

of the municipal law of the Empire. They could do it, but I cannot suppose that the Imperial Parliament would ever think of making an alteration in the Act of Settlement which would be repulsive to the general feeling of the people of Scotland. At Home, in England, there is a great unwritten law that operates on men's minds, and forbids them doing certain things which they could do if they thought fit. That is one of them. I do not say, if the Imperial Parliament wanted to make a law distasteful to the Scottish people, that they could not do it. I do not say the Scotch would take up arms, or anything of that kind, if such a law were made; but Parliament would feel that the sentiment is so strong they would never think of doing it.

649. I refer to the constitutional powers. Do you think, if there were a right of appeal here to the Court, as it exists in America, that the Court would pronounce it *ultra vires* of the Constitution?—Are you alluding to this Act?

650. No. I am alluding to the restoration of pre-emptive right?—Supposing you declare it?

651. Yes; supposing the colony declared to restore pre-emptive right in a direct manner. I would like you to give me an answer to that question?—I feel that I am saying a bold thing in saying what I am about to say, but I will state it as my impression: that if Her Majesty has once waived her right of pre-emption as she has done—having once waived it in favour of the Maori people—I do not think that a subordinate Parliament, that is the Parliament of a dependency—a colonial Parliament—would be held to be justified in restoring it.

652. Would not the fact that the Maori people are represented in both Houses of the Parliament of New Zealand have any influence on your opinion?—No doubt it would, if they assented, of course.

653. Not if they belonged to a Parliament that represented the Maori people in that Parliament without assent?—The principle would not be affected if they dissented.

654. If individuals dissented?—If I understand you, you speak of those members as representing the Maori people.

655. Yes, as part of the New Zealand Parliament?—Taking the same view of Maori members as you do—whether it is correct or not I will not say—but, assuming that they did represent the Maori people, their dissent would place the matter in the same position as I referred to in answering your question, to the effect that Parliament would not be justified in passing a law to restore that pre-emptive right.

656. Now, I understand that that is your opinion on the abstract question. Practically, can any difficulty arise? If you will allow me I will lead up to it again. I am speaking strictly on the constitutional point. You have already said that the Act passed last session, without any difficulty on the legal point, goes more in the direction of restoring the pre-emptive right than the Bill under consideration. That passed, as I have said, without any legal or constitutional difficulty. Now, I ask you, is there any reason to suppose that a greater difficulty would be experienced in passing a Bill in that direction?—I do not know how there could be a greater difficulty in passing it; there would be less, because this is more indirect.

657. I will now leave that point. I would like to ask you, with respect to the expression you used yesterday with reference to the comparison you made between “Committees” in this Bill and “trustees” under the Act of 1865. I understood you to question the propriety of calling them “trustees.” I would ask you to explain that, for I do not quite understand you?—As far as my knowledge extends, I am not aware of any grant being made under that Act which recognized trusts of any sort, or which was intended to set up trusts or trustees, with one or two exceptions. All the lands I allude to as excepted were lands that were returned to the loyal portion of a tribe by the operations of the Compensation Court. That is a Court under “The New Zealand Settlements Act, 1863.” With these exceptions I am not aware that any trusts were ever set up or recognized.

658. I would like to tell you, or to explain rather, how that notion got abroad. My feeling is this: that it is pretty evident that, in some cases, there were a larger number of owners than ten; but only ten could go into the grant. Then, it might be assumed in some sense that there must be some trusts?—It is an erroneous assumption to regard them as trusts. In answering these questions I am simply speaking from what I know of my own knowledge as to the operations I have witnessed during the time these grants were prepared. A Judge of the Native Land Court was stationed by Sir Donald McLean at Gisborne. He told me one day, “I am going to place Mr. Rogan at Gisborne, and you are to have nothing to do with him.” I told him he had no power to do that. He said, “I am going to do it, and you must do what you like.” My only recourse then was to go to Parliament. I felt that it would have been hardly worth while to do that, for I knew I had not the slightest chance in going to Parliament with myself on one side and Sir Donald McLean on the other. So the thing went on. Therefore whatever I say with reference to these ten has no application to the east coast of New Zealand. I am ignorant of what went on there. Shall I tell you about these ten now?

659. I will put it in this way: is it not a frequent thing in the Court for Maori owners to select ten to go into the grant, the owners being more numerous than ten?—I would say not frequent, but it has been done.

660. Now, the ten in the grant would be in perfect legal possession. As to the ownership of the land, would they not be trustees for the others?—They would not.

661. Is not that a very dangerous operation as regards the interests of the remainder of the owners?—Yes, as it has turned out, on account of their own conduct. They have been treacherous to each other. But when any one or more of the number retired it used to be arranged among themselves out of Court. The Court was often informed that the man who had to retire was to appear in another grant: that the ten who appeared in this grant would not appear in that. You will understand it at once if I tell you the reasons which operated on the Maoris, not on the Court, for it was indifferent to the Court. The land which I have now in my mind, and which I am speaking about, was a large extent of country at the head of the Waikato, which had recently been conquered