on ancient and uninterrupted occupation, or on conquest, followed by such acts as, in Native eyes, implied continued occupation, or at least dominion. (3.) That this title vested in the community, and maintained only by its physical force, was such as could not possibly be recognized or administered by Courts bound in matters of real estate by the rules of the English common law. (4.) That these rights were in the largest and most general terms confirmed and guaranteed by the Treaty of Waitangi, and that some machinery became absolutely necessary for ascertaining the individuals in whom the right to the land lay, according to Native views, and for converting those vague and unavailable rights into such titles, vested in individuals, as would enable transfers to be made to which the rules of English jurisprudence would apply.

The first and most obvious method was to buy up, on behalf of the public, these rights of the Natives, whatever they might be—(and for this no close investigation or nice discrimination as to ownership was required, the only care necessary being that all claims, good or bad, should be extinguished by purchase);—and then, having acquired to the Crown the absolute freehold, to re-issue it under the sanction of Crown grants. I need not go into the history of this system, its progress, and its failure, further than to observe that it involved these fatal objections—

1. That the buyer was the final and only judge of the rights of the seller, and therefore laboured under the suspicion of being disposed to view with favour the claims of those who were most willing to sell.

2. That, in practice, the only mode the buyer had of ascertaining the nature of the title and of learning the complex and disputable facts and traditions on which it rested, was by separate interviews with the different claiming tribes, who had a constant tendency to exaggerate their claims in order to counteract the exaggerations which they knew the other parties would use; and so, there being no means of confronting adverse claimants, all the old disputes and tribal feuds were renewed and exasperated. And,

3. That since the land buyer and the Government were, in Native eyes, identified, any violence or threats by which a tribe sought to maintain its claims to land appeared to be outrages against the Government. An indisposition to sell land became disaffection; and the Land Leagues, which were naturally formed as some protection against the alarms and suspicions of the Natives, lest negotiations should be made with other parties for lands they claimed, were undistinguishable from hostile associations against the Government and the Colony. That, after twenty-five years of this system, incurable suspicions filled the minds of the Natives; that the Colony suffered miserably from want of lands, while purchases became increasingly difficult; and that the peace of the country was fatally disturbed,—are matters of history, on which I need not touch. The remedy applied by the Legislature was based on two leading principles,—

(1.) That the Government should no longer present itself to the Natives as a bargainer for their land; and,

(2.) That all questions as to the ownership of Native land, and investigation of the facts on which it reposes, should be referred to a Court composed of Judges appointed for life, therefore independent of the Executive, and free from all suspicion of interest in the result; holding its sittings only in public, after due notification, and with the parties confronted before it.

The soundness of these principles is so unquestionable, and the success that has followed their adoption is so manifest, that I apprehend they can never again be called into serious controversy; and the question now to be considered is, to detect and suggest a remedy for any defects which may have shown themselves in the working of the system based upon them, rather than to discuss the principles themselves.

Before passing to these supposed defects in the working of the Native Land Court system, I may notice—but only to pass over, as belonging rather to the domain of general politics—that extensive evils have arisen from its immense success, and its consequent over-rapid operation. Up to the year 1865, as far as can readily be gathered from published returns, the whole amount of land alienated by the Natives in the Province of Auckland only amounted to about 2,000,000 acres, of which a great portion has never passed into the hands of individuals; while, since that time, 2,000,000 acres have passed through the Land Court, of which the far greater part has been alienated by sale or lease, or has been thrown on the market for that purpose; and this large consumption took place although, during the same period, about 2,000,000 acres more have been confiscated, of which also the better portion has been distributed among the colonists.

It is impossible that so enormous a change in the ratio of supply and demand can have taken place without many inconveniences arising, the most obvious of which is the great depreciation in price; lands equal in quality to what in 1860 were readily sold at £1 per acre, and which could only be obtained in small areas, are now hawked about in large blocks for sale at 2s. per acre, and even less. From this it is that much of the dissatisfaction with the working of the system arises.

The Natives, for the most part, can only look at results, and their discontent is natural; the costs, too, which would have been an insignificant proportion to the value at 20s. or even 10s. per acre, look enormous when the land is sold at 1s. Even the colonists who were most friendly to the operation of the Act, having now, for the most part bought land to the extent of their means or desires, are concerned to see the price still falling as fresh lands are passed through the Court. This evil is great, and it may well engage the attention of politicians, but it is the triumph of the Native Land Court system.

The Native Lands Act did not bestow the lands of New Zealand upon the Natives; that had been already done, as fully as words could do it, by the Treaty of Waitangi; the object of those Acts was to make those absolute and complete, but vague and indefinite rights available, for transactions with the colonists; and if too much land has so been made available, and an overstocked market has resulted, that can never be made a reproach to the Native Land Courts or their system. I return, therefore, to the consideration of what I conceive to be the defects in, or the impediments, to its action. These, I believe, may all be resolved under the following heads, namely:—

1. The want of settled rules as to Native title and evidence; that is, some outlines, at least, of a code of received Native custom and usage and a settled and simple law for the guidance of the Court.