

giving up the residue value. They thought that because, after all, the alternative provision for accepting a special Government valuation was put in with the idea of avoiding unnecessary arbitrations." That statement was, we have no doubt, made by Mr. North in all sincerity, but it should be pointed out that Mr. Houston, according to his own statement, was not prepared on the 14th October, 1935 (see paragraph 56), to agree to the course of invoking the Valuation of Land Act in its entirety when proposed by Mr. Anderson and Mr. King. Not only that, but Mr. Houston's note of his address before the Prime Minister on the 26th September contained this passage: "The ideal would be consent legislation, but the attitude of the Native Trustee in desiring to import into the statute the principle of the Valuation of Land Act appears to preclude the possibility of any agreement between the parties." It should, however, be said, in justice to Mr. North, that his deduction as to the view of the lessees is referable to a later period when the terms of the clause were agreed in Wellington and there was in the clause the provision incorporating the definition of improvements as contained in the Valuation of Land Act. But, if the lessees did think that "they were going to the Valuation of Land Act in its entirety, and giving up the residue value," they simply shared Mr. King's error.

91. Be that as it may, Mr. Hickey, the chairman of the Lessees' Association, said, in giving his evidence before the Commission, that the lessees wanted to be perfectly fair and felt that the Land Valuation Act definitions would protect the Native interests more than the method that had been adopted; and Mr. North, in the light of added knowledge and experience, also said that "it does seem just to us that the rent should be fixed on the 'unimproved value.'"

92. In our view the beneficial owners should now be given the fullest measure of justice and future protection and security that it is reasonable and possible to give them. They are entitled to that whether Mr. Justice Blair's decision be right or wrong. If it was right, then the fruits of their victory have been taken from them without their even having the opportunity of being heard. If it was wrong, they would still have suffered a hardship which requires redress. Mr. North has pressed upon us the contention that the judgment is wrong. The Chairman has already expressed certain views on that point, but we cannot assume for our present purposes that it was wrong. We should assume, we think, that it is a matter of doubt, and that, whether right or wrong, legislation was and is necessary to do substantial justice to both the lessees and the beneficial owners. Such legislation must necessarily be in the nature of a compromise, but the compromise should be a fair and just one. The arrangement expressed in the Act of 1935 remedied the injustice to the lessees on the hypothesis that the judgment was right, but it failed to do justice to the Maori owners on the hypothesis that the judgment was wrong, although it would appear that both Mr. Campbell and Mr. King thought—but erroneously as it has turned out—that what was being done was fair to the Maori owners. The fact is that on either hypothesis the arrangement or compromise effected by Parliament in 1935 has turned out to be unfair to the Maori owners, and for that reason, and because it was made without their knowledge, it should not be permitted to stand.

93. If the matter had been appropriately dealt with by the Government in 1936 or within a reasonable time thereafter, the position could have been corrected by remedial legislation before much harm was done and probably without any pecuniary loss to the State. Instead of that, nothing was done, and the injustice was allowed to continue until now, a period of eleven years. During that interval something like one hundred and forty leases have changed hands and have been acquired by the present holders for valuable consideration. If the appropriate remedy had been devised and applied in 1936 all the leases could have been cancelled and new leases granted at fair and proper rentals to be ascertained in accordance with just principles. As it is, the beneficial owners have suffered an injustice for a period of years. That injustice it is difficult, if not impossible, to measure