

AUCKLAND, 2ND DECEMBER, 1914.

ROBERT SMITH examined.

1. *The Chairman.*] What are you?—I am a farmer, residing at Mount Smart, Onehunga. My principal objection is as to the constitution of the Court that heard my assessment. I think I cannot do better than lay before you the legal opinion of Mr. J. C. Martin on the whole proceedings, and I may be able to substantiate any statements made. I do not think I need detain you long in a matter of this kind. Mr. J. C. Martin, in his opinion, says, “The next question you submitted involves greater difficulty. The Valuation of Land Act provides that a Court is to be constituted consisting of a Stipendiary Magistrate, an assessor appointed by the Governor, and an assessor appointed by the local authority to consider and decide the objections lodged against the valuation. The body thus constituted is called a Court by the Act, it exercises judicial functions after hearing evidence, and its decision is final on the question of whether an objection is to be sustained or the valuation to stand. The members of this tribunal are in no sense arbitrators, and we see no reason why the ordinary principles which apply to Judges or Magistrates are not to apply to members of a Court under the Act. Those principles deter a member from adjudicating in a case where he has or may have a bias which renders him, or may render him, unfit to adjudicate. The Master of the Rolls in England in the Court of Appeal has thus laid down the law in a case where it was sought to prevent an engineer adjudicating under a contract by which his decision was to settle the question that arose. In this case it is said: ‘The doctrine which is applied to Judges—not merely of the superior Courts, but to all Judges—is that not only must they be not biased, but that, even though it be demonstrated that they would not be biased, they ought not to act as Judges in a matter where the circumstances are such that not necessarily reasonable people, but that many people, would suspect them of being biased.’”

2. We notice that objection is made to the constitution of the Court. Does the letter go on to make any suggestions as to how to alter it?—It is simply a plain opinion, and I had hoped it would have been read right through, and then I could follow on with any evidence required.

3. The substance of the concluding paragraph which I have read is that a person was appointed by the local authority to sit on the Assessment Court, and that before the Court sat he went round with the Government valuer when the Government valuer was making his valuations?—That is perfectly correct.

4. On the question of the constitution of the Court, do you suggest any improvement in that constitution?—In the first place, I would simply ask the Commission to recommend that a revaluation of my property take place as it is shown in this—of course, I only take it as a legal opinion—that the assessment has been illegally carried out. I had better explain the appointment of the valuer and the conditions under which he was appointed. On the 15th October, 1912, Mr. F. G. Ewington was appointed by the One-tree Hill Road Board as associate with the Government valuer—I am giving the terms from the minute-book—to value not less than ten properties at a fee of ten guineas. In November, 1912, he was appointed as assessor to sit and practically sustain his own valuations. He did sit on the Assessment Court in the following June. I then objected to him sitting, on the ground I now bring before you. My objection was overruled by the President of the Court. My valuations were sustained throughout, being out of all proportion to the value of the surrounding property. Mr. Ewington stated in the Court that he had been specially instructed to visit my property. I subsequently laid the matter before the Valuer-General, and this is the reply received: “2nd October, 1914.—“SIR,—I have to acknowledge the receipt of your letter of the 20th ultimo alleging that Mr. F. C. Ewington, of Auckland, having been employed by the One-tree Hill Road Board to make check valuations of certain properties for purposes connected with the hearing and determining by the Assessment Court set up under the Valuation of Land Act of objections to values, and remunerated therefor, was subsequently appointed by the One-tree Hill Road Board as their assessor, and sat on the bench in that capacity, and that in consequence thereof unfair means, in your opinion, were used to sustain the Government valuation of land in the One-tree Hill Road District. In reply, I have to advise you that this Department has no voice in the appointment of local authorities’ assessors. Local authorities exercise that authority under Act. While I agree with Mr. J. C. Martin, your legal advisor, in his opinion (copy of which you enclose with your letter) that the function of an assessor is wholly judicial, I do not know anything of the business relationship of Mr. Ewington to the One-tree Hill Road Board, and cannot therefore say whether it would disqualify him as an assessor. Clearly, it is not my function to inquire. No doubt Mr. Martin will advise you that I am right in taking up this position. With regard to your request for your property to be revalued, I have to point out that under section 36 of the Valuation of Land Act you have the right to apply for a special valuation, and on payment of the valuation fee a revaluation will be made. The revaluation is subject to appeal, and the values finally determined cannot be used for taxing or rating purposes until the 1st April, 1915. —I have, &c., F. W. FLANAGAN, Valuer General.—Robert Smith, Esq., Mount Smart Road, Onehunga.” It is practically like going to the devil to correct sin. The Valuer-General’s Department should be brought to book for permitting collusion, as it is clearly pointed out that the appointment of Mr. Newington as an associate of the Government valuer before any valuations were made is clearly collusion.

5. On whose part?—Between the two valuers. They are simply to arrange what they are to do, and one is to sit as assessor and sustain the value. There is something outrageous about it.

6. On the 15th October, 1912, Mr. Ewington was appointed by the Road Board to go round with the Government valuer, and then a month later he is appointed assessor. What the Valuer-General says in his reply is that the Department has no voice as to the assessor to be appointed by the local body?—We understand that the Act makes that very clear. According to Mr. Martin’s opinion, the local body has a perfect right to appoint a valuer, but to appoint him the assessor also to sustain his own valuations is rather an extreme step. It is very hard for one to follow the justice of it.