

46. Do you think that sufficient?—No. Unless they bring it under the notice of the Court, or apply for an Order in Council to inquire into their claims the chances are that they would not be dealt with.

47. That is to say that, unless these Natives apply, it is likely they will lose their land altogether?—Yes.

48. Is it not any person's duty to see after the rights of these Natives?—No; until they make application themselves nothing can be done. You are speaking of past cases, of course. At present we put in the names of all owners that can be ascertained.

49. I see there was a block dealt with lately in which ten names were put in the grant, but afterwards that number was increased to 120: Does not that show the necessity for inquiry when the whole block is inquired into?—Yes.

50. Do you think that at the present time the Native owners not named in the original title are sufficiently protected?—Yes; if they look after their own interests. It depends upon themselves. I may say that they are ready enough now to bring forward these questions, although they were not some years ago—they are almost too ready now.

51. *Hon. J. Carroll.*] As a matter of fact, many were left out of a title in the old days who should have been included?—Yes.

52. *Hon. T. Kelly.*] Could you get the names of the Native owners of the three blocks in the Wairarapa to which I have referred, who have signed the agreement to mortgage, the amount which each Native has borrowed, the acreage of land which each owns, the rent which each owner has received and which he is entitled to?—I have not seen the evidence, and do not know to what blocks you refer; but the particulars could be got from the Court records, or Mr. Sheridan could give them to you.

53. *Hon. J. Carroll.*] Under the Act of 1888 the Natives had power to alienate their land by sale or by mortgage: Could they do so in contravention of the Land Frauds Prevention Act?—No.

54. The power to alienate by mortgage grew up as the result of practice, as I understood you to say?—The construction put upon the section read just now was that of over-riding previous prohibitions.

55. Then from 1873, we will say, until 1888 mortgages were forbidden?—Speaking from memory, there was a period during which they were forbidden. They were distinctly forbidden at one time.

56. They crept in after that date?—Yes, through the wording of subsequent Acts.

57. The Act of 1894 shut down on all private dealings with Native land subsequently?—Yes.

58. And although it made provision for contracts between Natives and Europeans as to the sale and purchase of Native lands, it did not do so in regard to agreements to mortgage?—Yes; they were not mentioned.

59. Was that position relieved in any way by the Act of 1895?—Not as regards agreements to mortgage; only as regards the recovery of debts by the ordinary process of law.

60. Could debts recoverable in that way be made chargeable on the land?—Yes; by charging-order by the Supreme Court.

61. Was there not power given to the Governor in Council to intervene?—Not in cases of that kind. Of course there is the general power given under the Act of 1895 by Order in Council to suspend the provisions of the Act of 1894 in respect to any land.

62. But might not the Governor in Council interfere with the sale of a block of land under a charging-order?—No; he could not stop it.

63. In the Piripiri case you say that as a means of getting at some finality the clause of the Act of last year should not be repealed by the 2nd clause of the present Bill?—It should not be repealed, because I hold that it only applies to breaches of the Acts of 1894 and 1895. There are a great many requirements under those Acts which have to be fulfilled. Under the 117th section of the Act of 1894, and under the provisions of the Act of 1895, a person cannot purchase who holds more than the statutory quantity of land already, and there are other provisions of a like nature.

64. Then a confirmation order, as it affected the position before 1894, was conclusive?—I consider it was only conclusive as it regards breaches of the Acts of 1894 and 1895. I do not consider that it had anything to do with breaches of Acts previous to 1894. It would be conclusive, for instance, in the case of a person purchasing that he not got more than the statutory quantity of land; otherwise the District Land Registrar would have to go into the whole question again before he could register.

65. "Dealings prohibited by any law for the time being in force": that does not refer to any law in force at the time the contract was entered into?—What is exactly the operation of that clause is now one of the questions before the Supreme Court in the Piripiri case, and I cannot say what the opinion of the Court may be.

66. Is that the principal point before the Court?—Yes. It is quite possible that, even if that clause should be repealed, the Court would hold that a confirmation order was conclusive. Some lawyers think that the section is merely declaratory of the law—that, even if that section were repealed, the Court would hold the same as at present.

67. Have you any reason to believe that there is a diversity of opinion among the profession as to the reading of that law?—Yes.

68. Do you know of any other cases besides that of Piripiri which would be affected by section 2 of this Bill if it were to pass into law?—Yes, there are other cases which have passed through under the same circumstances; but this is the only one that any trouble has arisen out of. All the Judges of the Native Land Court are not equal to going into these conveyancing matters, and no doubt some cases have passed through that should not.

69. Then it is possible that there could be a misreading of section 13 of the Act of 1895 by the Judges of the Native Land Court?—I do not think that section would affect their action one