

amalgamation, £317 10s.: total, £781 10s. 4d. The importance of the question as to arrears in this case is in the fact that the money goes to the Natives.

48. But if they get the amount you surcharge they get double rent?—Yes, in the cases of rent continuing; but it is a title very much better in period. It is not a title with the same terms and conditions as the other title.

49. *Mr. Fraser.*] Has there been any decision upon this point? You lay such stress upon whether the titles overlap each other, and asking to claim double rent?—There has been no decision to relieve them. The only one is by the Supreme Court. [See Exhibit E.]

50. Has that case ever come before the Supreme Court, where the titles overlap each other?—No.

51. Where the rent is absolutely paid, but where there are technical defects in the law, it was never the intention to surcharge?—That is the position I took up. But there is a very great advantage in period given to the person surrendering an old title for a new title.

52. The question of advantage would not affect your position in the least?—I am speaking of advantage in terms.

53. What you maintain is that the position you take up is strictly the technical reading of the law?—Yes, that is the position I take up, and that is the only position I can take up.

54. You are bound to take that up?—Yes.

55. Does it not appear to you to be inequitable?—It would be impossible to answer that without knowledge of the particular circumstances in each case. All being equal, the person who surrenders an old title and takes another ten years longer has an advantage.

56. Assume the surrender of one title for another where there is no consideration or premium to be paid, but where the rent is paid for one six-months, and there is a mere exchange of titles?—I believe section 10 would allow that, but there are no surrenders under section 10. There are no cases of a surrender for the purpose of exchanging for a new title with all the same terms. They are all cases of surrender of the old titles.

57. What were the circumstances with regard to this particular exchange?—They are Maori lands, but they were not exchanges of one title for another under section 10. They were all surrenders of the old title.

58. *Mr. Tanner.*] Was it an application for the same ground under another title?—Yes, the same ground under another title.

59. *Mr. Fraser.*] Your contention is that you were strictly following the letter of the law, and had no other option?—Yes, that is so.

60. Are you prepared to say whether you think the present state of the law is equitable?—I could not say whether it was equitable or inequitable.

61. You could not answer that point?—No.

62. *Mr. Montgomery.*] Is this case of Cuff and Jordan [see Exhibit E] on line with the case we are discussing?—No; that was a case of absolute surrender, where the ground was not continued by any one, and became Crown land again.

63. Has there been any case decided where the surrender was not absolute, but the land was again taken up, as to whether rent could be apportioned?—I do not know of one myself. The Receiver who has been surcharged in this case—Mr. Moresby—himself holds that the judgment applies to all, and I think it does.

64. And in the absence of a legal decision you have to interpret the law yourself?—Yes, without an authoritative legal decision. I refer to the Solicitor-General on occasions.

65. Have you thought it necessary to refer this matter to him?—No, I have not; I am quite satisfied.

66. You are going on section 135 of the Mining Act?—Yes.

67. And therefore your action has simply been to insist on compliance with the law, I take it?—Yes. I have made one surcharge of the three classes.

68. You have in your position of Auditor-General no discretion whatever?—No discretion.

69. You are obliged to insist on the law being complied with, and cannot waive it in any way?—No, I cannot waive it, but it is for me to judge whether the time arrives. I am part of the statute, I may say.

70. Would you suggest an amendment of the law is required to meet cases such as these overlapping surrenders?—The only amendment that I could suggest would be to make the payments in advance quarterly instead of half-yearly, and even that suggestion I should make very reluctantly. It appears to me that a holder of a license will judge what his interests are, and as by waiting to the end of the half-year he can practically escape, there is the way out of the difficulty.

71. Would you suggest that any amendment of the law is required in the direction of giving the Auditor more discretion in not insisting on full compliance with the law where he thinks it would be inequitable? Would that be a desirable amendment in the Public Revenues Act?—I think it would be better perhaps if his acts in exercise of discretion were to come before Parliament. I do not think the Audit Department should have an exercise of discretion not subject to some sort of approval.

72. You have to report now, and you think that if you exercise discretion, such as I have suggested, you should also be obliged to report?—Yes.

73. You have not reported on this difficulty to the House?—Not yet. I have made one surcharge, and the officer surcharged has appealed to the Minister, and that is the position at present, so far as I know. Section 32 of the Public Revenues Act says, "It shall be lawful for any person so surcharged to appeal to the Minister administering his department, who, upon hearing the grounds upon which such surcharge has been made, and the objections thereto, shall confirm or disallow the same. In every case in which any surcharge shall be disallowed by a Minister on appeal a report of the circumstances shall be transmitted by the Audit Office to the Speakers of both Houses of the General Assembly within fourteen days after the then next sitting of the same."