the prayers of the Native petitions. I wish now to speak on the subject of the schools. I trust you will report with regard to all the Native-school endowments, and that you will state in respect of the school endowment of 600 acres at Otaki that that land was set apart as a school endowment upon the express condition that it would be utilised for school purposes, and that if this condition was not observed the land was to be returned. The same remark applies to the school endowment at Porirua—the Whitireia Block. There is now no school upon that land. The only children to be found upon that land are sheep. All the Natives wish the matter to be inquired into, in order to ascertain whether it is right or wrong that things should be allowed to exist as they are at present. That is all that I have to say.

Mr. Rees: First of all, I should like to explain that the 10-per-cent. duty is not put on the land in order to depreciate its value, but that it is put on because of the great cost of the Native Land Court and of the Native Department. The Maoris are so fond of the Native Land Court,

and love the Native Department so much, that they like to pay the 10-per-cent. duty to keep them going. That is the theory of the Government—that they want the Native Land Court kept up, and therefore they pay the 10-per-cent. duty. Now we shall be able to tell the Government and the Parliament that the Natives do not want to pay the 10-per-cent. duty, or to have the Native Land Court or the Native Department kept up as they now are. I wish to ask Taipua to appeal to the Natives, or to ask them to consider this: whether, if the restriction be taken off the Native land so far as allowing the Maoris to lease their lands, but not to sell, they would regard that as sufficient. I do not want an answer now. Let them take time to consider this matter. Let them also consider this, and speak about it now: In the Legislative Council there are two Maori members at the present time. One of them is Taiaroa, the southern member, and the other is Ropata, of the Ngatiporou. Now, if we are going to propose important changes in the law, such as all the Maoris wish to see proposed, it would be wise for them to consider whether they should ask that more Maori members should be put in the Upper House, In the House of Representatives they have, at any rate, Mr. Carroll, Hoani himself—I do not know anything about this young Northern member who has recently been elected—and then there is Pratt. They have therefore some men in the Lower House who can speak with some authority about the wants of the Maoris. You must consider whether or not there is sufficient Maori brains as well as a sufficient knowledge of Maori laws in the Upper House. That is a matter for you to think over. We shall have our report translated into Maori, and circulated among the whole of the Maori tribes. Then, of course, people can pull it to pieces and make what statements they like upon the contents of the report.

Hoani Taipua: Is it only with regard to the Upper House that you wish us to speak, and not the Lower House as well?

Mr. Rees: I suggest the Upper House, because if the laws are to be changed now is the time. Of course you may speak about the Lower House if you like.

Hoani Taipua: We wish for increased representation both in the Upper House and in the Lower House. There is another thing that I wish to say to the Commissioners: that the money arising from the land should not be given to one person in any case where the Government had purchased, but that strict safeguards be imposed, so that any individual may not be able to go to the Commissioner and draw money in respect of a block for which there are many owners. My meaning is that individual dealing should be absolutely discontinued where the lands are held in common. If this recommendation is in your report, when I am in the House I shall support your report; and if it is not included I shall not support it.

CORRESPONDENCE.

No. 1.

The Hon. Dr. POLLEN, M.L.C., Auckland, to the NATIVE-LAND LAWS COMMISSIONERS.

GENTLEMEN,— The Whau, Avondale, 22nd April, 1891.

I have received from your secretary, Mr. Geddis, a note, of date 17th April instant, covering printed copy of the official reference to the Commission, and requesting me to consider the "points" in such reference, and to embody my views thereon in a memorandum, to be forwarded to you at Wanganui within a week. I should have preferred a *vivâ voce* examination on these points if it had been convenient, but, as that is not so, it remains for me to comply with your request in the form desired.

In this memorandum, each paragraph, as numbered, has reference to the paragraph with a corresponding number in the printed document above-mentioned, and now before me.

1. The operation of the existing Native-land laws appears to be nothing less than disastrous to all concerned. Not the least of the evils is the difficulty of ascertaining from the great mass of laws and amendments, and amendments of amendments, which now encumber the statute-book, what the law really is. I have constantly complained in my place in the Legislative Council of this confusion, which the law-making of recurrent sessions tended only to increase. If there is not to be a radical change at once in the policy of dealing with Native land, a consolidation of the Native-land laws is, I think, indispensable.

2. The difficulty which has everywhere beset the action of the Native Land Court is the want of what may be called local knowledge on the part of the Court. This difficulty "The Native Lands Act, 1873," purported to obviate by the establishment of Native districts and the appointment of responsible district officers. The attempt was frustrated by the high judicial pretensions of the Native Land Courts of that time, and the unpractical character of the strictly legal mind, so often unable to extricate itself from the bondage of routine and precedent. Having no reliable source of information as to the merits of the causes brought before them, the Judges necessarily failed in so many cases to elicit truth from the conflicting falsehoods of the claimants and their agents. The laws being consolidated—in the contingency noted in the preceding paragraph—the Court should, I think, be reconstituted, and its system of procedure reviewed and amended.

3. This section of the reference comprises a very wide field of grievances, with the particulars of which the short time at my disposal does not permit me to deal exhaustively. The tribunal constituted for the purpose of disposing of these grievances by "The Native Land Court Act Amendment Act, 1889," was in my opinion a fitting one. The defects found to exist in practice in that Act should be repaired, and the Commissioners be allowed to proceed.

4. I have never ceased to deplore the official folly which in the early days of the colony sacrificed to a noisy and corrupt agitation the Crown's right of pre-emption over all Native lands. Not less to be deplored, perhaps, was the want of foresight on the part of the Imperial Government in not providing funds for the extinguishment of Native title at a time when purchases on an immense scale could have been easily and cheaply effected, with great benefit alike to the Natives and to the European colonists, and whilst Imperial law still governed all dealings with the waste lands of the Crown in this colony. This waiver of pre-emptive rights being one of those false steps in politics which cannot be retraced, something, I think, may still be done in the direction of diminishing the resultant wrong to the general interest of the colony in this Northern Island. It is not to be much longer endured that millions of acres of land, through which expensive public works, general and local, are being carried, should be allowed to lie waste and unproductive in the hands of Natives, who can themselves make no use of them, and who will not permit others to do so except on terms and under conditions which are practically prohibitive. Under these circumstances, one of two things must, I think, happen—the lands must be thrown open voluntarily, and upon reasonable terms, by the Native owners, or these lands must be taxed specially and directly in contribution to the interest on the cost of the public works by which they are rendered accessible and made more valuable. The experiment of Native Committees, as executive or administrative bodies, has been tried, and, as might have been expected, has failed. The faculty of self-government, and of discharging social and municipal duties, as we understand them, is not acquired in a generation by men just emerging from barbarism, even when endowed with the intelligence and imitative talent by which the Maori race is distinguished. A system of Maori landlordism would not work satisfactorily as yet, at any rate. The screw of taxation fairly, vigorously, and with a fixed purpose applied, would soon, probably, bring these lands into the hands of the Government, to be administered in accordance with the existing waste-land laws of the colony. The money proceeds, whether from sales or rents, could, after deducting necessary expenses of administration, be divided periodically amongst the Native owners in proportion to their ascertained individual rights. The Native Land Court could ascertain these rights, and fix the respective shares of individuals in each block, in the same manner as shares have been allocated to those Natives interested in the Greymouth reserves by the Westland and Nelson Natives Reserves Acts.

The policy of "bursting up" large landed estates in European hands—estates now taxable and taxed—which are, moreover, for the greater part producing something—grain, or meat, or wool, or all three—now so generally advocated, appears, *a fortiori*, applicable to large landed estates which in their present condition produce nothing of value, and are really a grievous obstruction to general

progress. The one appears, at present, from the utilitarian point of view, to be a speculative grievance; the other is eminently and obviously material.

5. The mode of the reference to me, and the shortness of the time at my disposal, have obliged me to generalise as much as possible in this memorandum; but if there should be, in the opinion of the Commissioners, any specific point or points upon which my long experience in Native affairs might enable me to give information, it will afford me pleasure to be in any manner useful in furthering the very laudable objects of the Native-land Laws Commission.

I have, &c.,

The Native-land Laws Commissioners. DANIEL POLLEN, M.L.C.

No. 2.

The REGISTRAR, Native Land Court, Gisborne, to the NATIVE-LAND LAWS COMMISSIONERS.

SIR,— Native Land Court Office, Gisborne, 24th March, 1891.

In compliance with request contained in Mr. Gannon's letter to me of the 8th instant, I have the honour to forward herewith extract of the minutes of proceedings as to Mangatu No. 1, and list of the owners of that land handed into Court by Wi Pere.

I have, &c.,

JOHN BROOKING, Registrar.

The Secretary, Native-land Laws Commission, Customhouse Buildings, Auckland.

EXTRACT from MINUTE-BOOK of NATIVE LAND COURT, 29th April, 1881.

Mangatu No. 1, 100,000 Acres.

WI PERE handed in a trust deed, conveying the estate to twelve trustees, for the purpose of leasing only, eighty-six having signed and twenty not having signed.

Mr. Harris addressed the Court in support, and sought for certain information.

Paora Haupa objected, and asked for the list of names handed in and read.

Wi Pere explained.

Peti Taihuka objected, and wanted all the names put in.

The Court explained that the introduction of all the vast number of names in the titles was destroying the value of the lands of all this district, and the evil is becoming so great that, if the Native Land Court cannot lessen the evil, the Legislature will have to apply a remedy. The Court fully explained that it could not create any trust estate, or recognise the deed tendered, except as a voluntary arrangement by which the great body of the owners could consent that the land should be vested in the twelve persons named, and that the land should be declared inalienable, except by lease for a term not exceeding twenty-one years. The Court pointed out that the only serious objection to this course is, that if at any time the inalienability should be removed by the Governor in Council the estate would then absolutely belong to the twelve; but that could be remedied by the trustees, after the issue of the certificate, executing a deed of trust declaring that they hold the land only as trustees for the whole of the tribe.

Wi Pere stated that such a deed had been executed; but the Court explained very fully that it would require to be executed after the issue of the certificate. It was fully understood that the declaration of trust should be made complete. And the Court also required that a complete list should be furnished of all the parties recognised as owners of the block, not to be inscribed in the order, but to remain on the records of the Court for future reference if any question should arise in any proceedings for partition, or any allegation of breach of faith.

EXTRACT from NATIVE LAND COURT MINUTE-BOOK, 30th April, 1881.

AN order to issue in favour of the following persons in Mangatu No. 1 Block, containing, by estimation, 100,000 acres, when a proper survey is sent in:—Wi Haronga, Matenga Taihuka, Tiopira Tawhiao, Tiopira Korehe, Pirihi Tutekohe, Peka Kerekere, Wi Pere, Pera Te Matuku, Hori Puru, Anaru Matete, Rutene Ahuroa, Paora Kingi. The said land to be inalienable except by lease.

LIST of names of the owners of Mangatu No. 1, 100,000 acres, handed in by Wi Pere, 30th April, 1881: Pera te Natuku, Tiopira Korehe, Hori Puru, Te Hira Natuku, Wiremu Iretoro, Ani Puaroa, Maraea Rawaho, Raiha Kota, Hirini Wharekete, Epeniha Hape, Te Kauru Matete, Te Aira Horahora, Hirini Te Raekaihau, Ruka Tahuateka, Neri Wharekete, Heni Matekino, Peka Kerekere, Anaru Matete, Tapeta Kerekere, Peneha, Meri Hake, Henare Kingi Waingaruru, Kereama Tautuhi, Nepia Heta, Rutene Ahuroa, Hemi Whaipu, Tapita Iretoro, Pirihi Tutekohi, Hetekia Te Kani, Tiopira Tawhiao, Pere Hana, Paora Kingi, Rutu Iretoro, Arapeta Ranginia, Ripeka Hineko, Kaa Matewai, Hariata Ahua, Hiraina Poaru, Haromi Paku, Wikitoria Puru, Mika Rore, Maraea Mokena, Rewi Tamanui, Kararaina Kehukehu, Heni Paretaranga, Riria Manaranui, Mereana Te Weroahiahi, Epeniha Tipuna, Matenga Taihuka, Arona Te Raekaihau, Hone Kewa, Rutene Te Eke, Patoromu Tawhaitari, Rawinia Ahuroa, Harete Taihuka, Maora Whekirangi, Heni Te Auraki, Arapera Pere, Wi Pere, Rangikohera, Ka Te Hane, Netana Puha, Riripeti Piwaka, Rawiri Koti, Wi Te Ngira, Wikitoria Uwawa, Roka Patutahi, Apihaka Wahakai, Te Amaru, Hoana Te Amaru, Paora Matuakore, Hirini Te Kani, Ihaia Patutahi, Patihana Mangai, Rutu Kuare, Mata Moari, Wikitoria Te Amo, Wi Haronga, Heni Puhi, Piriniha Te Eke, Karaitiana Te Eke, Rongotipare, Karaitiana Amaru, Mere Maki, Rangitana, Hera Poraku, Pohoi Amaru, Karaitiana Akurangi, Hoera Tako, Tapine Turei, Heni Tana, Mihi Hetekia (Paraire), Ripeka Awatea, Peti Taihuka, Rawiri Titirangi, Rawiri Hana Mereaira Parehuia, Te Ao Pakurangi, Heni Kumekume, Mata Te Hawa, Hohipa Kota, Wiremu Kingi Te Kawau, Pani Amaru, Keita Amaru, Wikitoria Kanu, Ruka Te Kahika, Karaitiana Ruru, Tipene Tutaki, Rawinia Te Ao, Merihi Ngore, Tamati Te Rangi, Teira Ranginui, Rawinia Te Whiwhi, Heni

Tipuna, Taiuru, Hori Mokai, Mihaera Parehe, and Riripeti Oneone. *Minors:* Maata Te Ao, Rawiri Tamanui, Mahanga Ahuroa, Poneke Tupeka, Pera Kararehe, Rua Hinekino, Pera Hikumate, Mere Tahatu, Manaro Pere, Peneti Hira, Ihaia Puru, Meri Puru, Herewini Puairangi, Heni Parekuta, Hoera Whakamiha, Tepupaku, Hatiwira Pahura, Tame Pahura, Ripeka Pahura, Katerina Pahura, Ihimaera Pahura, Hokimate Pahura, Pepene, Hiria Kingi, Teau Hamanu, Huriata Hana, Rawiri Tokowhitu, Te Owaina Marangai, Himiona Katipa, Manu Te Otii, Hami Tarahau, Wiremu Pere (Takitimu), Hinewehi, Paku Hana, Tutearitenga, Te Hata Waengaruru, Erena Whakamiha, Hinepoka Matanuku, Horomona Tuauri, Wi Pere Tupeka, Harata Te Eke, Tamaehikitia. Matenga Ngamoki, Rangikapua, Te Rato, Hoera Noti, Maata Whakahawea, Ngahirata Taua, Te Teira Kuri, Taituha Matauru, Maiere, Paratene Kuri, Ngawiki Kuri, Wharepapa, Hirini Tutaha, Hetariki Tutaha, Temini Kerekere, Katirina Takawhaki, Hinepuhi, Harata Tuari, and Tuwatawata.

No. 3.

E. Hesketh, Esq., Barrister-at-Law, Auckland, to the Native-land Laws Commissioners.

Gentlemen,— Auckland, 27th April, 1891.

I regret that I was unable to attend the inquiry in Auckland, and give you my views personally, but owing to pressure of business I could not then spare the time.

There can be no doubt that these laws as at present existing are cumbersome and confusing, and not calculated to induce settlers to deal with the Native lands: in fact, I would almost invariably advise a client not to touch a Native title, even if he had assured to himself a good margin in the purchase.

One of the stumbling-blocks, I think, will be found in the Native Office. The Court determines the title, and a record is made in the office; but no great weight can be carried by the evidence of title there, and no protection is given to a purchaser. I would suggest that all existing Native Land Court titles (memorials, certificates, &c.) now in existence should be forthwith transmuted in Land Transfer titles, or that all Native titles in that office be "indefeasible." Existing encumbrances should of course be protected, though little or no protection is given at present. Provision is made by the existing Acts for the transmutation of partition orders of the Native Land Court into Land Transfer titles; but I have noticed that the directions of the Act in this respect do not receive the attention which was intended. This, perhaps, is owing to the fact of fees being due thereon, which ought to be paid at the hearing, and to the want of a proper system in the office. Speaking of the system of the office, it is at times a difficult matter to ascertain the state of a title. There is a file of papers and numerous registers dealing with separate branches—*e.g.*, succession, subdivision, and rehearing; and whenever the Court is sitting in the district where the land is situate it is most probable that the file is with the Court. The only remedy for this would be a proper register, showing the existing state of each title. To give an idea of the system, I have known titles which have gone from the Native Office to the Land Transfer, subsequently conveyed to Europeans, and the Native Office afterwards have entertained applications for and made succession orders to the interests of the original owners, which always remain in the Native Office "until called for." I quite approve of the steps taken by the Native Department in introducing the "circuit" system, and had intended to suggest it at an earlier date. I think, also, that land should be put through the Court by "hapus" wherever practicable, and the work of the Court might stop there. There would then be no necessity to wait for applications of Natives. A periodical change of Judges might be desirable.

With respect to the alienation of land, it is obvious that, when the Natives themselves alienate, the present or other safeguards must be maintained. I have thought that alienations of Native land could be effected by the Crown Lands Department. Let the Natives give their consent to sale at the original hearing, and the land be sold or leased in suitable areas (subject to reserve and conditions), and a Land Transfer title issued to the purchaser, the department retaining a percentage to defray expenses. Other lands, after investigation, could be similarly disposed of at the request of owners, though smaller areas could be dealt with also by themselves. No Natives should be able to sell unascertained interests in lands, as the remaining Native owners must suffer on partitions with Europeans working for their own interests. The existing law as to alienation of the interests of minors is simply prohibitive—a transfer from the trustees, pay purchase-money to the Public Trustee, obtain a Trust Commissioner's certificate and consent of a Judge of Supreme Court. The last proceeding is practically useless, as no satisfaction can be given on an *ex parte* application by the purchaser. The Trust Commissioner should do this, or the land sold through a public officer or office. I think the Government should conduct all surveys of Native lands, and pay for them when the Natives cannot do so, and take the security of a lien over the land, and in case of non-payment, realise the land, as above stated, on an equitable basis. At present private surveyors can become possessed of large areas at a little over the cost of survey, as Natives do not pay the attention to notices and demands of payment that Europeans would do.

Subject to what I say above, I think that some action should be taken to place all existing titles on a sound and satisfactory basis, making them, in fact, indefeasible. It would not be a very difficult undertaking, as a gradual working by competent examiners, who would certify the titles, would be all that would be required. Much has been said on the various branches of the subject, and it appears apparent to all that there is plenty of room for improvement.

I have, &c.,

The Native-land Laws Commissioners, Wanganui. Edwin Hesketh.

No. 4.

The Hon. J. N. WILSON, M.L.C., Napier, to the NATIVE-LAND LAWS COMMISSIONERS.

GENTLEMEN,— Napier, 3rd May, 1891.

I beg to acknowledge your circular of the 29th instant.

Having had no practice whatever in the Native Land Courts, I am not able to answer categorically the questions asked in your memorandum, but will make a few observations upon the working of the Native-land law which a residence in this district for more than thirty years, and a certain knowledge of the Natives (notwithstanding a total ignorance of the language) have impressed on my mind.

In the first place I would say that the original Native Land Act (I think of 1865) was framed with good intentions, and in a spirit of fairness towards the Natives. It was imperfectly framed, no doubt, and would have required amendment; but I conceive that the whole intention was destroyed by bad administration. The intention of the Act was that the lands of the Natives should be partitioned or individualled amongst them according to Native customs. The Native Land Court (composed of clerks and interpreters, promoted from the Native Affairs Office to become "Judges" of the Native Land Court) at once proceeded to form a system of Native real-property law according to Native custom. This attempt utterly failed, for the reason I will at once mention. I have never been able to discover that amongst the Natives there ever existed any such idea as that of freehold tenure in land, any more than that of individual ownership. The whole tenure was tribal, and the sole right was one of occupation. This was the cardinal error, and the whole work of the Native Land Court has been based on this false assumption. The result is, the Native Land Court (composed as I have stated) have for years past, with the active assistance of Native-land agents, been occupied in building up a system of Native-land succession upon a false foundation.

I look upon all the Acts that have passed since the original as all based upon the original false conception, and, in fact, as a piece of patchwork put together to keep in work a system originally essentially faulty. Not the least of the errors was the introduction in the Act of 1873 of a new tenure called "title under memorial of ownership"—a title, I need not say, utterly unknown to English law. This memorial of ownership assumed a title to the grantee of an undefined area in the block it contained. How was it possible for a purchaser, with the best intentions, to deal fairly with the holder of such a title? It was obviously impossible, and yet it is said that hundreds, and more, of such bargains have been completed.

Innumerable questions of law have arisen as to the construction of these numerous and complicated Acts, and such confusion has arisen that it is my belief that no lawyer of experience would venture to say that a proper title to Native land can be made out where any of these difficulties have arisen. On an occasion when Mr. Justice Richmond had to decide upon a question of the kind he observed, "The ill-advised issue of Crown grants, creating joint tenancy in large bodies of Natives, including women and children, the lax practices of Native agents, and the rapacity of speculators in Native land, have combined in this and similar cases to take us back to the law of the Year Books and to the times of the Plantagenets" (N.Z.L.R., Vol. iv., page 140.)

It would be easy to introduce instances in which gross injustice has been done to the Native race, but I will mention one. The Native Land Courts in Hawke's Bay, previous to the Act of 1873, not being empowered to order Crown grants to be issued to more than ten Natives, were in the habit of requiring (when the claimants were numerous) that such claimants should nominate ten of themselves as *quasi*-trustees, and of authorising grants to be issued to such ten without adding any restriction upon the alienation. In almost every instance, I believe, the *quasi*-trustees alienated for their own benefit, and their sub-claimants obtained nothing. Grosser spoliation cannot be conceived.

From what I have stated it may be deemed that I am of opinion that the present system has entirely failed in its purpose; nor do I think that any amended legislation on the lines of the past will have any good effect. I would propose an entire change of system—repeal all existing laws, forbid dealings by individuals, and resume the right of pre-emption by the Crown. I feel certain that, properly administered, such a system would be successful.

It has for long past been the custom to say that the Natives will not negotiate with the Crown; but I always looked upon this as a cry propagated by the Native agents. In the past, no doubt, the Crown were very unfortunate in the choice of their agents, and the interests of the Natives and the public were in many instances sacrificed. It would be invidious to mention names, but it may be said that it would only be necessary to mention the names of certain agents employed by the Crown to enable an ordinary person to prophesy the result of their negotiations.

Were the steps I have proposed taken, instead of the Native Land Court, I would invite the Natives to elect Committees of their own, and these Committees should, I think, be presided over by Europeans appointed by the Government with the assent of the Natives. The work of these Committees would, I feel certain, compare more than favourably with the work of the Land Court, and would, in addition, be favourably received by the Native race.

I think it sufficient to make the suggestions I have done, leaving the matter of detail to be worked out elsewhere. There remains, however, one important question, and that is the dealing with the large number of incomplete transactions effected under the existing land-laws. It will not be disputed, I think, that some steps must be taken for the settlement of these questions. I can suggest nothing better than the appointment of a Commission (small in number) with power to deal with all such matters. There should be an appeal, I think, to a Judge of the Supreme Court. Should the appeals be numerous, an additional Judge of the Supreme Court could be temporarily appointed. The number of outstanding transactions involve, I am informed, large amounts—larger, in fact, than should be submitted to the final arbitrament of a Commission.

I have, &c.,

The Native-land Laws Commissioners. J. N. WILSON.

No. 5.

MEMORANDUM from Messrs. WHITAKER and RUSSELL, Barristers-at-Law, Auckland, to the NATIVE-LAND LAWS COMMISSIONERS.

THE existing Native-land laws affecting transactions between Europeans and Maoris are in a most unsatisfactory condition, to say the least of it, and this has been the case ever since the year 1886, when the Native-land laws existing in 1882 were repealed, and a new departure made in the mode of acquiring lands from the Natives. There are numerous cases of uncompleted purchases made by Europeans from the Natives which were perfectly fair and equitable when entered into: but, on account of the number of years taken in acquiring the signatures of the Natives, and numerous other difficulties, during which alterations were made in the law, were delayed in completion. These delays and alterations appear to be most unreasonable and unfair to the Native sellers, as well as to the purchasers.

There are cases under the 17th section of "The Native Land Act, 1867," in which the purchasers began to buy before 1886, still incomplete on account of the alterations in the law of that year. These transactions were entered into in good faith by all parties, and provisions in future legislation should be made to meet such cases, and enable these transactions to be legally completed. Again, there are cases where purchasers have bought lands under the Native Land Acts repealed in 1886, having paid fair prices for the land, but, on account of the alteration in the law in 1886, they have been unable to complete their purchases; and in many cases titles have been held to be bad because the Natives executed the instruments of transfer prior to the issue of the grants, and in some cases the District Land Registrars of various districts have refused to register the instruments of transfer, as well as subdivision orders of the Native Land Courts, made by virtue of these instruments. Provision should be made to meet these cases. In some cases it is practically impossible to decide whether the grant should be issued for registration under the Deeds Registration Act or Land Transfer Act. Again, in confiscated-lands districts, there are cases where the Natives have sold to Europeans for good value, and deeds have been executed and completed as required by law; but, because the deeds were executed before the grants were actually issued, they have been declared void, although in many cases the Governor has actually given his consent to the sale. This, we think, could be rectified by the repeal of the proviso in section 5 of "The Land Transfer Act 1885 Amendment Act, 1889."

There are a great many cases where deeds have been executed by Europeans before the grants have actually issued, and by the above clause validated; but Maori transactions of a similar nature are declared by the Registrars to be void on account of the above proviso. Again, where deeds have been executed in the name of a tribe, although the transaction was *bonâ fide*, the deeds have been decided by a recent case to be void, as the name of each individual owner in the tribe was not set forth in such deed. This is a matter requiring consideration.

There are many cases where Natives are willing to sell and Europeans to purchase, but, owing to the present law being so uncertain, nothing can be done with any reasonable degree of safety; but it is of great importance that provision should be made to enable *bonâ fide* transactions to be completed by registration, so that purchasers may at least have a good holding-title in all cases where the purchases have been *bonâ fide*.

WHITAKER AND RUSSELL.

No. 6.

E. BAMFORD, Esq., District Land Registrar, Napier, to the NATIVE-LAND LAWS COMMISSIONERS.

SIR,— Lands Registry Office, Napier, 4th May, 1891.

I have the honour to forward certain information asked for by Mr. Commissioner Mackay; also, to offer a few suggestions which have occurred to me *re* Native-land laws.

The number of Native titles caveated (defective) is sixteen, comprising an area of 9,702 acres. This, however, is no indication of defective dealings, as scores have been presented for registration, and registration has been refused. Of the dealings refused I have no record. The chief defect in all these titles is that the dealings have been signed before division of the land by the Court.

Before the decision in Paraone *v.* Matthews (followed by Poaka *v.* Ward), it was generally thought that the decision *In re* Kotarapaea was an authority for holding that transfer executed before partition could be made available after partition. To this is attributable most of the defective titles in this district, or, at all events, such titles as have any equity to be validated. I think the best mode of completing such titles as are defective is to pass a short Act enlarging the powers of Land Registrars, and enabling them to treat all such titles as if they were not under the Land Transfer Act. The titles could then be dealt with on application in the usual way. An additional fee, as also additional assurance fund, should be charged.

As to future dealings, I would suggest that all existing Native Lands Acts be repealed. A Native Land Court should be established to investigate and determine the Native owners, and at the same time the proportions in which they are to hold should be determined. The certificate embodying this information should be forthwith transmitted to the Land Registry Office with a view to the preparation of Land Transfer certificates.

It is to my mind a myth to suppose that successors to deceased Natives are determined by Native custom; the nearest relations being invariably appointed. A Native, then, should be empowered to will his land, and in case of intestacy the European law should prevail. Cohabitation might be assumed to constitute a legal marriage. A simple form of partition is probably necessary, but the Court should not be permitted to take cognisance of the interest of any European. The order should be made direct to the Native, leaving the European purchaser to prove his title to the

satisfaction of the Land Registrar. The Maori Real Estate Management Act and the Frauds Prevention Acts would require to be continued.

I have, &c.,
EDWIN BAMFORD, District Land Registrar.

The Chairman of the Native-land Laws Commission,
Government Buildings, Wellington.

No. 7.

Ex Chief Judge FENTON to the NATIVE-LAND LAWS COMMISSIONERS.

SIR,— Crosland, Kaipara, 6th April, 1891.

In accordance with my promise, I now forward a print of the private Bill prepared by me as solicitor for the Ngatiwhakaue Tribe, of Rotorua. After the proper deposits had been made I had to abandon the Bill, because a great proportion of the tribe sent up a petition to Parliament against it. The ground of their objection to the measure was, as I understood, that the first Committee were nominated in the Bill instead of being elected subsequently. As the names were fixed at a meeting of the tribe, there was no force in the objection; but the proceeding shows how great caution is required in dealings with the Maoris.

In reading over the Bill I am struck with the similarity of its general scheme to the ideas which were occasionally shadowed forth by the Commissioners during my examination—that is, if I understood correctly the occasional remarks made by them, and the general tone of the questions.

I regret that I cannot find the dictum of the Native Land Court which I promised to send. If the Commissioners are impressed with the extreme importance of the Judges being guided by the decision of previous Courts, instead of setting up new law *pro re natâ*, the loss will be of no moment.

I referred during my examination to the Waitara Block, purchased by Governor Browne from Te Teira, and explained the necessity which the Compensation Court were under of discovering the members of the tribes in rebellion, so as to trace each individual at the time of sitting. I enclose for the perusal of the Commissioners some pedigrees which I made out at the time. In that of Ngatiuenuku will be found the co-heiresses Tarikura and Parekaitu, from whom are descended Te Teira and Wiremu Kingi te Rangitaake respectively. I beg that these may be returned to me, as I have no other copy.

I have, &c.,
F. D. FENTON.

The Commissioners, Native-land Transactions.

DEAR SIR,— Kaipara, 26th April, 1891.

My reply to your letter of the 17th instant, inquiring how the custom of the Native Land Court to insert ten persons in its certificate when there were more owners, must be held to apply only to ancestral land—*i.e.*, to land held by the tribe or family for generations back.

I think the practice originated in this way: At the period of the early Courts there was a great demand for land, and most frequently land was purchased by a European before it came into Court, the European paying the cost of the survey. The clause limiting the number of owners in the certificate to ten compelled the Court to refuse titles until the estates were reduced by division to ten. By arrangement out of Court ten names were selected, and described to the Court as the owners, the object being to avoid the expense of divisional surveys. I presume that the purchase-money was paid at once, and divided amongst all interested, but I have no official knowledge of this. Whether the persons left out got their share of the money or not cannot be proved now, I should think.

The Natives fell rapidly into this system. I remember a Court where the land passed without opposition. Ten names were admitted by all. I explained at length what the effect would be, and asked several Natives, one after the other, who I thought were interested whether they were so or not. They all disclaimed any interest, asserting the sole title of the seven or ten. Many of the persons who have subsequently claimed were, at the sitting of the Courts when title was ordered, in rebellion—"in the bush," as was said. When Tawhiao and his mob sent to Cambridge to stop the Court on this ground, the Court refused (very properly) to listen to such an argument, explaining that the people were in no danger, and must come in and look after their interests. Very few did so at that time, but they gradually came in. This was one of the great reasons of the break-up of the coalition.

The Act of 1873 introduced almost a greater evil in the other direction. The thousands of names appearing in later certificates as owners are for the most part not owners. The Judges got into the way, after having ascertained the tribe—deciding, in fact, the intertribal contest—of asking for a "list of names." This the Maoris made out, and the Court accepted without much inquiry. I myself never accepted (I think) such a list, but traced the people up to the ancestor who originally owned, or rather, traced down from that ancestor. As I explained, the land is the property of a hapu, or family, under the protection of the tribe. Thus, Pokopikowhititua is the ancestor of Ngatiwhatua. He had four children—Koieie (f.), Te Wairoa (m.), Tira (f.), and Ruarangi (m.)—each of whom had a division of the paternal property; and it would now be wrong to put the descendants of all four into a title. See my judgment in Orakei ("Important Judgments," p. 82, middle).

In short answer to your question, you may put it generally thus: The ten owners were arranged out of Court between the Maoris and the European purchaser, and in Court none others were disclosed.

Yours, &c.,
F. D. FENTON.

P.S.—Pray, whatever you do in the new scheme, do not allow an individual to sell his share, nor for any less than the majority. The intrusion of the European (private or Government) into a title by the purchase of two or three shares has operated most cruelly.

DEAR MR. REES,— Crosland, Kaipara, 1st May, 1891.

You asked me in a private note to give you a hint how the practice of issuing titles to less than the whole of the persons interested arose. I send you a copy of the Court minutes of the first case of the sort that occurred, from which you can form your own opinion.

I am, &c.,
F. D. FENTON.

AT a Native Land Court held in the Courthouse at Tukupoto, Kaipara, on the 27th day of June, 1865, before John Rogan, Esq., Judge; Henry Monro, Esq., Judge; Winniata Tomairiangi, and Wiremu Tipene Hawati, Assessors.—Paparoa Block, 4,540 acres. Survey produced. Te Keene's claim to Paparoa Block read in Court.

TE KEENE states: This is the plan of Paparoa. It was surveyed by Mr. Percy Smith. The claimants' names are—Te Keene Tongaroa, Te Huia Kohirangatira, Apihai te Wharepouri, and nineteen others (named). These are all the claimants. Paraone Ngaweke will inform you how these claimants derived their title to this land.

Paraone Ngaweke states: Pokopihowhititua was the ancestor of all the Ngatiwhatua. He was the owner of the land now under investigation. His children were Koieie, Te Wairoa, Tira, and Ruarangi. The claimants named by Te Keene are all descended from these four ancestors.

Te Huia Kohirangatira: I have a claim upon this land, being a descendant from Ruarangi, one of the ancestors named by Paraone.

Apihai Te Wharepouri, Tairua Patiti, Te Wiremu Rewheti, and Te Rewheti Tamahiki (the same).

Patoromu states: I claim this land, being a descendant from Tira and Ruarangi. I have a separate claim within this block, which I derived from Kirau, one of my ancestors.

Karauria states: I have a claim, being a descendant from Ruarangi and Tira.

Paraone Ngaweke states that Kataraina is descended from Koieie.

Te Manihera Katikati states: I am descended from the same ancestor as Te Wiremu Rewheti, and have also a claim to this land.

Tawaewae states: I am descended from Ruarangi.

Te Rira Makaiti: I am descended from Ruarangi, and have a claim to this land.

Takerei states: I am descended from Ruarangi, and claim this land

Te Kira Makatiti states: Te Whatikina is a descendant of Ruarangi.

Paraone Ngaweke states: I am descended from Ruarangi and Tira.

Pakihi Taraia states: I have a claim upon this land, being a descendant of Tarationga, Koieie's fourth son.

Te Para states: I am descended from Te Wairoa. I have a piece of land which has been included in this block. I wish the boundary to be rectified—each man to have his own.

Te Wiremu Rewheti states: To Kepa te Aho has a claim upon this land, but Te Keene is the principal claimant.

Wiremu Pungaro states: I wish the survey-line to remain as it is, because we all have a claim to each side of the line. Let it be as the surveyor laid it out.

Paraone Ngaweke states: I considered that the boundary was wrong originally, and had a dispute with Te Keene about it; but, as it has been laid down, let it remain as it is.

Te Para states: The disputes of relatives are soon made up. We have had our dispute about this boundary, and I now agree to let it remain as it is.

Patoromu states: I still consider that I should have my piece, or let my name be inserted in the certificate.

Te Keene states: I wish to have my name alone in the certificate, as it can be subdivided hereafter, when each claimant can pay for the plan and deed.

After some little discussion Patoromu agreed that the boundary should remain as it is.

Manukau states: I have a claim to this land, and agree with Te Keene's statement.

By the Court: Are you all agreed that Te Keene's name alone should be in the certificate of title?—We are all agreed.

Boundaries described by Tawaewae and Te Rira Makatiti: Commencing, &c.

Certificate ordered to Te Keene Tangaroa.

SIRS,— Kaipara, 13th April, 1891.

I have now the honour to forward to you a copy of the returns of receipts and expenditure —purchase of Native lands for the years 1870–79, of which I spoke in my evidence.

I have, &c.,
The Land Commissioners. F. D. FENTON.

P.S.—I think that this return was produced or quoted by Mr. Bryce in his speech developing Native policy.

APPROXIMATE RETURN of Native Lands purchased since 1870 in the Provincial District of Auckland, and handed over to the administration of the Crown Lands Department, up to 1879. (Published in Appendix for 1879.)

Year.	Acres handed over.	Acres sold.	Value.	Cash received.	Remarks.
1870 } 1873 }	Nil.	Nil.	£	£	
1874	122,102	Nil.	...	...	
1875	Nil.	Nil.	...	...	
1876 } 1877 }	27,307	302	566	303	Scrip, £263.
1878 } 1879 }	604,239	389			
	1,153,648	691	566	303	

The expenditure is given in the same return, of which Auckland might be debited with perhaps half:—

Year.	Appropriation.	Expenditure.
	£ s. d.	£ s. d.
1871 } 1872 } 1873 } ... ... 1874 } 1875 }	200,000 0 0 500,000 0 0	230 0 0 49,432 5 6 67,808 9 4 98,286 14 7 145,615 15 3
1876	103,550 0 0	84,030 17 5
1877	125,817 14 6	85,644 4 9
1878	91,825 19 9	50,033 9 8
1879	150,918 3 6	124,412 1 1
Total	...	705,493 17 7
Outstanding liabilities		£1,121,677 0 0
Total		1,827,170 17 7

No. 8.

J. T. LARGE, Esq., Licensed Interpreter, Wairoa, Hawke's Bay, to the NATIVE-LAND LAWS COMMISSIONERS.

SIR,— Wairoa, Hawke's Bay, 9th May, 1891.

In submitting my views on some of the questions forming the subject of inquiry of your Commission, I beg to state that I have been a licensed interpreter in practice since 1874, and was, moreover, for a considerable time employed in the Government Land-purchase Department on the East Coast. I have therefore had a good deal of experience in Native-land matters. In consequence of your Commission not sitting at Wairoa I have been unable to appear personally before you to give evidence, and therefore beg to forward my views in writing.

Native Land Court.—I believe there is a general consensus of opinion amongst interpreters and others qualified to form an opinion on the subject that the Judges, Recorders, or other officers presiding over Native Land Courts should have a competent knowledge of the Maori language, and customs relating to Native-land tenure, to enable them to understand everything that is said by the Native witnesses, without the intervention of an interpreter, and form a correct estimate of the weight of evidence. At the present time many of the Judges are entirely dependent on the interpretation given by the Court interpreter, which does not always convey the exact meaning intended by the witness, and, moreover, is often greatly abbreviated, so that much of what is said is lost to the Court. I am also of opinion that the evidence should be taken down in the Maori language by the Judge or Recorder, and that the evidence of each witness should be read over to, and signed by, such witness on the completion thereof. The evidence being taken down in Maori by the Judge or Recorder would render the employment of an interpreter and a clerk unnecessary, the Judge or Recorder and the Native Assessor being sufficient to conduct all the proceedings; and thus the expense of these tribunals would be greatly lessened.

The Court should in all cases sit as near to the lands the subject of investigation as possible, so that all the old, infirm, or indigent Native owners may attend to give evidence if they wish to do so; it being a notorious fact that many of the Natives, younger and better off, endeavour to have cases in which they are interested heard at a distance from the settlement where the bulk of the owners reside, in order that the latter may be prevented from attending to give evidence in support of their claims; and the aforesaid schemers thus have the whole of the "say" when the hearing takes place, to the detriment, in many cases, of the real owners of the land—sometimes, indeed, to their absolute exclusion from the certificate of ownership. Another important reason why the Court should sit as near as possible to the land being adjudicated upon is so that the Court may be enabled to go on

the land and examine the landmarks before giving judgment. If this were done in all cases there would be fewer applications for rehearing. I will give an instance where the neglect of this important proceeding led to the Court making an unjust and absurd mistake in the partition of a block of land in this district. When the Hereheretau subdivision case was being tried by the Court under Judge Wilson, the Natives interested made a strong effort to obtain the portion containing the homestead of Mr. J. Hunter Brown, the lessee of the block, and purchaser of several undivided interests therein. Whereupon Judge Wilson told the Natives that he would no more think of giving them the European's homestead than he would of giving the European their (the Natives') settlement. Yet, in spite of this assurance, the Court, in making the partition of the block —having failed to personally inspect the land—actually awarded to Mr. J. Hunter Brown the portion of the block containing the chief Native settlement (Te Whakake), the church, and burial-ground. This extraordinary decision led to a rehearing, when the judgment was, of course, reversed.

The Court should exercise more care in the revision of lists of names of owners, admitting only the heads and senior members of families, and representatives of separate interests, instead of allowing the Natives—as has frequently been done—to put in parents, children, and grandchildren, and even, in some well-authenticated cases, the names of children before they were born. It is owing to this laxity on the part of the Native Land Court that the memorials of ownership of lands on this Coast are burdened with hundreds of names, thus rendering it extremely difficult and expensive to deal with those lands, and well-nigh impossible to obtain a complete title.

I am of opinion that the chief or most competent owners of lands being adjudicated upon should manage the cases on behalf of their respective hapus, and that no lawyers or Native agents should be admitted to practice in the Native Land Courts, as these latter greatly increase the expense of the proceedings, and cause them to be unnecessarily protracted, the expenses in some cases amounting to nearly the value of the land. I consider that the expense of putting lands through the Court should be greatly reduced, and that no Native should be debarred from giving evidence or preferring his claim through inability to pay the Court fees. It would be preferable, I believe, if the necessary expenses were made a lien on the land, as the Natives are frequently impoverished and put to great straits in order to obtain money wherewith to pay Court fees and other expenses, and costs of living in the towns in which the sittings of the Court are usually held.

Adequate means should also be taken by the Court Registrars to send notices to all tribes interested in lands gazetted for hearing. While I was at Ruatahunu and Maungapohatu last December, the Uriwera complained greatly of not receiving any notice of the rehearing of the Te Wera Block, in consequence of which they were absent when the case came before the Court, and, there being no one present to represent their interests, the former judgment was confirmed, to their injury. I believe that in many cases a small and well-selected Native Committee might be of great service in the preliminary stages of an inquiry into the ownership or partition of lands, by taking in hand the classification and reduction of claims, collection of evidence, and so forth; thus placing the case in the best position for hearing, and greatly lessening the work of the Court, which would then only require to deal with the clearly-defined and conflicting claims, and the larger issues involved.

Purchase and Lease of Native Lands.—The great number of owners, and the difficulty and expense of obtaining their signatures to deeds of lease or conveyance under the existing Native-land laws of the colony, have practically produced a deadlock in Native-land transactions, and it is the almost unanimous desire of both Europeans and Natives interested that the present cumbrous and inefficient system should be abolished, and a more simple, inexpensive, and effective method of dealing with Native lands substituted. I believe there is a general desire, even amongst the Natives themselves, that in cases where there are many owners it would be better to revert to the system in force under the Act of 1867, whereby a certain number were appointed to act as trustees on behalf of the whole of the owners, with full power to sell or lease the lands in respect of which they were appointed trustees. The great objection to this system was that the trustees abused their power, by misappropriating to their own use moneys accruing from sales and leases, which they should have distributed equitably amongst the whole of the owners. But such an abuse of trust could be easily guarded against by the appointment of an officer whose duty it would be to see that all such moneys were divided amongst the owners entitled to receive the same. Such trustees to act only at the request of a majority of, say, two-thirds of the owners, and provision to be reserved for cutting out the interests of the dissentient minority. I believe, if some such method as the one proposed were adopted, that there would be comparatively little difficulty in effectuating the lease or transfer of Native lands, and a vast saving of time, trouble, and expense would be the result.

Pre-emptive Right of Purchase.—I believe it would be advisable, if practicable, for the Government to resume the pre-emptive right of purchase of Native lands in certain districts. This would lead to the lands being more speedily acquired by the Government, and at a more reasonable figure than under present circumstances, as private competition undoubtedly tends to raise the price of lands beyond their real value, and also induces the Natives to keep the lands locked up in the hope of obtaining still better prices at a future period; whereas, if there was no competition, the Government could purchase the land at their own price, as the Natives would know they had nothin to gain by holding out. I believe this plan would be most successful in districts where there are large areas of land still in the hands of the Natives.

Attestation of Deeds and Instruments.—I am of opinion that an officer with a competent knowledge of the Maori language should be appointed to act as Native Officer in each district, and Special Attesting Officer; also to act as Trust Commissioner: so that the necessary inquiries as to the *bona fides* of the transaction could be made at the time the transaction was effectuated, and the Trust Commissioner's certificate appended to the deed there and then. The same officer would also be responsible that the proceeds of sales and rents of lands were equitably divided amongst the owners as aforesaid. I consider that the officer carrying out the combined duties of Attesting Officer and Trust Commissioner should thoroughly understand the Maori language, so as to be able to certify

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 *bonâ 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

not think of entering. I merely allude to it in order to emphasize the position that it is not suggested that there should be any validation of transactions which were of a fraudulent or even improper character.

4. The subject of future legislation is too extensive for the limits of such a letter as this. The main objects appear to me to be—(1) to insure the reservation of ample areas of land in every district for the occupation of the Natives, such reserves to be absolutely inalienable; (2) to simplify the means of alienation of the large tracts of country in the North Island which are now lying idle, and which are useless to the Natives; (3) to provide security of title.

I have, &c.,

The Native Land Commissioners, Wellington. A. J. COTTERILL.

No. 10.

Chief Judge H. G. SETH SMITH, Wellington, to the NATIVE-LAND LAWS COMMISSIONERS.

SIR,— Native Land Court Office, Wellington, 16th May, 1891.

In reply to your letter of the 14th instant, enclosing a copy of the reference to the Native-land Laws Commission, and requesting me to favour the Commissioners with any written statement in relation thereto that I may desire them to consider, I regret that, in consequence of being obliged to leave Wellington next Monday, the time at my disposal is so limited that I cannot enter into the details of the subject, and I must ask the Commissioners to excuse me from doing more than making a few general remarks on each of the matters referred to them.

1. The existing laws relating to the alienation and disposition of interests in Native lands are complicated and uncertain, and require a number of formalities to be observed which are harassing to the purchaser, and afford only a partial protection to the Native vendor, at the same time materially increasing the cost of obtaining a title, and proportionately decreasing the consideration-money that is paid to the Natives.

In amending the law in this respect the objects to be aimed at are—(1) to introduce uniformity in the restrictions upon alienation to which the lands of Natives are subject; (2) subject to such restrictions, to facilitate the transfer of such lands in the simplest and most economical manner; (3) to provide an inquiry for the purpose of frustrating any attempt to infringe the restrictions. This might, in my opinion, be accomplished without any serious cost either to the country or to intending purchasers, the two principal objects to be aimed at being—(*a*) to prevent any Native parting with all his land, so as to become a pauper; (*b*) to see that each Native vendor understands what he is doing, and gets an equivalent in money or money's worth for the land he is parting with.

2. Although there are many matters of detail in which the practice and procedure of the Native Land Court may be improved, the general principles by which it is guided are those which must necessarily determine the action of any tribunal charged with the duties which are imposed on the Court. In order to ascertain the rights of Natives to their lands in accordance with Native custom, it is necessary that the Court should hear all that the various claimants have to say in support of their claims. As, in the great majority of cases, the claims are based on ancestral rights, known only by tradition, an opportunity for invention is offered which some of the claimants are not slow to avail themselves of. Proceedings are thus not unfrequently protracted by the necessity the Court is under of listening to evidence in support of claims which ultimately are shown to be without foundation. So far as my observation has extended, this is by far the most serious impediment to progress in investigation of Native titles. If some special penalty could be imposed on offenders who set up fictitious claims, or who attempt to support their claims by false evidence, it would, I believe, have a deterrent effect, which the extremely remote danger of a conviction for perjury entirely fails to produce at the present time.

What is needed to effect the purposes for which the Native Land Court has been established is a tribunal that shall be hampered as little as possible by legal formalities, supreme in all matters relating to its own procedure, and capable of giving final and authoritative judgments, binding upon all the world, in all matters within its jurisdiction. The Court should have jurisdiction—(*a*) to declare the rights of the Natives *inter se;* (*b*) to supervise transactions by way of alienation from Natives to Europeans; (*c*) to give an indefeasible title to *bonâ fide* purchasers, with all the subsidiary powers necessary for carrying out these objects effectively. The decisions of the Court on matters of fact should be as final as the finding of a jury, and decisions upon questions of law should be subject to appeal, within a limited time, to the Supreme Court or Court of Appeal; but proceedings by way of prohibition and *certiorari*, which frequently seriously delay, and in some cases render wholly abortive, the proceedings of the Court, might with advantage be abolished.

As every tribunal is liable to err, whether through want of care on the part of its officers or through the ignorance or carelessness of the parties before it, it would be well to establish a fund for the purpose of compensating any person who might be shown to have been deprived of a right; but no title once established by order of the Court should be liable to be defeated by reason of any error not attributable to fraud. Out of the duty payable on sales of land, a portion might be set aside for this purpose, and the Governor might be empowered to grant an area of Crown land instead of making a money payment, in cases in which the payment of a sum of money might seem undesirable.

3. With regard to alienations or attempted alienations which were commenced under laws now repealed, and cannot now be completed, it is important to distinguish between those transactions which were entered into in defiance of the law, in the hope of being able at some future time to obtain a validating measure, and those which were entered into with the intention of complying with the requirements of the law so far as they were known and understood. The former class of transactions deserve no consideration; the latter should be provided for by establishing a tribunal competent to remedy the existing defects and to do what the justice of each case may demand. Mis-

takes have been made partly through misapprehension as to the nature of the proceedings and formalities required by law to vest a freehold estate in a purchaser of Native land, and partly from the opinion which appears to have prevailed that, as to some of the formalities, it was of no consequence whether they were observed or not. Again, changes in the law have prevented the completion of some transactions which, had the law remained unaltered, might, and in all probability would, have been completed. The only adequate solution of this question is to establish a tribunal competent to inquire into each case, and make such order as the justice of the case may require. As in many cases it will be necessary to make a partition of the land between sellers and non-sellers, the tribunal should have all the powers of the Native Land Court. The orders should be final and conclusive, and should have the effect of conferring an indefeasible title, capable of being registered under the Land Transfer Act. On the other hand, if any transaction were found tainted with fraud, a declaration to that effect should be final and conclusive, and the intending purchaser should not be allowed to litigate the question in any subsequent proceeding.

4. This seems to be a matter rather political than legal; I have therefore nothing to say about it beyond what I have already said with reference to No. 1.

I have, &c.,
H. G. Seth Smith, Chief Judge.

J. M. Geddis, Esq., Secretary, Native-land Laws Commission.

No. 11.

Judge E. W. Puckey, Cambridge, to the Native-land Laws Commissioners.

Sir,— Cambridge, 29th April, 1891.

I forward herewith an outline of the Opuatia case, which I mentioned to the Native-land Laws Commission at Cambridge immediately after Mr. Moon had given his evidence. I am sorry it is only an outline. The facts are accurate, but the details in figures are approximate. I could not attend to the matter while in Auckland, as I had weightier interests (to myself) to attend to, and I find I have not my note-book containing the case here with me, so that what is written is from memory only. I hope you will see your way to recommend some legislation to give relief to the applicants. I am, of course, not in any way interested in the case otherwise than as an *amicus curiæ*.

I have, &c.,
The Chairman, Native-land Laws Commission, Wellington. E. W. Puckey.

Opuatia Block.

The title to this parcel of land is a Crown grant under the Native Lands Act of 1865, and was vested in ten grantees. Area, about 46,000 acres. The survey was made, I think, in 1866, and was paid for out of the proceeds of the sale of a piece of land called Purapura, which was the property of a Native called Wetere te Hauwae. It was adjudicated on by the Native Land Court, his Honour Mr. Chief Judge Fenton presiding, and was, by consent, awarded to Waata Kukutai, who was not the owner, in order to facilitate the transfer. The survey-fees amounted to above £1,600. Some few years back the ten grantees executed a deed in favour of about a hundred and forty persons, who, with the original grantees and the successors of such of them as have died, are now the legal owners. Mere Kataraina, one of the owners under the deed referred to, and the representative of the former owner of Purapura, Wetere te Hauwae, has applied to the Court for a division, and asked the Court to award her, in addition to her own share, as much as will satisfy her claim on account of Purapura Block, sold to pay the survey, amounting now, with the principal and interest added, to over £4,000. The area claimed out of the block was 19,000 acres. Since the execution of the deed above mentioned, a majority of the owners signed a document setting forth that they recognised the fact that Mere Kataraina was the representative of Te Wetere, and that what was paid for the survey was a debt owing to her by the tribe. It was recognised by the Court that in the absence of a voluntary arrangement the Court could not make an order as prayed. The claimants were advised to appeal to Parliament, and the case is now standing over for a future sitting of the Court.

No. 12.

Judge Mackay, Wellington, to the Native-land Laws Commissioners.

Memorandum *re* the Simplification of the Present Native Land Court Procedure, and the Promotion of a System that will enable the Natives to effect an Amicable Settlement of their Land-questions without the Intervention of the Court.

The following suggestions may prove serviceable as an alternative mode of procedure for enabling the Natives to adjust their own land-titles:—

The course that I would suggest is the jury system, as it will be probably found that this form of procedure will commend itself as a satisfactory mode of settling these questions. The scheme could be carried out somewhat as follows: The Judge of the district, with the aid of the Runanga, could prepare a list of all the eligible men suitable to act as jurors, and arrange them in alphabetical order; and the procedure for forming a panel could be assimilated to the usual custom observed in such cases, six to form a jury, each party to be entitled to challenge three of the number empanelled. With the consent of the parties, a jury of any greater or less number than six to be empanelled for the trial of any case: a similar right of challenge to either party, of one-half the number of jurors. Each jury to elect their own foreman or chairman. The verdict to be a unanimous one, and if the jury should be unable to agree to a verdict after a reasonable time, the Chief Judge to have the power to discharge the jurors at his discretion, and quash the proceedings, or refer the case, with the consent of the parties, to the Native Land Court to determine the points at issue. On the other hand, if a verdict is arrived at in the manner provided, the Chairman to report the same to the Chief Judge,

whose duty it shall be to issue an order in conformity with the decision of the jury, provided it is not appealed against within three months by any person feeling himself aggrieved. The procedure before the jury to be confined to questions of title or cases of subdivision in which Natives are alone concerned. All appeals from the decision of the jury to be referred to the Native Land Court to hear and finally decide. Evidence taken before the jury may be received and used as evidence in any proceedings referred to the Court. The Chief Judge, subject to the approval of the Governor in Council, to make rules for the conduct of business before the jury, and prescribe forms for all proceedings, and fix the fees to be demanded and taken upon any such proceedings.

The jury system, if carried out properly by the Natives, ought to materially assist the work of the Court, even if nothing else was accomplished by it than settling the precise issues to be tried, or, at any rate, putting them in a definite shape, instead of tumbling the case, as hitherto, into the Court like a bundle of dirty linen, leaving the Court to disentangle the heap and reduce it into shape as best it may. The Court needs outside aid wherewith to seek out and grasp for itself all the facts of the case before it; and this assistance could be afforded either by the Runanga or the jury. In the Supreme Court the Judge carries with him a known rule of law, and has to apply it to the facts of the case, the responsibility of finding out such facts being the work of others; but in the Native Land Court the Judge has to find the facts himself as best he may, out of a mass of evidence of the most unreliable character.

It is customary to blame the Court for the protracted duration of the hearings; but the delay is not the fault of the Court, but is attributable to the untoward circumstances associated with all the business that comes before it: and if a change can be effectuated by relegating to the Natives the duty of reducing the work—in a great measure caused by the peculiarities of their tenure, the nature of the evidence submitted, and the obstructions and difficulties placed in the way of a speedy ascertainment of their title by the tactics adopted by designing individuals and land-grabbers of their own race—a great deal will have been accomplished. I have always felt that the Court needed outside assistance of this kind for the purpose of shortening the proceedings, and I have encouraged the Natives on all occasions to arrange matters amongst themselves; but it is a very rare occurrence that success attended their efforts. This was probably attributable to the want of authority possessed by the Runanga, or Committee, to take such matters in hand, and to the Natives, as a rule, being unwilling to submit their land-questions to the arbitrament of a self-constituted body, whose actions were not recognised by law.

It has been mooted from time to time as a mode of reform in the Native Land Court procedure, that the Courts should be changed into Commissions, and the Commissioners sent among the Natives to seek information instead of deciding merely on the evidence brought before the Court. The idea of a Commission of Inquiry is a feasible one as a preliminary operation; but the Commissioner and Judge should be distinct. There is no doubt that a preliminary inquiry would be of great assistance to the Court, as it needs "tentacula" wherewith to seek out and grasp for itself all the facts of the case; but the plan would fail to give satisfaction to the parties claiming the land if the inquiry was made by the same official who had to finally decide the ownership. The Natives are a very suspicious people in regard to land-matters, and the Commissioner, however cautiously he might act, would very soon get distrusted, owing to the nature of his work compelling him to associate freely with the people for the purpose of ascertaining the necessary facts of the case under investigation. As the proposed reformation in the Native-land laws is for the purpose of simplifying the mode of procedure, it may be deemed that the foregoing proposition would rather tend to increase than diminish the work of the Court, by creating a dual mode of investigation of title, and, as the intention is to encourage the Natives to take part largely in settling their own titles, any mode by which their aid could be called into action would be preferable to establishing a form of minor Court, to be presided over by a Government official. If the Natives could be induced to adopt the jury or some other system as a preliminary procedure, that would meet the requirements of the case, a great deal of expense would be spared them, and the time of the Court ultimately saved. Under the present condition of affairs, Native agents, paid by the Natives, fight the title of the opponents in Court, and prolong the procedure to an unnecessary length. This in itself is the parent of mischief, as it interferes with an opportunity for a compromise. The land becomes the subject of contention in a new arena, reminding the Natives of the old conflicts by force of arms, and they enter the contest with zeal, forgetful of its enormous cost.

Touching a statement that appeared in some of the papers that it was intended to change the title of "Judge" to that of "Recorder," I would submit that the term "Recorder" is an inappropriate one. It is true that the Native Land Court is a Court of Record, but the Judge of the Court does not perform the functions of a Recorder—that is the duty of the Registrar. It has been urged that the duties of a Judge of the Native Land Court are simply to find out the facts—facts as to the owners, boundaries, customs, &c.—and he has no other function: this, however, is an erroneous view of the duties, as the Judge has not only to find out all the facts, but he has to compare such facts, and perceive their agreement or disagreement, and thus to distinguish truth from falsehood, and determine authoritatively the controversy between the parties. It would be more to the purpose to improve the status of the Judges than to disrate them: if not practically, as regards the duties to be performed, it would in public estimation, through calling them an inappropriate name. The appellation has existed for twenty-six years, and there appears to be no good reason why it should now be changed out of mere caprice.

With reference to the complaints frequently urged against the Court relative to the time occupied in hearing cases, I would beg to observe that it is manifestly unfair to compare the duration of a hearing in the Native Land Court with one in any other Court, for, quite apart from the magnitude of the interests at stake precluding anything like a summary inquiry, there is this material difference: In other Courts the issue is not only settled or well understood, but it is between plaintiff and defendant only; whereas in the Native Land Court, besides the claimant, there may be a dozen

counter-claimants, each fighting his own battle, and each calling his own witnesses, and cross-examining those of each of the other parties; all of which tends to protract the proceedings to a considerable extent—in fact, compels the case to be heard as many times over as there are counter-claimants. The proceedings in many cases might be considerably shortened if the parties were compelled, antecedent to the trial, to settle the precise issues to be tried, or, at any rate, to put them in a definite shape.

Another difficulty the Court has to encounter is the impossibility of obtaining evidence free from the taint of interest. Many years ago evidence of this kind would not have been received in a Court of law, nor is hearsay evidence now admissible, except in a few cases. The difficulty of obtaining independent testimony is owing to the unwillingness of the Natives to give evidence in connection with tribal rights other than their own, as considerable objection exists against meddling with matters of this kind outside their own immediate families; and this is not to be wondered at, as any interference of this nature in olden times would have provoked a quarrel. Hearsay evidence is also compulsory, as the Court for the purpose of determining the tribal title has to deal with events that took place antecedent to the establishment of British government in 1840, this being the point of time fixed on at which the Native title became crystallized. It is no light task, therefore, to deal with a question sufficiently intricate in itself, without these additional disadvantages to contend with.

Another cause that increases the work of the Court in disentangling and expeditiously settling the cases referred to it is, that since land has become known to the Natives as a commodity wherewith to obtain money, the love of gain frequently leads to claims being preferred by parties who have no right whatever.

The Court needs outside aid wherewith to seek out and grasp for itself all the facts of the case before it; and this assistance might be afforded by a body elected by the Natives themselves if this body could only be induced to co-operate judiciously. Hitherto the action of the Native Committees has been rather to frustrate than to facilitate the settlement of Native title by the Court; but, if confidence could be established in the Native mind with regard to the impartial action of a body to be constituted by themselves, its assistance would prove a valuable adjunct to the Court, and effect a saving of both time and money.

As it is contemplated to amend the existing Native-land laws, I beg to point out a few matters which should receive attention while the business is in hand. Provision should be made to punish perjury in the Court, as it is highly necessary that steps should be taken to put a stop to the wholesale lying that takes place; and for this purpose the Court should be empowered to commit to prison any person wilfully and corruptly giving false evidence on oath before it.

Another matter which requires a more stringent form of procedure, as a deterrent, is the mode of dealing with applications for rehearing. Only a very small percentage of these applications is genuine; a large number consist of speculative attempts to disturb the original decision, and others are made out of pure wantonness, and at the instigation of designing individuals, who hope to profit by the extra work created by a fresh sitting of the Court. The fee on application should be increased to £50, and should it be found that such application is not a genuine one the Court should be authorised to inflict a fine in addition.

It is important also that the Court should be empowered to appoint or remove trustees for land set apart for cemeteries, or dedicated for the public use of the Natives in the localities where such lands are situated. As matters now exist, trustees are chosen for the purpose of holding such lands, and ultimately, owing to there being no means of creating a trust, these persons get into the title as sole owners, and there are no means of removing them. The result of this is, that these persons frequently dispose of the property; but should they retain it, on their death it gets into the hands of their next-of-kin. At present the Court has no authority to appoint trustees for lands of this description.

Clause 5 of "The Maori Real Estate Management Act, 1888," requires amending as regards the power conferred on a Judge of the Supreme Court to consent to the execution of a lease or conveyance by a trustee of a minor. This authority was formerly held by a Judge of the Native Land Court. The present condition of the law creates a dual proceeding, to the detriment and loss of the persons concerned, owing to the expensive and complex form of procedure required by the Supreme Court; and no good purpose is served by it.

Another important matter that requires attention is, that Natives should be prevented from obtaining probate in either the District or Supreme Court; now that the Native Land Court is empowered to grant probate under clause 2 of the Act of 1890, and rules have been specially framed for the conduct of business, which provide, *inter alia*, that notice of every application for probate shall be published in the *New Zealand Gazette* and the *Kahiti*. The rules further provide that a period of two months must elapse after notice before probate can be granted, to enable a caveat to be lodged. All these precautions to prevent fraudulent wills from being accepted are set at naught by parties being able to go to either the Supreme or the District Court, and obtain probate without notice; hence the necessity for putting a stop to such proceedings.

9th May, 1891. A. Mackay.

No. 13.

The Secretary, Chamber of Commerce, Auckland, to the Native-land Laws Commissioners.

Gentlemen,— Chamber of Commerce, Auckland, 20th April, 1891.

I have the honour, by direction, to forward you copy (enclosed) of resolutions passed at a meeting of members of this Chamber, held on the 16th instant, *re* amendments in Native-land laws, &c., commending same to your favourable consideration. I have, &c.,

The Commissioners, Native-land Laws. J. Young, Secretary.

P.S.—This Chamber has received communications from Messrs. Kemp, Tizard, and others upon this subject, and shall be happy to place at disposal of the Commissioners.—J.Y.

A MEETING of the Chamber of Commerce will be held to-day, when a report will be presented from a committee in regard to Native lands. The following are the suggestions made :—

Native Lands.—The Chamber of Commerce, having had under consideration the desirability of opening up Native lands for occupation, are of opinion that the time has now arrived when active steps should be taken in that direction, and would respectfully suggest that in dealing with such lands the following lines should, as far as practicable, be followed : (1.) That sales of Native lands should be assimilated to the practice now ruling in selling Government lands. (2.) That the Government should not be purchasers of Native lands, but should act only as agents for and on behalf of the Natives. (3.) That the Natives be requested to furnish Government with particulars of such lands as they are willing to dispose of, and price demanded for same. (4.) That as soon as the Government are in possession of such information, the land so specified be advertised as open for selection. (5.) The cost of surveys of such land be made a first charge upon the land, or to be paid by vendor or purchaser, as may be agreed. (6.) That all moneys received for sale of such lands shall be held in trust for Natives until completion of title. (7.) That a percentage of all moneys received should be set apart and applied to opening up the land by roads and bridges. (8.) That a sufficient reserve of land be set apart for the maintenance of aborigines; also, as endowment for school purposes. (9.) That all present laws relative to sale of Native lands be abrogated, having been found most unsuitable, tending in many cases rather to lock up than to open lands for settlement.

No. 14.

SIR,— Department of Lands and Survey, Wellington, 20th May, 1891.

In reply to your letter of the 13th instant I have pleasure in furnishing the following information, though it is scarcely in the form you asked for, for the simple reason that the data does not exist for dividing lands into "agricultural and rural."

As a matter of fact, the lands still left in the North Island, and suitable for settlement, are mostly of a mixed agricultural and pastoral nature, and cannot well be separated the one from the other. It has therefore become the practice to refer to such mixed lands as "settlement lands," and it is understood that the term includes such country as is suitable for holdings up to 2,000 acres, and are consequently partly pastoral.

Approximate area of Native land still unalienated, but suitable for settlement, in the Provincial District of Auckland : Mixed agricultural and pastoral or settlement land, 1,007,000 acres ; pastoral, 1,580,000. In these areas I do not include the Uriwera country, about which very little is at present known, but the probability is that a large portion of it might be classed as pastoral country —that is, it is capable of being made into pastoral country by clearing and sowing. The area of this country is about 1,500,000 acres.

With regard to the other questions raised in your letter, as to sufficient reserves for the Natives, I am not in a position to offer any opinion thereon.

With respect to the cost of surveys, if Government should revert to the exercise of the pre-emptive right, I beg to say that this could be reduced to an average of 2d. per acre. The mean price at present paid for Native Land Court surveys amounts to about 8d. per acre.

I have, &c.,

J. M. Geddis, Esq., S. PERCY SMITH, Surveyor-General.
Secretary, Native Land Laws Commission, Wellington.

Approximate Cost of Paper.—Preparation, not given; printing, including corrections, &c. (2,100 copies), £243.

By Authority: GEORGE DIDSBURY, Government Printer, Wellington.—1891.

Price, 3s. 6d.]

APPENDIX.

In the Court of Appeal of New Zealand, between Te Moauroa and Others, Plaintiffs, and the Public Trustee and Henry Thomas Turner, Defendants.

JUDGMENT OF CONOLLY, J.

By a deed made the 17th of January, 1876, certain Natives leased to one Matilda Rhatigan part of the Native reserve called Otoia, in the Patea district, containing 700 acres more or less. The term of the lease was sixteen years from the 1st of January, 1876, and the rent for the first ten years was £105 per annum, and for the last six years £140 per annum.

At the date of the execution of this lease the ownership of the land comprised therein had not been determined. It was within that which was described as "confiscated territory" by the Acts of 1879 and 1880, with respect to which inquiry had been made by Commissioners. By "The West Coast Settlement (North Island) Act, 1880," the Governor was empowered to issue Crown grants in fulfilment of awards of the Commissioners. By "The West Coast Settlement Reserves Act, 1881," section 4, provision was made for the insertion of conditions in Crown grants issued or to be issued under the Act of 1880.

In pursuance of these Acts a Crown grant was issued on the 27th of July, 1882, to certain Natives of land in the Patea district, containing 1,200 acres more or less. It must be assumed that this includes the 700 acres demised by the lease to Mrs. Rhatigan.

The grantees were not all of them the same as those who in 1876 purported to be lessors; but any possible difficulty to arise under such circumstances was provided for by section 9 of the Act of 1881, whereby the Public Trustee was to be the receiver of all rents payable under any lease of any reserve, and to pay over the same to the Native owners in such shares and proportions as he should ascertain to be due to such owners respectively. It may be, however, that this provision did not extend to leases already irregularly made until they were confirmed by subsequent legislation, but this is not material.

It is important to consider the terms of the Crown grant. It was to be absolutely inalienable by sale, gift, or mortgage, except by way of exchange for land of equal value, and was not to be alienable by lease for any term exceeding twenty-one years, and then only by the written consent of the Governor in Council.

In February, 1883, regulations were made by the Governor in Council under the Act of 1881, as authorised by section 5 of that Act, and these regulations contain a form of lease and provide that leases shall be prepared by the lessor, and shall, as nearly as may be, be in that form, and contain the powers, reservations, provisions, conditions, covenants, and agreements set forth therein. This, however, would only refer to leases to be thereafter granted, and in the view which I take of the matter now before the Court becomes immaterial.

In the following year "The West Coast Settlement Reserves Act 1881 Amendment Act, 1884," was passed, which by section 10 empowered the Governor, upon being satisfied as to certain preliminaries, to confirm leases which had been irregularly granted by Natives prior to 1880. By virtue of this provision the lease of the 17th of January, 1876, was confirmed

on the 27th of October, 1885. It had just previously been assigned by the original lessee to Henry Frederick Turner, and was shortly after, namely on the 5th of January, 1886, assigned by him to the defendant, Henry Thomas Turner.

By section 13 of the Act of 1884 the Public Trustee may accept from the lessees surrender of any lease which has been confirmed by the Governor, and in lieu of such may grant a new lease of the land comprised in the surrender lease at a rental to be computed on the improved value of such land, on such terms, subject to the Acts of 1881 and 1884, and to all regulations made thereunder, as may be agreed upon between the Public Trustee the Native owners of the land and the lessees.

I am quite clear that the acceptance of a surrender under this Act is discretionary on the part of the Public Trustee; and also that the terms to be agreed upon must be in accordance with the terms of the Crown grant. It may be that the written consent of the Governor to the alienation of the land by way of lease was no longer required after the passing of this Act, or even after the passing of the Act of 1881; but nothing in either of these Acts would authorise the granting of a lease for more than twenty-one years. In 1887 "The West Coast Settlements Reserves Acts Amendment Act, 1887," was passed. This amends the Acts of 1881 and 1884.

Section 7 provides a different plan for settling the terms of new leases, when leases have been surrendered under the Act of 1884. It was contended by the counsel for the defendants that this section 7 operates as an implied repeal of section 13 of the Act of 1884. I cannot agree to this. It may have been intended to deprive the Native owners of some of their safeguards by repealing that section; but if so the intention was not carried out, for tection 7 expressly refers to surrenders of leases under section 13 of the former Act, refers so it again later on in the section, and merely provides that the terms shall be settled by arbitrators instead of by the parties themselves. It is probable that it had been found almost impossible to settle the terms of new leases where a large number of Natives had to agree.

Under this Act certain regulations were made in February, 1888. The Court is asked to declare these rules *ultra vires* and void; and, in my opinion, some of them undoubtedly are so if their intention was that which the words of them convey to my mind.

I have already stated my opinion that the acceptance of the surrender of a lease by the Trustee, under section 13 of the Act of 1884, is discretionary. I see nothing in section 7 of the Act of 1887 to alter this position. And I say, further, that the Public Trustee is in no way less liable to his *cestui que trust* than any other trustee would be, and that he must not accept the surrender of a lease unless it is certainly to their advantage that he should do so. The power to be exercised was not coupled with any duty to the parties who called upon him to exercise it; his duty was to those for whom he was trustee.

Now, the regulations of 1888 convey to my mind—and, I think, would do so to any ordinary mind—an intention that the acceptance of the surrender of a lease should be compulsory upon the Public Trustee; since, upon the lesssee of a confirmed lease desiring to surrender the same and to obtain the grant of a new lease, he is to notify his desire to the Public Trustee and appoint an arbitrator; and the Public Trustee is to notify the lessor, who is then within a month to appoint an arbitrator, or in default have one appointed for him; and then the arbitrators are to decide, not whether a new lease shall be granted, but what the terms of it shall be.

I fail to find in any of the Acts any authority for such proceedings. Indeed, I may go further, and say that there is no authority for them unless we are to assume that the Public Trustee has a merely ministerial act to perform in receiving notices of a wish to surrender a lease and in informing the lessor of the fact.

In the present case, the Public Trustee has, in my opinion, acted upon the regulations and contrary to the Act. On the 20th of February, 1888, the lessee gives him notice, "I intend to surrender the lease." That lease had then four years to run. He does not even say that he desires to surrender it, but that he intends to do it. And it is worthy of remark that this notice was given only ten days after the publication of the regulations. We are told that there are a large number of similar cases. With that we have nothing to do, but it certainly looks as if there had been a preconceived plan to defeat the plain meaning of the Acts to the great disadvantage of the Native owners. At least the lessee in this case had received early intimation that the regulations had been passed.

Upon the receipt of this notice, the Public Trustee appears to have taken as a matter of course that he had no discretion in the matter, and that all he had to do was to give notice

to the Native owners to appoint an arbitrator, and that, in default of their so doing, he should apply to the Government to appoint one. It does not appear that the matter was ever brought before the Public Trust Board.

The Natives never appointed an arbitrator, and, so far as appears from the case, did nothing. Thereupon, the Governor appointed one some ten months after, and the arbitrators shortly afterwards appointed an umpire, and made their award on the 1st of March, 1889.

Having arrived at the conclusion that the whole of these proceedings were unwarranted by law, it is perhaps unnecessary to comment upon the contents of the award itself; otherwise there would, in my opinion, be sufficient on the face of it to cause this Court to set it aside. (1.) It orders a surrender of the lease. This had already been treated by the Public Trustee as surrendered by the notice of the 20th of February, 1888; but, for some unexplained reason, the arbitrators do not fix either that date or the date of the award for the commencement of the new lease, but fix the 12th of February, 1889. (2.) The term is made thirty years and some months, in contravention of the Crown grant, which makes the land inalienable for more than twenty-one years. (3.) It directs that the lessee shall be entitled to compensation for his improvements unless he gets a renewal of the lease. (4.) It gives the lessee the option of a further renewal for thirty years on the same conditions, at a rent to be fixed by arbitration, thus practically giving the lessee a right of occupation for sixty years, still further contrary to the Crown grant. (5.) It does not contain a valuation of the land, or give the basis on which the rent is fixed at £72 19s. 10d. per annum, thus not complying with No. 13 of the regulations under which it is supposed to be made.

The result of this award would be an immediate loss to the Native owners of £68 per annum for three years, and of £27, their share of the costs of the award. It is clear, from the immediate application of the lessee for a surrender of his existing lease, and the grant of a new one at a rent to be fixed by arbitration, that he expected such a proceeding to be much to his advantage. It should, therefore, have been equally obvious to the Public Trustee that it would be to the disadvantage of the Native owners, whose interests he was, in my opinion, bound to protect.

I am of opinion that an injunction should be granted as prayed.

Te Moauroa and Others v. *The Public Trustee and Another.*

JUDGMENT OF WILLIAMS, J.

THE main question for decision in this case appears to be whether, under section 7 of "The West Coast Settlement Reserves Acts Amendment Act, 1887," the Public Trustee has a discretion to accept or refuse to accept a surrender of a confirmed lease, or whether the section gives to the lessee an absolute right to surrender and to obtain a new lease. If the Public Trustee has a discretion, it is quite clear that in the present case he did not exercise it, but that all the proceedings were taken on the assumption that the right of the lessee was absolute, and that there was a duty imposed upon the Public Trustee at the request of the lessee to submit to arbitration, and to grant a new lease in pursuance of the award. If, then, it be established that there was no such duty, but that the Public Trustee, before agreeing to accept a surrender, was bound to exercise a discretion as to whether it was advisable to accept it or not, there is a defect which cuts at the root of all the subsequent proceedings, and renders them entirely inoperative. Section 7 of the Act of 1887 is an amendment upon section 13 of "The West Coast Settlement Reserves Act 1881 Amendment Act, 1884." Under the 13th section of this latter Act, apart from the subsequent amendment, it is abundantly clear that the acceptance of a surrender by the Public Trustee was entirely optional. Section 5 of the Act of 1884 directs that the powers of leasing conferred upon him are to be exercised "in such manner as he shall think fit with a view to the benefit of the Natives to whom such reserves belong, and to the promotion of settlement." The 7th section of the Act of 1884, though it in terms refers only to the West Coast Settlement Reserves Trustee in carrying out the routine business, mentioned in the unrepealed part of section 8 of "The West Coast Settlement Reserves Act, 1881," seems to indicate a general intention that the Natives interested are themselves to be consulted, and their wishes, if possible, given effect to. The terms upon which the new lease is to be granted are, by section 13, to be the subject of agreement. The surrender of the old lease would, of course, be conditional on the terms of the new lease having been agreed upon. In order to give effect to the section, the course of proceeding would be for the Trustee to con-

sider first whether a surrender would be desirable at all, and then, if he thought it might be desirable, to negotiate as to the terms on which the new lease should be effected—that is to say, the terms on which the new lease should be granted. When the terms were settled, the agreement for surrender and for the new lease would be one transaction, and would be carried out by the grant and acceptance of the new lease, which would operate as a surrender of the old one. The Trustee, however, clearly has the right to say that he will not enter into any negotiations for surrender at all unless he is satisfied there is reasonable prospect that the terms of the new lease will be such that the acceptance of a surrender will benefit his *cestui que trusts*. Does, then, the 7th section of the Act of 1887 make the acceptance of the surrender by the Trustee, which was previously optional, compulsory upon him. That section enacts that on the surrender of a lease under section 13 of the Act of 1884 a new lease thereunder may be granted to the former lessee, at a rental to be computed on the value of the land comprised in the lease less the value of any improvements thereon, upon terms to be decided by arbitration. It will be observed that section 7 does not repeal section 13, but refers to it as the section under which the surrender is to be made and the new lease granted. If the parties can without arbitration come to an agreement under section 13, computing the rent on the improved value of the land, there is nothing that I can see in section 7 to prevent them doing so. If, under section 13, the acceptance of the surrender is optional, then, as the surrender referred to in section 7 is a surrender under section 13, the acceptance of a surrender would still remain optional, although arbitration under section 7 might be resorted to to decide the terms of the new lease, unless the provision of the section that the rent is to be computed on the value of the land apart from the improvements is a clear indication of the intention of the Legislature that the Trustee must accept a surrender and grant a new lease. I do not think that such an indication of intention appears. Apart from the fact that the Legislature has expressly connected section 7 with section 13, and that the acceptance of a surrender under the latter section is clearly optional, the word "may" in section 7 *primâ facie* gives the Trustee a discretion.

The consequence of holding that the meaning which is *primâ facie* to be applied to that word did not apply, would be to decide that the Legislature intended to compel a trustee to sacrifice the interests of his *cestui que trusts* at the instance of a party with whom he had contracted on their behalf, and to confiscate for the benefit of a lessee that to which the lessor by the terms of the contract of the lease was entitled to. In order to deprive persons of rights to which they have become entitled by contract the clearest indication of intention on the part of the Legislature is necessary. The result, therefore, of holding the section otherwise than as giving an option to the trustee is the strongest argument that the *primâ facie* meaning of the word "may"—viz., that it gives an option, is to be adhered to. By the implied terms of the original lease, the improvements, in the absence of an agreement to the contrary, would at the expiration of the term become the property of the lessor. This, of course, was known to the lessees when they made their bargain for the lease, and the rent and other terms of the lease would be adjusted upon this basis. There is no suggestion that the parties in making the original bargain were not on equal terms. Of the two parties, the European lessees would presumably have a better knowledge of the effect of the instrument than the Native lessors. If the section is to be construed as contended for by the defendants, a lessee could compel the trustee the day before the term expired to grant him a new lease, with the rent computed on the value of the land apart from the improvements, and so deprive the Native owners of what they had originally bargained for. It may be said that any new lease under section 7 must inevitably be to the detriment of the Native owners, and therefore the Legislature must have intended to give an absolute right to the lessees to surrender and obtain a new lease, as if they had no such right the section must be inoperative, as the trustees could never be expected to consent to what was to the detriment of the Native owners, if they had any option to refuse to consent. In the absence of express words compelling the trustees to consent, I should hesitate before putting this construction upon the section, even if the necessary effect of a new lease were to injuriously affect the interests of the lessors. I do not, however, think that this would be in all cases the necessary effect of a new lease: the old lease might have several years to run; the rent computed on the value of the land, apart from the improvements, might be considerably more than the rent originally reserved. In such a case it might be a good thing for the lessors to agree to an extended term at the increased rent and to leave the improvements out of consideration. I think that it would be the duty of the trustee, before agreeing to accept a surrender and grant a new lease upon terms to be decided by arbitration under section 7, to

consider whether there was a reasonable probability that the result of arbitration would be beneficial to the *cestui que trusts*, and, if he thought there was no such probability that he should decline to enter into any such agreement, and that he is not compelled to enter into it, but was bound to exercise his discretion before doing so. I think, therefore, that the award is void on the above ground. I think, also, that, if and so far as the regulations under the Act of 1887 conflict with this construction of section 7 they are *ultra vires*. I think, also, the award is void on the ground that it directs a lease for thirty years to be granted, when the Crown grant limits the power of leasing to twenty-one years. Section 4 of the Act of 1881 validates the grant, and the restrictions on alienation contained in it. By section 8, the power of leasing given to the trustee is subject to such restrictions. That part of section 8 was repealed by section 3 of the Act of 1884; and by section 5 of that Act the Public Trustee has, subject to the provisions of the Act, and to any conditions, limitations, or restrictions attached to any reserves, a power of leasing. By the 8th section of the Act of 1884 there is a power of leasing agricultural land for thirty years. By section 5, however, of the Act of 1884, the power of leasing of any particular reserve is not only subject to the provisions of the Act but to the restrictions attached to such reserve; and in the present case there is a restriction to twenty-one years, which thus, by the terms of the Act, controls the more extended leasing power given by the Act itself. As I consider the award to be thus radically bad, there is no need to consider other minor objections to it.

Court of Appeal, Wellington: Te Moauroa and Others v. *The Public Trustee and Another.*

JUDGMENT OF DENNISTON, J. (delivered 23rd May, 1891).

THE first point to be determined is whether section 7 of the Act of 1887 compels the Public Trustee to accept the surrender and grant the new leases in such section mentioned. In determining this it is necessary to look at the state of the law which the section purports to alter. Section 13 of the Act of 1884 undoubtedly gave the Public Trustee a discretion. Although the section is very clumsily worded, it is clear that the surrender and the new lease were to be contemporaneous. The lessee intimated his desire to surrender. If the lessee, the Natives, and the Public Trustee came to terms for a new lease, the execution of such lease operated as a surrender of the previous term. Except as to one proviso, the section amounted to no more than clearing away any possible doubt as to the power of the Trustee to accept surrenders of existing leases. The proviso referred to is that by which it is provided that in any new lease the rental is to be computed on the improved value of the land. This proviso is obviously in favour of the Natives.

We then come to section 7 of the Act of 1887. The first observation that suggests itself is that if, as contended by the plaintiff, the only object of the amendment was to get over the difficulty of getting the Natives to agree, such object could have been effected very simply by making their consent unnecessary, and leaving their interests in the hands of their trustee. Has, then, the Trustee a discretion? It is, I think, obvious that, as in the other section, the power to accept a surrender must depend upon the agreement as to a lease. It is, I think, also obvious that the discretion, if any, must be exercised before the arbitration. A discretion to be exercised by one only of the parties, after the terms of the proposed contract have been settled by arbitration and the expense incurred, would, I think, be absurd. It would, indeed, be inconsistent with the very idea of arbitration, which is to take the matter out of the hands of the parties. If, then, there is any discretion, it must, I think, be a discretion on the part of the Trustee to determine whether it is in the interests of the Native lessors to accept a new lease in lieu of the one proposed to be surrendered. And in this connection it may be noticed that to compel a trustee to submit the interests of those he represents to arbitration is in itself unusual. (See Attorney-General *v.* Fish.) Such a provision is in itself a fetter on the discretion of the trustee. If the only object of the section was to enable the Trustee to decide as to whether a lease would be beneficial, he would do so better if unhampered with the restriction. But the provision in the section which seems to me most decisive on the point is that which declares that in the new lease the rental is to be computed on the value of the land less the value of the improvements. This is a distinct fetter on the discretion of the parties, and a fetter imposed clearly in the interests of the lessee. It can, of course, only apply to lands which have been improved. In many, I should think in the greater number, of the original leases from the Natives there would be no provision for valuation of improvements. At the end of the existing term the

improvements would go to the Natives. This may have been thought a hardship, and to have retarded settlement. It is at all events clear that the alteration is for the lessee's benefit. There can be cases perhaps imagined in which such arrangement could benefit lessor and lessee. I cannot easily conceive them. But such cases could have been provided for (if necessary) by simply omitting the provision in section 10 of the Act of 1884, fixing rents on the improved value. As it stands, the provision in the vast majority of cases would amount to the virtual confiscation, for the benefit of the lessee, of the lessee's rights to the improvements. Of course, if the Trustee had a discretion, such a proviso would determine, in all cases where improvements had been made, a decision against the new lease. But this would in effect render nugatory the entire section in respect of the whole, or practically the whole, of the largest class—those who had improved—for whose benefit it was enacted, and for which alone the proviso as to the basis of rental was inserted. For it must always be remembered that if the Trustee has no discretion the lessee only is given the right to insist on a surrender.

I find, then, an interference of the Legislature with the freedom of contract between certain parties—one of them a quasi-public officer. The restriction is beneficial only to one of the parties, and meaningless and unnecessary as to the other. What is the effect of this on the enacting words in the section, "a new lease may be granted"? Does it not bring the case within the principle stated by Lord Cairns in "Julius *v.* Bishop of Oxford" (5 Appeal Cases, 214, at page 222): "But there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty and make it the duty of the person in whom the power is reposed to exercise that power when called upon to do so." Giving full force to the consideration that the words being in themselves permissive, it lies upon those who contend that an obligation exists to show circumstances which will create the obligation. I think in this case they have done so. I think, badly as the section is worded, that section 7 is intended to take the place of section 13. It is clear that all that comes after the opening words of that section, "the Public Trustee may accept from the lessees surrender of any lease confirmed by the Governor in Council under the said Act or this Act," is inconsistent with the provisions of section 7. I cannot think it was intended to preserve the two conflicting sets of provisions merely because one of the provisions in section 13 was to require consent. I think the preferable view is to take the reference in section 7 to section 13 as referring only to so much of section 13 as refers to surrender—that is, the words I have quoted, and to substitute for the rest the new provisions of section 7. That the Legislature has continued to treat the Public Trustee as having a position and duties somewhat different from those of a private trustee is shown, I think, by the section which enacts that he may exchange or lease reserves in such manner as he shall think fit with a view to the benefit of the Natives to whom such reserves belong and the promotion of settlement. This assumes that the promotion of settlement may be adverse to the interests of the Natives—otherwise the words would be unnecessary. Assuming the right of the lessee to insist on a new lease on terms to be decided by arbitration, has the award in this case been properly made? The most important objection is to the extent of the term awarded—thirty years. The grant to the lessors contains a restraint on alienation for any term exceeding twenty-one years. This was obviously in contravention of section 4 of the Act of 1880, which provided that any restraint on alienation was to be made by Act of the General Assembly. By section 4 of the Act of 1881, all grants issued for any reserve within confiscated territory made by the Governor in Council containing therein any conditions, restrictions, or alienations are validated in respect of such conditions. The latter part of the section leaves it open to the argument that such validation was intended to apply only to grants under section 3 of the Act of 1880, that is as to lands granted in fulfilment of any award, promise, or engagement made by the Government of this Colony. I think, however, that the general words at the beginning of the section and the reference to the reserves as made by the Governor in Council, make the section applicable to grants under section 4. The powers of leasing given to the Public Trustee under section 8 of the Act of 1881, and by section 5 of the Act of 1884, are made subject to any conditions, restrictions, or limitations attached to any reserves which shall have come or been placed or shall come and be placed under his jurisdiction. I think the terms of section 5 limit the general language of section 8 of the Act of 1884, and that the term of thirty years mentioned in the award is bad, as inconsistent with the grant. If so, it is clear the lessee cannot claim to take the shorter term, as it is impossible to say that the length of the term has not affected the other terms of the award. It has been practically admitted that the provision for compensation for improve-

ments, involving as it does a grant either to the present lessee or another of a further term of thirty years is bad. I am inclined to think that had this been the only objection to the award the lessee could have taken a lease without this proviso—of course losing any claim to improvements. I think that the amount of the rental is one of the terms intended to be settled by any arbitration under section 7. The language is in the same words as in section 13, which described what could be the subject of agreement among the parties, nor, I think, in the case of a compulsory arbitration, could so vital a point as the rental be omitted. I think the regulations of 1883, purported to be made under the Act of 1881, are *ultra vires*, and are not validated by the reference in section 7, except so far as they define improvements and provide machinery for arbitration. As the award shows that the arbitrators have considered themselves controlled by the regulations, I think this alone would make such award bad. I think the plaintiffs entitled to the injunction asked.

By Authority: GEORGE DIDSBURY, Government Printer, Wellington.—1891.