

14. Was that under the Native Land Act of 1888?—I cannot say at the moment; but the Act which forbade them doing it was repealed, so that they went back to the old position.

15. I see by "The Native Land Act, 1888," section 4, provision is made that, subject to the provisions of "The Native Lands Frauds Prevention Act, 1881," and the amendment Act, 1888, Natives may alienate or dispose of their land, or any share or interest therein, as they think fit. Does that give them full power to mortgage their lands?—Yes. I believe mortgage would be treated as alienation. Of course, that Act was repealed afterwards.

16. Was this the law up till 1894?—Yes; until the Act of 1894 came into operation.

17. You think that under that section the Natives had the power?—I think they would have the power under that section.

18. The Act of 1894, it is understood, absolutely put a stop to all private dealings with Native lands?—Yes, for the future.

19. There was a saving clause in that Act, section 121, which protected agreements for sale or purchase, but not agreements to mortgage. In what position would a person be who had lawfully obtained an agreement to mortgage before the Act of 1894 came into operation—what would be his remedy after that?—He could not sell the land under that provision. There was power given to enforce existing mortgages, but there was no provision with respect to agreements to mortgage. They were not protected, and a person could not enforce his agreement.

20. Does the Act of 1895 give a person any means of acquiring this power?—No.

21. Does not clause 11 of that Act give the power?—No; that only relates to obtaining judgments by ordinary course of law, and enforcing the payment of a debt in that way.

22. Had a person so placed any power to go to the Supreme Court and ask for a judgment-order?—He might treat it as an ordinary debt, and take it to the Supreme Court for judgment.

23. Supposing the Supreme Court assented, would the land be liable for the debt?—It might have been made so.

24. And the land could be sold?—Yes; he might get a charging order on it.

25. Then, practically, he would get what he wanted?—Pretty much the same thing.

26. With regard to section 2 of the Bill which is now before the Committee, it proposes to repeal the 13th section of the Act of 1895 from its initiation. We have had it stated in evidence that a lease of certain land in the Piripiri Block was given contrary to the provisions of the Native Frauds Prevention Acts of 1888 and 1889. If that be true it would be an illegal lease; but that subsequently the persons who obtained the lease applied to the Native Lands Court, under section 13 of the Act of 1895, and obtained a confirmation order; was that the case?—Yes; that is so.

27. If the allegation is correct that the lease was illegal, would not that be validating an illegal transaction?—I do not think so. I do not think this section 13 went to the length of validating such transactions. It simply said that the confirmation order shall be conclusive evidence that the transaction was not in contravention of any of the provisions of the Acts of 1894 and 1895.

28. In fact it did not give power to validate unlawful transactions?—I do not think the section gave such power.

29. It would be open to appeal to the Supreme Court?—Yes. That is my opinion.

30. Then the whole case could be gone into from the beginning before the Supreme Court?—Yes, as regards non-compliance with the provisions of other Acts before those of 1894 and 1895.

31. Then, if the lease was wrongfully obtained it could not be registered?—I think not; and if I were District Land Registrar I should refuse to register it.

32. I understand the District Land Registrar of Auckland refused to register this lease?—And quite right too, if he did so; but I do not think it is in his district.

33. The contention is that other District Land Registrars have not refused in similar cases, and therefore a person who had obtained a lease illegally would be secure in his title?—I think all the District Land Registrars would refuse, and if they had any doubt about it they would refer to me, because I am Registrar-General as well as Chief Judge, and I should certainly advise them not to register in such cases until the Supreme Court had decided otherwise.

34. Do you know the blocks in the Wairarapa district called Kawakawa, Te Kopi, and Matakītiki?—I do not know anything about them.

35. When lands were inquired into under "The Native Lands Act, 1865," were not the number of names placed in the title restricted to ten?—Yes.

36. But under "The Native Lands Act, 1867," the Court was to inquire as to the rights of those who had beneficiary interests in the lands outside the ten whose names were inserted in the title?—Yes.

37. And under that Act they were inserted in the title?—Yes.

38. Has that been the practice of the Native Land Court?—Yes, in a great many cases.

39. That is, to insert the names of those who, being interested in the land, have not previously applied to the Court?—Yes, in many cases; but in many others the Court has not done it.

40. Then, in many cases those beneficially interested in the land were practically deprived of their rights?—Yes, in a great many cases.

41. That was the remedy before "The Equitable Owners Act, 1886," was passed?—Yes.

42. Did that Act restore the position of those who had not been placed in the original titles?—I cannot say. In many cases the Natives did not apply, and in many others they were shut out of the operation of the Act.

43. Then the ten put in acted as if they were the sole owners?—Yes; but if even only one share was sold they were put outside the operation of that Act.

44. Is not the provision of "The Equitable Owners Act, 1886," carried on in section 14 of the Act of 1894?—Yes; it is very nearly the same thing.

45. That is, the Governor in Council could issue an order instructing the Court to inquire into the claims of those who were outside the original ten put into the grant?—Yes.