3. The third and last ground of complaint affects a limited but very important class of lands—the old Native Reserves out of ceded blocks. Only one case was before us in which a complaint arose, grounded in part on the action of the Court in respect of such Reserves. *See* Case No. X. (Moeangiangi). Case No. IV. (Whareraugi) also raises a question, whether the existing provisions in relation to these Reserves are sufficient for their proper protection. It is enough to refer to the special Reports on these two cases.

III.—Lastly, I have to discharge the duty of recommending to Parliament such measures as may, in my opinion, tend to prevent the recurrence of grounds of complaint similar to those which we have had to investigate.

I agree, in the first place, with my brother Commissioner, Judge Maning, that it will be proper to maintain in our legislation the principle of the Frauds Prevention Act of 1870. Without some such check, the peace of the country, under a system of direct purchase, will be perpetually liable to be endangered by the fraud and rapacity of individuals.

I am of further opinion, that as the existing Native Lands Acts should be repealed. The Native Lands Court itself clearly ought to be maintained, with certain needful reforms. Its jurisdiction has been accepted to a great extent by the natives; and this alone is an immense step in advance. A new Native Lands Act ought to be framed on the simple principles to which I have averted.

(1.) Provision ought to be made, in the first place, for the ascertainment of native title as it actually exists, and for the issue of certificates of native ownership in favour either of a tribe, one or more hapus, or individuals. Such certificates should in nowise modify the native tenure; and especially should have no effect whatever in authorizing alienation to Europeans.

(2.) No Crown title should issue, either to native proprietors or directly to European purchasers, except upon a certificate of a Judge of the Court that all the native owners have ceded their title in favour of the proposed grantees—or that the grantees are the sole native owners. The native owners should always be informed by the Court before their consent is recorded, that its effect will be to transfer their own rights in the land to the grantees, without any further claim on their part either upon the land or its proceeds. No Crown title should on any account be issued whilst the tribe or hapu maintains its right. To admit of grants to representative men leads to fatal confusion between English and native tenure.

It would be well that the principal native owners should be required to sign, on behalf of the community, an instrument of cession into the hands of the Crown for the purpose of making the proposed grant. A very brief memorandum upon the Court's certificate of cession would suffice.

(3.) The great object being to prevent for the future the confusion of English and native tenure, any intermediate state of title should be admitted with great caution. I should propose that a tribe or hapu holding a certificate of native ownership might, if unanimous, be allowed to elect a number of trustees amongst themselves, with the addition, possibly, if they wished it, of some European officer of Government. Strictly defined powers of sale and leasing to be expressed in the Act, and referred to in an appendix to the certificate of native ownership, might be vested in these trustees. All rent and sale-moneys should be held in trust for distribution amongst the tribe or hapu; the receipts of the trustees being, however, a complete acquittance to lessees or purchasers. The Court should be empowered to fill up vacancies in the trusteeship in accordance with the wishes of the owners; and no exercise of the powers of the trustees should be allowed whilst their number should be reduced by death or otherwise below some defined limit. This is only a legal form of enabling the chief men to act for the community as they have always done. The arrangement might be made perfectly intelligible to natives; and they should be expressly warned that they must look to their own trustees for sale-moneys and rent, and not to the strangers dealt with by the trustees. The great point is, that no interim modification of the native tenure should be allowed unless of the most intelligible and well-defined character, and that the express, and practically unanimous assent of the native proprietors should be given to such modification in open Court.

Tenure by Maoris under a Crown Grant should be English tenure to all intents and purposes, subject to such modifications in relation to succession as may be found expedient, and to such express restrictions of the power of alienation as may in particular cases be imposed. Such absurditiesas Crown Grants under which the *quantum* of interest in each of several grantees is left to be determined by native custom, should be abolished.

As regards improvements in the constitution and procedure of the Court itself, I must speak sparingly according to my limited experience. But there is one point of great importance which has forced itself upon my notice. The Judges of the Court at present, as I understand, conceive themselves to be bound to ignore every fact, however notorious, which is not brought forward and proved by some claimant or counter-claimant. Te Wheoro, naturally enough, complains of this in his letter to Colonel Haultain, printed in the Appendix to the Journals of the Legislative Council, 1871. [*See* Appendix to Colonel Haultain's Report on the working of the Native Lands Acts, p. 29.] "Perhaps," he says, "in some cases, the Judge of the Court has seen the cultivations and the houses; but he only pays attention to the statements made by the parties before him, and says that it would not be right for him to speak of what he has seen, but only to take what is stated in the Court." A tribunal acting on such a principle is unfitted for the investigation of native title, as it may well happen that the parties before the Court agree to serve a common purpose by suppressing material facts. The supposed analogy of proceedings in ordinary Courts of Law or Equity is quite a mistaken one. The judgments and decrees of such Courts commonly bind only the litigant parties, and those who claim through them; whereas the judgments of the Native Lands Court are what are technically termed judgments *in rem*, which conclusively ascertain title not merely as between the parties in Court, but as against all the world. A Court with such a formidable power needs to be furnished with means of investigating, independently of the parties in Court, the validity of claims made before it. Some power is wanted of investigating the native title out of Court. The Court needs *tentacula* wherewith to seek out, and grasp for itself, all the