1885.

NEW ZEALAND.

NATIVE AFFAIRS COMMITTEE.

(REPORT ON THE NATIVE LAND DISPOSITION BILL, TOGETHER WITH MINUTES OF EVIDENCE AND APPENDIX.)

Report brought up 9th September, 1885, and ordered to be printed.

REPORT.

THE Native Affairs Committee, to whom the above Bill was referred, have the honour to submit to the House the following recommendations:—

I. That with the evidence taken there be printed,—

(1.) The Bill as modified by the amendments proposed by the Government;

(2.) The Bill as modified by the amendments proposed by Wahanui;

(3.) The Bill as modified by the amendments proposed by Mr. Wi Pere, M.H.R.

II. That the Native Land Disposition Bill should not be further proceeded with this session.

J. B. B.-BRADSHAW,
Chairman.

9th September, 1885.

MINUTES OF EVIDENCE.

FRIDAY, 14TH AUGUST, 1885.—(Mr. J. B. BRADSHAIGH-BRADSHAW, Chairman).

JAMES CARROLL examined.

1. *The Chairman.*] What are you, Mr. Carroll?—I am a half-caste, and, by profession, a Native interpreter.

2. I understand that the Natives desire you to give evidence on this Bill?—Yes; the Natives have expressed a desire that I should give evidence on the Native Land Disposition Bill before this Committee.

3. Speaking of the Natives, who do you mean?—I represent the Hawke's Bay and East Coast Natives.

4. Will you state now what you wish to say?—I may tell the Committee that when I came here it was to bring down the views of the Hawke's Bay Natives on the Native Lands Disposition Bill. They consider that the Bill is not suited to their interests, and that I should ask the Government, or the Native Minister rather, to put it off till next session, and that the interim should be used in trying to make the Bill more suited to them. Their objections to the Bill are these: that the Bill places too much power in the hands of the Government. They feel that by this Bill they would be robbed in a great measure of their independence—that is, in connection with their lands. They object to the constitution of the Board in the first place—that is, at their being two Government nominees and but one Native. Their idea is that if there should be a Board at all that Board should have a strong representation of Maoris on it. Not only that; but the Native representation on that Board should be a representation of the ownership of the block of land being administered by the Board, and that the Commissioner should only be associated with them as a kind of executive. There seemed also to be a general desire on the part of the Natives that the Committee should act as a Board, instead of the Board being a separate body. Another thing was that the Government should not have any special advantages afforded to them for the purchase of Native land, as provided by clause 25. They do not see why the Government should not be made to compete in the purchase of Native land with private individuals. Then, again, there seemed to be a want in the Bill of some provision so that the owners might control the Committee. The Bill states that the Committee shall issue instructions to the Commissioner, whereupon the Commissioner shall proceed to carry out these instructions. There is nothing in the Bill to show that these directions shall come from the owners of the block. They think it is possible that a Committee of seven might act on their own account, independent altogether of the wishes of the owners. When I left Hawke's Bay we had had three meetings. They were hurried meetings. At each meeting it was felt that there was not sufficient time to do the Bill justice, and that it was better that myself and others should come personally to Wellington, and ask the Native Minister to put off this Bill until next year. After we arrived in Wellington we saw the Native members, especially the member representing the East Coast. We communicated to him the object of our mission, and he prevailed upon us to remain, and try if possible to go through the whole Bill, and make such amendments in it as might suit the Natives. We have gone through the Bill carefully two or three times, and they have asked me to draw up certain amendments to embody their views, which I have done. These proposed amendments are printed, and before the Committee. Of course, in doing so I may state to the Committee that I exceeded the resolutions we arrived at in Hawke's Bay, and have probed further into the different clauses of the Bill. For instance, since our arriving here we have seen that the Bill does not provide for representing the minority. I may illustrate this by saying that, supposing there were a hundred owners in a block of land, fifty-one of whom would participate in the election of the Committee. There would be forty-nine of a minority. But the seven appointed by the fifty-one would have the power of selling all the interest of the forty-nine. I drew up an amendment to meet that case, to be added to clause 32, Part V., which was as follows: "Excepting in cases where, although in a minority, one or more owners object to the administration of their interests by the Local Committee, or did not participate in the election thereof, then the said Commissioner shall, before proceeding further under this Act, move the Native Land Court in the usual manner, so that a subdivision of the interests of such dissentients may be effected." It might be possible that the minority I have spoken of would be a minority in number, although there might be a strong majority in interest. I have also amended clause 28, so as to check the Committee acting independently of the owners. Then, in Part VI., clause 40, on the 29th line, we propose to strike out all the words after the word "owner," and substitute the following words: "without any deduction whatever, and without delay." Of course, that is practically doing away with the 5-per-cent. reduction towards defraying the expense of roads and the cost of survey, as shown in the Bill. At present the Natives are already paying for surveys, and they already pay Court fees, and the only new matter they are asked to pay for here is something towards the maintenance of roads. They feel that they are justified in objecting to that—any way, that it should not be introduced into a Bill of this kind. Of course, it necessarily follows that clauses 41, 42, 43 should be struck out. Then, in clause 44 it is proposed to strike out the words "any number," and make it "that all shall agree before anything can be done in that direction;" and the same in clause 45. In regard to moneys being placed on deposit in the hands of the Public Trustee, it is considered that the subjects dealt with in both these clauses are of such importance

that it would be a dangerous thing to allow the majority to rule how the moneys belonging to the owners of a block of land should be disposed of. It is only fair to each person having an interest in a block of land, and entitled to receive money, that he should have a voice in saying how that money should be placed or used. In fact, right through the alterations are in this direction—namely, that the principle of the Bill that the majority in all cases shall rule, should not be; but that the whole of the owners should have the power of objecting to anything that is done in connection with their land. For instance, if the whole of the owners like to elect the Committee of seven, then they would give full power to the seven to deal with the whole block; but the majority alone should not have that power. Then we come to Part VII. It is proposed to strike out the whole of Part VII., because the Bill should deal only with matter suggested by its title. The "validating" or "legalizing" the quality of the title to the land forms a separate measure altogether. If it is necessary that the quality of the title should be inquired into and validated, they are of opinion that there should be a special Commission to inquire into the fairness of all these transactions, and settle them, apart from this Bill altogether. Then, in Part VIII.—that is, in reference to the removal of restrictions—the addition made to clause 60 is "that no such inquiry shall take place unless all the owners are present or represented." Then, in Part IX., clause 62, we propose to strike out the words "Governor in Council," and substitute for them the word "Board," and the same substitution in clause 63. I may state the reason of this: After going through the Bill more than once we thought we saw that the aim of the Bill was to focus everything in the hands of the Government. First of all we will say that there are a hundred owners in a block of land. They would be reduced to seven; then that seven would transfer to a more limited body, say, the "Board;" then clauses 62 and 63 give power to the Governor in Council to make any alterations, regulations, or other rules as he may think fit for the better enabling of this Act to be given effect to, and so on. It is quite possible that the Governor in Council might take over all the powers supposed to be vested in the Board, and alter the whole complexion of the Bill. The Natives think it would be safer for their interest if the words "Governor in Council" were struck out and the word "Board" put in their place; because on the Board they would be represented. They further say that, if desired, the Board should represent two owners of the block and one Commissioner. The balance of power would then be in the hands of the owners. I do not think I have much more to say.

5. Is that all you have to say?—I might say that the Hon. the Native Minister explained this clause in moving the second reading of the Bill, and we understood from him that it meant this: that these lands would be administered under the waste-land laws.

6. *Mr. Locke.*] Have you received any letters from any other parties in the Island in reference to this?—No. I might say that the meeting at Napier represented the Wairoa District.

7. At the meeting at Omahu?—The meeting was held at Hastings, and Natives attended from the Forty-Mile Bush and all round about. I should say that only representative men were invited to those meetings.

The Hon. Mr. BALLANCE, Native Minister, examined.

The Chairman: I understand that Sir George Grey would like to hear what the Hon. the Native Minister has to say about the Bill.

Hon. Mr. Ballance: I have said all that I have to say about the Bill in the House.

8. *Sir G. Grey.*] There are one or two points that I am not clear upon in respect of Part VIII., and I would like to put some questions to the Native Minister upon that. The first question I would put is, how it was that no legal sanction to the title of such occupation as is alluded to in this section had been obtainable under Part VII.?—Because the land had not passed through the Court.

9. Then, I ask whether, according to law, all agreements, titles, or instruments relating to such occupations, whether in writing or otherwise, were not absolutely null and void?—Yes: by the existing law there could be no titles unless the land had passed through the Court.

10. You have said that such occupations benefited the Natives and the colony at large. How could it be a benefit to the Natives and the colony at large that such occupation, unauthorized by law, should have been taken?—This Part is intended to give to the occupiers—who are assumed to have gone on the land with the consent of the Natives, and who are paying rents—a title for fourteen years. So far that is an amendment of the existing law.

11. But that is not an answer to my question. What we want to know is, does the Government state in this Act that it was a benefit to the Natives and to the colony at large that such unlawful occupation should have been entered upon? How can it be affirmed that it was so?—It seems to me to be a matter of opinion. The assumption is, that where the land has been occupied—in many cases, perhaps, not in all—with the consent of the owners, and *bonâ fide* occupation has taken place, it may be for the benefit of the Natives and the colony.

12. But does not such occupation prevent the free competition in land, inasmuch as many people would not occupy against the law?—There may have been cases where it would have prevented competition; but, on the other hand, there may be cases where no competition would have taken place.

13. Then, in those cases where it prevented competition, it was not to the advantage of the Natives?—Yes; it might follow. It is a matter of opinion. I do not know.

14. Then, I would ask, how could it be an advantage to Europeans if such occupation of these lands should have rendered the Natives undesirous of parting with their land in other ways?—I cannot follow the question. It appears to me that it does not prevent a title being obtained to the land, and the land being dealt with in the usual way according to law.

15. Does it not withdraw Native lands from occupation under free competition?—I have already said that in some cases it might have done so, but in other cases it might not.

16. Well, in cases in which it did so, it might have been a disadvantage to Europeans, I presume?—It might have been; but there might have been circumstances which we cannot contemplate where it might have been advantageous to both races, and the Bill provides for an inquiry.

17. Do you think it desirable to shut up these lands for fourteen years in the hands of persons who are in illegal occupation?—Generally I think it would be sound policy to recognize some such claims after inquiry, more especially since we are supposed to be taking a new departure, which is intended to prevent all private transactions with Native land.

18. Do you think it could possibly be advantageous to those who have been already shut out, because they would only occupy lawfully, to be shut out for fourteen years longer by those who have been in unlawful occupation?—My opinion is that that would be a less evil than to sweep away the property of a man who had gone *bonâ fide* on to the land and occupied it with the consent of the owners.

19. In what way would it be necessary to sweep away his property?—I think it would follow, if this Bill became law, without some such provision, that his property, which depended on occupation, would be found to be swept away. I am assuming, of course, that the Native owners of the land have been consenting parties to the occupation.

20. Does unlawful occupation give property to the persons occupying?—I do not place that construction upon the term "lawful," as if they were acting contrary to the express provisions of a law in this occupation. I am not aware that there is any law to prevent their occupation of the land.

21. I will put the question in another way: Does a deed which is absolutely void give any title at all?—I am not a lawyer; but I should say not. This Part VII. proceeds upon the assumption that there is no title. The meaning, or, rather, the assumption, is that there is no title.

22. I will now ask you one or two questions in respect of the removal of restrictions in clauses 60 and 61, in which it is provided that, inquiry having been made in the case, the Judge or the Commissioner should forward to the Governor his report on the application, with such recommendation as he might think fit, for the consideration of the Governor in Council. Would there be any objection, inasmuch as the land is Native land, which cannot be sold at present, but which afterwards is allowed to be sold, that it should be then sold subject to the ordinary land regulations of the colony, so that every one of the Queen's subjects might have an equal chance of acquiring it?—You ask me whether I think there should be, in cases of restrictions removed, open competition, so that every one should have a chance, &c. [*Sir G. Grey:* Yes.] That is my own opinion. There may be cases, however, where parties have a clear right, or had a legal right, to make these purchases. These clauses are intended to meet such cases.

23. Can you give any instance of such a case?—There is one case, referring to land in the Tauranga District, where two of the most eminent lawyers in the colony have given an opinion that the party had a right to go in and acquire by purchase.

24. *Mr. Ormond.*] By purchase, do you say, or by lease?—By purchase.

25. *Sir G. Grey.*] Could you have these papers laid before us?—Yes.

26. *Hon. Mr. Bryce.*] I do not quite understand the new clause. Is it intended, when restrictions are removed from a block, that that block shall come under this Act; or is it intended, as you suggested, that it shall be a means for the purpose of concluding transactions?—Yes: that is the intention.

27. Then, it is not set out under this head?—No; I see it is not. There is an omission here: it is intended to validate such transactions.

Sir G. Grey: I do not understand the meaning of the Native Minister's answer; for here it refers to everything.

Hon. Mr. Bryce: I am puzzled myself. Let us take a block of land on which there are restrictions: then, if these may be removed by the process set forth here, what is to become of that block? Is it to go under the general machinery of this Disposition Bill, and be disposed of by the Land Board constituted under this Bill; or is it, more correctly speaking, for the purpose of enabling private transactions which are now in progress to be concluded? Because in the latter case, that would be selling the land under a system not contemplated by this Act, or outside this Bill altogether: judging from what the Native Minister has said, I think it must be intended to do both things—first to enable transactions in progress to be concluded, then, after these are done with, to enable the restrictions to be removed from the blocks which would go under the ordinary provisions of this Bill, or this Act.

Hon. Mr. Ballance: I would like to explain: The Governor has now power to remove these restrictions without inquiry, where it is desirable to allow transactions to be completed. Then, we assume that the Commissioner will report accordingly, and the Governor will give effect to that report. The restrictions will be removed, and the parties will be enabled to complete their purchase. The extended power is simply to enable the Court judicially to sit on such cases, and to investigate them. Then, with regard to other cases where restriction might not be removed, the land will then remain in the same position as Native reserves, and will be dealt with as reserves would be for the benefit of the Natives beneficially interested. That is the position.

28. *Hon. Mr. Bryce.*] But that will leave one class of lands unprovided for altogether. There are certain lands on which restrictions exist, that are much like other Native lands, but are not reserves under the Act we have at present, nor would they become so. What I want to know from the Native Minister is this: Is it intended to remove restrictions from all those lands where they are uncomplicated by private transactions?—You mean where no private persons intervene? [*Hon. Mr. Bryce:* Yes.] But that class of cases is not dealt with in this part of the Bill; this only applies to cases where individuals have been trying to acquire these reserves.

29. Then, where restrictions are now on lands uncomplicated by private transactions, these restrictions would then in effect amount to a positive entail?—Not necessarily; they might be dealt with in another way.

30. Under this Bill?—I assume that where restrictions are placed on land it is in the position of a Native reserve.

31. You are not asserting that that is a legal position?—I am assuming that that is the virtual position. In the first place I ask myself why there are restrictions on land at all but that the Natives should not be allowed to alienate them.

32. Restrictions might be put on for various reasons?—That is the main reason.

33. What we want to know is whether it is intended, in cases of lands outside those on which private transactions have existed,—whether it is intended to remove restrictions: I would point out that these lands are not legally reserves at present, whatever they may be ultimately?—This clause will not interfere with the right of the Governor to remove restrictions where there had been no dealing, without any inquiry at all. The Governor's power will remain the same as before. If it was desirable to remove restrictions he could do so. The Governor will have the same power to do so here.

34. It would be so undoubtedly were it not for these sections: these sections are restrictive?—Yes.

34A. Under what these sections prescribe this necessarily would take place?—I think that you will find that the preamble does limit it: "Whereas it is desirable that the removal of restrictions on the alienability of land should be dealt with only after due and formal inquiry."

35. Then what I wish to point out is that he would cease to have the power; this land would not be a reserve, it would be entailed and remain in an unprofitable state?—I do not think so. I do not think clause 61 goes so far.

Hon. Mr. Bryce: Then look to clause 60. Of course I only want to get the ideas of the Native Minister on this matter.

36. *Mr. Hobbs.*] Do you not think there should be some finality in these cases? With that view do you not think it would be better to have the names of all persons interested just as in the Special Powers and Contracts Bill?—I would have no objection to a course of that kind being followed if it should be thought the better way of proceeding; but I am inclined to think that this would be the better course. I may say at once that the whole object of this part of the Bill is to remove restrictions where private purchase had taken place, and only then after formal inquiry made into the *bona fides* of the purchase.

37. *Colonel Trimble.*] Has your attention been called to the Native Land Division Act of 1882 and the Reserves Act of 1882 while you were preparing this Bill?—Not specially.

38. Are you aware that in the provisions of these Acts great care was taken to place the taking off restrictions in the hands of the Court only, and that no power was given to the Governor in Council in regard to taking off restrictions or interfering with the judgment of the Court?—I am aware that that is one way of removing restrictions—by subdivision.

39. But the point of my question was this: Not that it was one way of getting rid of restrictions, but did not the Court deal with the matter absolutely without referring its decision to the Governor in Council?—Yes; the Act of subdivision removes restrictions.

40. Are you aware that the policy of Parliament for some years past has been to take power from the Governor in Council and place that power in the Courts of law?—I am not aware of it.

41. Would you not judge from the Acts of Parliament that they were at any rate in that direction?—No; on the contrary, I should say that the tendency was to place larger power in the Governor in Council.

42. Will you tell me to what Acts you refer?—Generally to the policy of the Legislature.

43. At any rate in those two Acts that is not the case?—I think it is; but I may state that I am no advocate of the policy of giving large powers to the Governor in Council. I am in favour of positive legislation where it can be conveniently had.

44. Then, would you be good enough to explain to the Committee—that being the principle upon which you say you are acting—how it is that these points to which I am going to refer to are——

Hon. Mr. Ballance: I would say at once that I am quite willing to meet you on these points. But I say, at the same time, that it is rather irregular to ask, in a Select Committee, questions as to the general policy of the Bill. That was matter for the second reading.

Colonel Trimble: I am going to refer to certain clauses.

Hon. Mr. Ballance: The usual way in Committee is to take the Bill clause by clause. If you think proper to suggest amendment you can do so; or if you do not approve you can sweep the clause away altogether.

Colonel Trimble: I was about to put a series of questions to the Native Minister; but, seeing that he objects, it would be waste of time to do so.

Hon. Mr. Ballance: I will say at once that I am quite willing to meet you on the clauses, going through the Bill clause by clause; but I say at the same time that it is rather irregular to ask questions in Committee upon the general policy of the Bill.

WEDNESDAY, 19TH AUGUST, 1885.

WAHANUI, Chief of the Ngatimaniapoto, examined.

45. *The Chairman.*] You come here to speak about this Bill. Will you tell the Committee what you have to say upon it?—I have been considering it for many days past. Should I wait to be asked questions?

46. You can state your opinion about it?—The reason I speak about this Bill is on account of the statement contained in my own petition. I stated to Mr. Bryce formerly that I am to have the administration of the whole of the lands in my district; I have made the same statement in my petition. I told Mr. Bryce on that occasion that when my petition reached the House I wished him to bring forward a measure vesting the whole authority in me—I mean in ourselves. When I came to

Wellington last year I saw the Bill that was then before the House, and I then said, "Let the teeth be taken out of that Bill"—that is, let the objectionable parts be expunged. Mr. Ballance was the Native Minister, and my request was agreed to—the objectionable provisions of the Bill were struck out. I was pleased when that was done—I was satisfied. Since I have been in Wellington on this occasion I have examined the provisions of this Bill. I may compare these provisions to a captain directing a ship—the real authority is vested in the Government.

47. *Hon. Mr. Bryce.*] That is not very clear?—What I wish to explain is that some provisions of the Bill are not perfectly clear, some portions of it are rather involved.

48. *The Chairman.*] Will you state what portions?—Why should I fight out between the opposite portions.

Mr. Grace: What he means is that the Bill which pretended to be friendly to the Natives was not really so.

Hon. Mr. Bryce: I do not think it will do for us to interfere in any way with the interpretation.

Colonel Trimble: Let him go right on; he has something connected in his mind—he knows perfectly well what he is driving at.

Wahanui: I think that some of the provisions of the Bill are not perfectly clear. I have noticed one or two provisions that are not clear—that is, they have a greater meaning than I can quite explain. I allude to the power that the Governor will have in his Council with regard to making regulations. The Governor in his Council is to make regulations if any owners of land make representations to him that he can give effect to their wishes or suggestions. I think this is the real meaning of the Bill: to place power in the hands of the Government. I feel this: that I am in a difficult position. I have studied the Bill as it was first brought out a few days ago, but it was afterwards altered; and then when I have mastered the alterations it is again altered. But my great desire in coming here is to have the authority of administering my own land—to have that vested in ourselves. Why should our land be taken from us, or why should our authority over that land be held back? This was the representation I made to Mr. Bryce formerly, and again I make that representation to this Committee. I have omitted to make a statement which I should now make. It was on account of becoming acquainted with certain provisions in this Bill that we drew up amendments which have been submitted to Mr. Ballance.

49. *Mr. Locke.*] Are those the amendments of Wi Pere?—Aye; we all support these amendments or approve of them. I gave Mr. Butler some amendments and asked him to translate them into English.

50. *Colonel Trimble.*] Are they included in those that Wi Pere has given notice of?—I do not know.

51. *Hon. Mr. Bryce.*] But probably Wahanui has seen Wi Pere on the matter. Is that so?—They have not been included with the amendments which I have seen of Wi Pere's. My propositions may have been put in since; but they were not at first.

Hon. Mr. Ballance: But they have been substantially put in.

52. *Mr. Hobbs.*] You said there were some amendments that you suggested to members; in what clauses would they be found?—I cannot find them until I have seen the clauses. I can only reply to the question by saying that I have given them to Mr. Butler to translate.

53. *Hon. Mr. Bryce.*] By Mr. Butler you mean, I presume, the Private Secretary of the Native Minister?—Yes.

54. How do you know these amendments were in the Bill?—I have not seen them yet; and I do not know whether they have been included in those proposed amendments.

The Chairman: The Interpreter brought up some amendments this morning.

Hon. Mr. Ballance: I understood they were embraced with Wi Pere's.

55. *The Chairman.*] You have seen Wi Pere's?—Yes; but they are not included in Wi Pere's.

56. *Mr. Hobbs.*] Then, as a matter of fact, you do not know whether these amendments are in this Bill or not?—They are not included in the amendments drawn up by Wi Pere and ourselves. I have not seen them since, so I cannot say whether they have been incorporated with the new amendments.

57. You speak about the "objectionable" clauses in the Bill, and state to this Committee that you protested against your land being taken out of your own management, and that you find the same "objectionable" clauses in this Bill?—There is the same principle in this Bill that was embodied in the Bill of last year: there is the same meaning, the same drift, as in the Bill of last year.

58. What is the principal objection to this Bill?—I have already stated that it was not in accordance with our ideas of Maori custom. For instance, this is one part that I take objection to: it states that the Governor shall have power in Council to do certain things.

59. I do not understand you to say that the Governor has such power at present?—

Mr. Ormond: The Governor has no such power as he is referring to now; he is referring, no doubt, to the last part of the Bill—to the regulations.

Mr. Hobbs: I understood him to say that it was to the whole principle of the Bill that he objected, as giving too much power into the hands of the Government.

Mr. Ormond: He says that the words "Governor in Council," alluding to the Governor's power to make regulations, are in the Bill; and he asks whether they have been struck out.

60. *Mr. Hobbs.*] Do you approve of the Boards and Committees provided by the Bill?—I petitioned that we might be allowed to elect our own Committee; but my Committee would be different from those provided for in this Act.

61. In what way would it be different?—I want our own Committee to have full power to administer the lands; and the whole of the administration should be vested in the Committee.

62. I want to know whether you wish for a special or particular clause for your Committee?—Yes; that was the request contained in my petition: that we should have a special Committee of our own.

63. Do you think that you secure that under this Bill?—I do not think this Bill gives me what I wish for. I wish this Bill to state expressly that the whole administration of the land shall be given to the Committee—to my Committee.

64. *Mr. Locke.*] Do you mean one Committee to administer the whole of the Native lands?—

Mr. Ormond: He means that he wants his land to be administered by his own Committee.

Hon. Mr. Ballance: The matter which is not clear is, what does Wahanui mean by "my own Committee?"

Wahanui: I speak of Maori Committees and Maori lands.

65. *Hon. Mr. Ballance.*] Do you refer to the District Committee, of which Mr Ormsby is chairman?—Aye; that is my Committee.

66. *Hon. Mr. Bryce.*] What land do you wish that Committee to administer?—It is known that I am a great owner of land. What I mean is that my own Committee, of which Mr. Ormsby is chairman, should administer my land.

67. *Mr. Locke.*] Does he mean all the lands included in the Act last year?—

Interpreter: I asked him if he were acquainted with the boundaries under the Act, so that I might ask if he wished the Committee to administer the whole of that land. He said that he wished the Native Committee, of which Mr. Ormsby is chairman, to administer the land within those boundaries.

68. *Hon. Mr. Bryce.*] Does Wahanui intend this Committee to administer the whole of the land of the Ngatimaniapoto Tribe?—That is the request contained in my petition.

69. Then I wish to ask you whether you want that Committee to manage the land belonging to other tribes besides the Ngatimaniapoto?—I have not stated that. I wish the Committee which I intend to elect shall administer the whole of my lands. I wish the Government to give it the power to do so.

70. That is what you mean by "my lands"—Ngatimaniapoto lands?—Yes.

71. Not other lands outside?—What is meant by "outside" land? There are no lands remaining. The Europeans have obtained the "outside" lands. I allude to my own land—to the land within the boundaries I have given.

72. *Mr Hobbs.*] We are all glad to see you here. We want you to tell us what your views are; because we do not want you to be crying out and complaining by-and-by after this Bill shall have passed; therefore, tell us plainly what you consider is the evil in it. I understand you object to the principle of it; if so, tell us what is wrong in it?—I cannot deal with all the clauses seriatim: I cannot deal with them in that way. I am not making any complaints, nor am I crying, because my heart is rejoiced very much by the attention which Mr. Ballance has paid to us. He has listened to our suggestions very fully.

73. *Hon. Mr. Ballance.*] Wahanui has referred to the Governor in Council; but he does not appear to have noticed that, in this Bill, the action of the Governor in Council is to give effect to the "owners of the land." I think this ought to be put clearly, and in this way: "Whether the Governor in his Council should have power to carry out the wishes of the Natives." I will therefore ask him—Did Wahanui and the chiefs hold a meeting at Kihikihi in reference to the Bill?—We had not received the Bill at that time, but the resolution arrived at by the Natives at numerous meetings has been this: that the sole power of administering the land must remain with the Natives. A great many complaints and petitions have been received from all parts of the Island, crying out about this Bill.

74. Did you receive a copy of this Bill before you left the Waikato to come to Wellington?—Yes.

75. Did you discuss it with Taonui, Rewi, and other chiefs?—No.

76. Did you discuss it with John Ormsby?—No; because Ormsby was then engaged in road-making, and I had not the opportunity of talking with him.

77. Do Mr. Ormsby and yourself generally agree on this question?—On some subjects we agree.

78. Have you seen a letter written by Ormsby with reference to this Bill?—I have heard that Ormsby wrote a letter to you, but I have not seen the letter.

79. Are you not aware that in that letter it is stated that "Wahanui, Taonui, and Rewi" agree to the Bill?—I have never heard or seen that statement; but I have a letter myself from John Ormsby, in which he states that we do not agree to this Bill. There are two subjects in that letter. First, from Taonui and others; the letter contains this request: Will you see Mr. Ballance with regard to this Bill, and ask him to strike out, alter, or amend the objectionable clauses. Second, with regard to rehearing, we want it provided that there should be a rehearing granted in respect of the land in every case that it is asked for; for, if not granted, we shall not hand over any land to be adjudicated upon. These are the statements in the letter I have received.

80. That refers to another Bill?—It refers to the Bill a copy of which was sent to us.

81. Do you think that the owners of a block of land should have the right of managing that block?—I am confused. Wi Pere has explained the matter to me. I do not know the meaning of the question.

[*The Chairman:* Would the interpreter repeat the question?]

Wahanui: That is my wish.

82. *Hon. Mr. Ballance.*] Do you agree that the owners should have the right to elect the Committee which is to manage?—Yes; that is my wish—that the owners of a block of land should have the right to elect their own Committee.

83. *Mr. Hobbs.*] Do you know that under clause 25 the owners can sell to the Crown in spite of the Committee?—I know there is such a provision. I object to it. I will never consent to it.

84. *Mr. Locke.*] Do you understand one Committee for the whole of the land? You seem to speak of a separate Committee for each small block?—I want a Committee for each block.

85. Do you approve of the majority in a block of land—say, fifty-one out of a hundred owners—being able to sell the whole block, the forty-nine being unable to sell?—I do not approve of that principle. I think, if the majority wish to sell and the others do not, then the portion of the land belonging to the non-consenting owners should be cut off.

86. Would you consent to that?—I think I should approve of that being done, provided that that land has not been placed in the hands of a Committee.

87. But it is in the hands of a Committee under this Act?—If the land has been placed in the hands of a Committee, if fifty-one wish to sell and forty-nine object, if the Committee is agreeable, then let the land be divided.

88. Look at clause 36. I wish to ask you if you want the Government to be the purchaser of your land?

Hon. Mr. Ballance: That is not a fair question.

89. *Mr. Hobbs.*] Then I will put it another way. Would you approve of private persons not being allowed to buy land from Natives?—My idea is this: I want to have the power to sell to the highest bidder. I look upon the man who gives the highest price as my nearest relative. I wish to have the power to give my land to the highest bidder; but, really, it is I who ought to ask questions of the Committee.

The Chairman: We are seeking knowledge from you.

Wahanui: And am not I in the same position, seeking knowledge from the Committee?

90. *Mr. Hobbs.*] I look upon you as a great authority in these matters, and I have always done so. What we want is to get plenty of light from you on this section. I wish to ask, Do you think that the Natives are prevented by it from selling to private individuals?

Hon. Mr. Bryce: "Direct?"

Hon. Mr. Ballance: It is important that should be understood—"direct."

Mr. Ormond: That is certainly what is meant.

91. *Mr. Hobbs.*] Will you answer the question?—What I want is for the Committee to have power—full power—to sell to the highest bidder and to the Governor, as the case might be.

92. Then you say you do not want any restrictions?—No; I do not approve of these restrictions at all.

93. *Hon. Mr. Ballance.*] Does he mean the restriction which prevents Natives selling to outsiders?

The Chairman: He wants his Committee to have the fullest power, without any restriction.

94. *Mr. Hobbs.*] Do you approve of the clause in this Bill which enables the Government to legalize past transactions in Native land before it passed through the Court (clauses 55 and 56)?

Hon. Mr. Ballance: Clauses 47 to 54.

Mr. Hobbs: He is aware that there are plenty of transactions between Natives and Europeans without any authority whatever in violation of law.

Mr. Ormond: Outside the law altogether?

Hon. Mr. Ballance: Not a violation of law, but outside the law.

95. *Mr. Hobbs.*] Do you, Wahanui, approve of these clauses?—I do not approve of these clauses.

Mr. Hobbs: I wish Wahanui to understand that I am anxious to get his opinion on these clauses, because he might say in future that he was not asked these questions.

96. *Mr. Grace.*] Does Wahanui understand that under this Act there will be not one Committee, but probably fifty or sixty Committees?—I do understand that there will be a great number of Committees, and that, if this Bill is passed, our land will be cut up into portions, belonging to the respective hapus. Each hapu will have its own Committee.

97. Is that what you want?—Yes; I would like to see this done. There are a great number of hapus in my district.

98. *Mr. Locke.*] He speaks of hapus. Does he intend that each hapu should have a Committee?—No; the question is one not for the hapus, but for the owners of the land. The Ngatimaniapoto and the Ngatiraukaua are distinct tribes. The lands belonging to these tribes should be marked off.

Hon. Mr. Ballance: He has already said he would like a Committee for each block.

Mr. Locke: He wants evidently a tribal Committee.

Wahanui: I accept this idea of a Committee because it is a European idea; the Europeans have Committees.

99. *Mr. Ormond.*] In answering a question by Mr. Ballance you referred to a letter written by Mr. Ormsby?—The letter I received was not from Ormsby, it was from Taonui and others.

100. I was referring to a letter written to Mr. Ballance, and to which you referred in answering Mr. Ballance's question?—I do not know anything about that letter; I do not know what statement it contained.

101. Are you aware that Mr. Ballance read that letter and conveyed to the House the statement contained in it that you, Wahanui, approved of this Bill?—No; I was not in the House when that statement was made.

102. Was Ormsby authorized by you to make any such statement to Mr. Ballance?—No; I never authorized him to speak in that manner on my behalf. What I said was, "Do not take any action until you have heard from me."

103. Do you know that that letter conveyed the approval of other chiefs of the Ngatimaniapoto Tribe, such as Rewi and others?—I do not know that these statements were made. I was not there when the letter was written. I do not know what the contents of that letter were.

104. Do you think that the machinery of this Bill, so far as you understand it, will lead to the settlement of those lands which the Natives do not want for their own use, in a way that will be profitable to them and profitable to Europeans?—I want to understand whether this Bill applies only to Native land? [*Mr Ormond:* Yes.] Then, I ask, did a request come from the Natives to Europeans to bring in a Bill for administering Native lands?

1 5. That is a matter that the Native Minister will tell you more about; he is responsible for that. Do you say you do not approve of this Bill?—You, Mr. Ormond, can see for yourself its deficiency in some respects. Why do you ask me about these clauses seeing that you are aware yourself that there are some clauses in the Bill which are not good?

106. The object of this Committee is to inquire and see how far this Bill might be made useful. It is our present object to get an opinion from you upon the matter?—My sincere wish is that prosperity may come to the Government of the colony; that the railway should be made. We will give the land for the railway and for the railway stations. This is my contribution; this proves my love to the undertaking. I want to know what return the Maoris are to get. We show our love to Europeans; what return will they make for our giving our land for the railway and the railway stations?

107. Will you inform the Committee if the Natives are willing to treat with the Government for the cession of the land along that railway for settlement?—I have already had conversation with Mr. Ballance. I have explained to him that the Maoris are a very tractable people; that they are easy to deal with, and will not drive hard bargains. If Maori suspicions had not been created in the past they would have been very easy to deal with. Mr. Ballance did not ask me to give the land for the railway and the stations without payment. That idea emanated from ourselves, without asking for compensation or payment. The Maoris did not ask for the railway, and I do not think I should be asked to state whether the Maoris will give the land along the line.

108. Not to "give;" but you are asked whether the Maoris will treat with the Government for the cession?—This is not the time for going into that question. The Natives are suspicious, and are on their guard against others.

109. I will go back to my first question; I think you might answer that. It is: Do you think that this Bill will facilitate the settlement of land so as to promote the settlement of the country?—I think your question is a very proper one, but I would like carefully to consider before I answer it. You have hedged me round, and if I do not make a very careful answer I will be caught. I do not know whether I should answer that question or not. It is a very good question to ask.

110. From our point of view it is a very big one for me to ask?—I know it is a very important matter. I know that if I am not careful you will meet me by other arguments. I am deliberating in my own mind whether I should answer the question.

111. Would you tell the Committee (if you have a difficulty about that) whether the Native mind would be in favour of selling for settlement or leasing for settlement?—No doubt some Maoris will sell and others lease; but Maoris want to be perfectly clear before taking either of these steps; they want the law to be clear and satisfactory before they take one step or the other.

112. I would ask you again whether you see your way to answer the larger question?—I would like to wait until to-morrow before answering that question.

113. *Hon. Mr. Ballance.*] I would like to ask Wahanui a question. I think the question has been too indefinite, and might be put in a clearer way so that he would understand it better. I would ask: If the land were through the Court, would the owners of the land on both sides of the railway be likely to sell or lease to Europeans, or both.—[*Mr. Ormond:* That is not what I meant. I was speaking from a much larger point of view] ?—I think it very likely the Natives would agree. I think they might.

114. *Mr. Ormond.*] I must ask him now a question or two on this subject as he has referred to it—namely, with respect to this railway and its effect upon the land in the neighbourhood of the railway in connection with this Bill. Do you know, Wahanui, that the building of that railway has been agreed to mainly for the purpose of getting the country settled; entirely for the purpose of getting the country settled?—Who agreed to it?

115. The Europeans in voting the money to pay for it?—I do not understand that. I did not hear that that was the reason.

116. Have you never understood or heard that the Government and people of the House have agreed to that, believing that the Natives would treat with them for the cession of the land alongside of it?—I did not know that the railway was to be made with the object or with the understanding that the land was to be settled on each side. I thought it was to connect two places, so far as to enable people to come from one end of the Island to the other. I have now heard for the first time that there is another object in view, and that the Europeans look on the land on each side of the railway as having become their own. What I mean is this: I never understood before that the object Europeans had in consenting to that railway being made was that the Maoris would give or dispose of land on each side of it, or agree to such land being settled, or that the real object was the settlement of the land on each side.

117. Do you not recognize that the railway will give enormous value to the land beyond its present value to the railway?—I do not know that it would have that effect at all.

118. If it would have that effect, would you not think that it would be a fair thing that the Natives should assist in the disposal of their land, so as to obtain settlement along the line?—I like to laugh over that question a good while before I answer it. If that railway is being made for the benefit of the Maoris, then, I say, it is better to stop it; if it is restricted to the Maoris, then let it be stopped.

119. But you said just now that you were anxious to assist in the progress of the country and in settlement?—Aye.

120. Will it not be assisted by this method of proceeding, making the railway and settlement taking place along it?—You keep constantly asking me about land on either side of this railway. I have given land for the railway, and I have given land for the stations; yet you keep asking me about land on each side. I have no fault to find with the direction of your questions. If I were the sole owner of these lands I would answer the whole question at once; I should be in a position to do so.

121. We want to get your opinion, knowing as you do the feeling of your people. We wish to get your opinion first as to what you would do yourself, then what you think your people would do in the matter?—When Mr. Bryce and Mr. Ballance were asked these questions, they said "We must consult Parliament." Now, when I am asked these questions in Wellington, I reply that "I must consult my tribe before answering them."

122. I may tell you that I am not desirous you should answer my questions in such a way as to constitute a promise. I ask you only for your opinion—what you think?—Aye; I understand that.

123. Then I will repeat my question. Do you think that under this Bill settlement will be effected with their consent along the railway which is proposed to be built? I would also ask you to consider and tell this Committee how far the Natives would be prepared to treat with the Government for the sale or disposal of land along the railway?—I will answer the last part of your question at once. If this railway is made, and the Government and the Native owners can come to a unanimous understanding, then, perhaps, the land will be sold and leased. Is not that fair?

124. Yes; but I want to ask another thing arising out of that. Do you not think that a satisfactory arrangement might be made between the Governor and the tribes for the cession of the land along the railway rather than by the ordinary machinery for individual sale?—If the land were mine solely I could answer that question at once; but, seeing that Tainui is a great owner of land through which the railway runs, I cannot answer at once.

125. We do not want an answer about any particular owner, but we want an answer to the big question: whether, at the present time, you do not consider that this mode of dealing which I have suggested between the Governor and the tribes would not be a satisfactory method of dealing with the matter?—It depends entirely on the shape that the negotiations would take. I will not commit myself by saying that such negotiations should be carried on.

126. I wish you to know that I do not want to weary you, and therefore I hesitate somewhat in asking you some questions about this Bill. If you do not object, I should like to ask you, first, whether you have a right understanding of it, which I doubt. My first object, therefore, is to put my questions in such a way as to ascertain, if I can, whether you know the meaning of this Bill, and the working of the Committees under it. That is my object in putting many of these questions to you?—I know what my own mind is, but I am bewildered in respect of the clauses of this Bill. I know my own mind, and I have already told my Native friends that there are passages in this Bill of which I do not understand the meaning.

127. Do you understand that before any land can be dealt with by the Committee of any particular block it will have to be inquired into by the Native Land Court?—I will not consent to the Native Land Court adjudicating on land at present.

128. Do you understand that this Bill is founded on that: that that must be the first step?—It is true the Bill is founded on that understanding, but I will not consent to hand over my land to the Native Land Court at present. I have heard of the cries that have been brought up on all sides during the past year on account of the action of the Native Land Court.

129. Then you do understand that the Committees will not come into existence or have any power until the land shall have been taken through the Native Land Court?—The Bill states that such is to be the case: that Committees will have no power until the land has passed through the Court. But I do not agree with that. What I say is, that the Committee should have power—full power—to deal with the land in any case. That is only my own opinion.

130. Then, do I understand that you would set up the machinery of Committees to inquire into title, dealing with that first?—Aye, that is one of the theories, to let the Native Committees investigate the title to the land. I think that is feasible.

131. Now, I want to know whether you understand that, so far as the Committees are concerned, and so far as they are provided for in this Bill, they can have no effect until the Native Land Court has settled the title. Do you understand that?—I have heard that such is the proposal, but it is not clear to me. I do not agree; it is not my idea at all.

132. Now, I want you to understand that this is not a matter of opinion; it is a thing set forth; it is what is proposed to be the law. Do you understand that?—Yes.

133. Then, suppose the Committees come to the working of these amendments, whatever their number (seven) might be, do you think that a Committee appointed in this way, under which each owner may nominate seven or a less number, would work satisfactorily: that is to say, if one hundred people in a block would be satisfied to hand over the administration of their affairs to any seven in the block to represent them, all this being after the Court has adjudicated?—I will not consent to have land put through the Court.

134. I am asking about the working of this Bill. I am trying to get from you your opinion of it, as to the blocks on which the Court has already adjudicated?—I do not know how this will apply to lands which have passed through the Court. I can only speak of my own land—as to how the land in my own district will be affected. I cannot say how it will work as regards other lands.

135. I want you to say whether you think that it will be satisfactory to the owners of a block in which there may be fifty, or one hundred, or any number of persons, to appoint seven to administer their land, and to say absolutely what should be done with it; for that is what is proposed in this Bill?—I think the principle of Native Committees is a good one, and that it will work satisfactorily provided that it be arranged this way: the seven people who are elected to the Committee must clearly understand that their only power is to carry out the wishes of the owners of the land. They can only carry out those wishes when the owners have said what is to be done with the block. The owners must be able to say, "Do this," or "Do that."

THURSDAY, 20TH AUGUST, 1885.

WAHANUI'S (Chief of Ngatimaniapoto) examination continued.

136. *Mr. Ormond.*] Would you answer the question put to you yesterday to be considered—that is, whether you think this Bill calculated to bring about a settlement of the waste lands which the Natives do not want to occupy themselves along the railway?—If the Native owners are first assured that they shall have authority—full authority—over their land, then, perhaps, it may come to pass that the land will be occupied and settled.

137. I asked you yesterday whether you thought any arrangement, practically for the same object, would be likely to be effective between the Government and the tribes. Can you give me any further answer about that?—My reply to that question is that, if the Government give to the Natives the sole authority of administering their lands, then, perhaps, some satisfactory arrangement can be made.

138. Now, I want to ask you some questions on this Bill, with the view of seeing how this object—I mean an arrangement for settlement of the land—can be effected under it?—Do you mean to ask me whether this land can be disposed of, whether it can be sold or disposed of without giving the Natives full authority?

139. The answer you give will show whether you consider that this Bill will give such authority?—I can give no other answer than the answer I gave just now.

140. Let us now go to the Bill. Yesterday I asked you, and I ask you again to-day, whether you understand this matter of Native Committees, and, if so, whether you wish that the sole power of dealing with these Native lands should be in the hands and under the administration of Native Committees?—I wish the whole of the owners of the land to have the real authority over the land.

141. Did you not say yesterday, and do you still wish, that this should be done by Committees?—What I mean is that the real authority of deciding how the land should be administered rests with the owners generally; they can direct the Committees as to what they wish to be done.

142. Do you understand that, if this Bill comes to be law, before any Committee can come into existence, the land must be adjudicated on by the Native Land Court, and the owners determined by that tribunal?—I know that the Bill is in that direction. But I will not allow my land to be adjudicated on by the Native Land Court at present, for I know it is impossible to get a rehearing. Even when the judgment is wrong and the land has been given to wrong owners, it is impossible to get a rehearing; therefore I will not consent to my land being adjudicated on by that Court.

143. Do you not see that under this Bill that will be a fatal objection to its becoming useful?—In answer to that, I have to say that we have submitted amendments which we wish to be made in the Bill.

144. Have you submitted any proposal to do away with the Native Land Court?—Our wishes are embodied in the amendments that are sent in.

Mr. Locke: Have we seen these amendments?—

145. *The Chairman.*] Would Wahanui say whether these are among Wi Pere's amendments?—Some of them are contained in the amendments submitted by Wi Pere, some are in another document.

146. *Mr. Locke.*] In the possession of Mr. Ballance?—

Hon. Mr. Bryce: Will you try and make him understand that this Bill will not apply at all until the land has passed through the Native Land Court.

Mr. Ormond: I have tried to do that.

147. *Hon. Mr. Bryce.*] He still thinks that some of these clauses will apply. Ask him again whether he understands that until the land is through the Court this Committee-system will not apply?—Yes; I understand that fully.

148. Then explain how your proposed amendments could be brought into use, and your Committee be got to work?—I have asked previously that the sole authority for the administration of our lands may be given to us.

Hon. Mr. Bryce: I suppose he means that if that is done, they can administer it.

149. *Mr. Ormond.*] But you are not prepared to submit the land to the Native Land Court?—Do you think that I would hand over my land to be destroyed, to be swallowed up? Owing to the improper manner in which the Native Land Court is carried on we will hold back our land: we will not give it up, for we have seen the evil result of handing it over to the Court. In consequence of the way the Native Land Court acts I wil not hand over my land; I will positively refuse.

150. If that is your determination, do you not see that the Committee-system proposed by this Bill cannot possibly apply to your land?—Yes, I have heard that is the case.

151. But do you not see that it must be the case?—If the sole administration of our land is assured to us, then perhaps we will hand over a portion to be dealt with by the Court, to be used for settlement. If that power is not given to us generally as owners, we will not hand over the land at all.

151. *Hon. Mr. Bryce.*] This phrase "hand over the land," I presume, is equivalent to "investigation of the title" by the Court?—Aye.

153. *Mr. Ormond.*] I now want to ask you a few questions with regard to the working of the Committees themselves, supposing them to be brought into existence. First, are you aware that the Committees will be people appointed by the Native Land Court as owners of the land which will be handed over to the Committees to arrange about?—Yes.

154. That is, if there are fifty or any other number to whom has been awarded the ownership of the block, they can elect from among themselves any number, not exceeding seven, to administer the land: I am now asking whether you understand that that is what the Bill provides?—I do not accept that as a settled fact, because perhaps our proposed amendments have yet to be embodied in the Bill.

155. We have to deal with the Bill as we have it before us now?—And are our amendments to b left outside?

156. The amendments which you are now talking about are something outside altogether of what is now the law, which this Bill does not propose to change. I have left the subject of the Land Court now, and am about to ask you how the Bill will apply as it now is. Do you approve of this proposal that the owners of land, whatever their number, that seven of them should be empowered to act for the rest, and deal absolutely with the land that has been awarded to the whole of them?—It is not for me now to give my assent to that principle; it will be quite time enough to give my consent when I go back and consult the whole of my people; if they all agree, that will be time enough.

157. Do you not know that if this Bill passes into law it will be done: it will be outside of your consent?—It is not as if I were thoroughly conversant with the terms of this Bill; it is only recently that I have become acquainted with it.

158. But you can state what would be the effect upon yourself and on your people: you might show us what would be the effect of the management of that land which has been awarded to the whole of them in the hands of some elected out of the whole number?—I cannot say what the effect would be, because I have not yet been able to grasp the provisions of the Bill.

159. But you can answer whether you, as one individual, would like to hand over your interest in any particular block to be adjudicated on by seven, or a less number of Natives, elected by the majority of the people who are with you in the block?—I would do so if the Committee had my confidence; if they gave me proof that their administration would be right I would hand it over to them to deal with it.

160. Do you understand how the Committee is to be elected?—I do not know.

161. Do you understand that the Bill provides that seven people shall be elected by the greatest number of votes of the owners, however many they may be: each could vote for seven persons, and the greatest number will decide who are to be the Committee?—I do not know that such is the case; but I have heard that that is the mode in which the election of the Committee is to be carried out.

162. That being the case, as proposed in the Bill, do you agree to the principle to have your land adjudicated on by the Committee?—Yes; if I am one of the members of the Committee myself, I would agree.

163. That would have to be determined by the votes?—It is not likely I would be excluded; a just Judge will never be dismissed.

164. There are several other aspects of the working of these Committees that I want you to give me your opinion about. We will suppose that there are fifty owners in a block of land: they are to elect a Committee of seven out of their number: when they are elected, the ownership practically—that is the position of exercising the powers of ownership—goes from all but the seven, and the seven have to decide what is to be done with the land; whether it is to be sold, or whatever has to be done with it: those outside can no longer stop the proceedings Do you concur that that is a desirable position?—I will not agree to that arrangement at all: the only thing I will agree to, is this: that the Committee of seven are to take their instructions from the whole of the owners of the land; that is from the tribe—from the people generally.

165. That is no part of the provisions of this Bill?—The amendments I have submitted are in the direction I mention.

166. I wish now to put another point of view to you: Out of these fifty people who own the land some of them disagree altogether, and would not hand it over for disposal. What do you think their rights ought to be: is it that their rights in the land should be respected?—The interests of the non-consenting persons should not be interfered with: it should not be sold or leased against their wish; it should be left in the hands of the whole people.

167. But if the Committee is elected and proceed, do you understand that this Bill gives them power to deal with the land?—Yes; but the Committee should only be elected by owners generally to carry out and give effect to the wishes of these owners.

168. Do you not see that, by the election of the Committee, that is to a certain extent obtained. Of the men elected, you say you would be one for certain with others; but you would be elected altogether, and all would administer the land?—Yes; but if the Committee are elected, they must be elected on this clear understanding, that they are to carry out the wishes of the people; and they are not to do anything without the authority of the owners.

169. But do you see this other point, that seven being appointed to deal with the land, four of that number would be the people who would actually decide how it was to be dealt with: you might be in the minority on such an occasion?—I think that the position should be just the same as the position of the Native Minister. He cannot do anything without the consent of Parliament; so that these four people must not be allowed to do anything without authority,

170. They can do anything right off when they are appointed: Ministers can only do what they are authorized to do?—I say, that the Native Minister is responsible to Parliament: that this Committee must be responsible to the owners. I will not alter my assertion that the land must be held for the whole of the owners.

171. But do you not see that when the election takes place it is gone from the owner?—I say again that the power of deciding what is to be done with the land must remain with the whole people: it is for the people to direct the Committee what to do with the land.

172. There is no use asking you any more questions to see whether you understand this matter or not. My questions and your answers indicate that you do understand; but I would again remind you that, whatever you may think of the mana of this land resting with the people, it will be gone as soon as the Committee is elected?—I say again that these Committees should not be authorized to deal with land; they should be merely for the purpose of carrying out the views of the owners: they should not have absolute power given to them.

173. That is what you want, but it is not provided for in this Bill?—It is my constant prayer that this principle I speak of should be inserted in the Bill.

174. There is another point in connection with this: Do you think that the working of these Committees would fall into the hands mainly of young men who are active among the Maoris?—It might be that the Committees would be composed of the people you speak of, but these people would be elected by the whole of the owners: that is for the owners to consider who are the best people to be elected.

175. Would it not happen, in regard to this case of the Committees, that a practice somewhat similar to that which came into the Native Land Court would arise; that people who were not owners but were active men, accustomed to European ways, would be thought more capable than most other Maoris of acting?—Yes; very likely it would be so that the people you speak of would compete to be put on the Committees.

176. Do you not think that under that system greater grievances would occur to Natives than even under the past system?—I am repeating that the authority of dealing with the land must not be given to a Committee, it must be kept in the hands of the owners.

177. But the law will be all the other way?—I think this law must be altered to meet my view of the case.

178. But, if this law passes as proposed, will not the effect of that be in the direction I mention; and, if so, whether you think that desirable?—Evil will not result if it shall be, as I stated before, that the real authority over the land shall remain with the owners.

179. You have told us that the kind of people will be likely to be elected to the Committee who have been called on to conduct cases in the Native Land Court?—Yes; it is very likely that such people will be elected to the Committees.

180. Then I ask you whether it is, in your opinion, desirable that land should be handed over to be administered by that class of persons?—I will decide, before electing the members of the Committee, what sort of person he is; that is, it will be for me to decide whether he is fit to be intrusted with the management of my portion of the land.

181. Do you understand that the duty of the Committee will be to instruct the other bodies, which I am coming to speak of presently, and say to them the manner in which the land is to be disposed of?—I have not spoken in detail of the several clauses of this Bill.

182. It is very easy to read you the clause: it is the 23rd clause?—I said yesterday that I did not approve of that clause.

183. That is the work that the Committee has to do under this Bill—there is nothing else; that is their work?—I think the position should be this: that the owners of the land should direct the Committee what they wished to be done with the land. It will be the duty of the Committee to direct the Board as to what the wishes of the owners are.

184. Then do I understand that you do not approve of the Committee exercising this power which is put in the Bill?—I do not approve of that power being given to the Committee. I say that it must rest with the owners.

185. Well, that being done, do you understand that the power, after dealing with the land, goes into the hands of another body?—My answer would be that the Committee have power to hand over the land to the Board, provided it is the wish of the owners.

186. But you know the Bill does not require that?—I know that the Bill does not make that provision; that is why I say that that clause should be struck out and the alteration I have proposed made.

187. Do you understand that the Committee under that clause having exercised their full powers and dealt with the land, it then goes from them to another body?—Yes; I know that is the effect of it.

188. Do you also understand that the Board into whose hand it goes is to be composed, as provided in clause 8, of a Commissioner appointed by the Governor, of the Chairman of the Native Committee of the district, and another person who is also to be appointed by the Governor—three people?—Yes.

189. Do you approve of it?—I have heard that that is the case.

190. But do you approve of it?—I have no objection to the Board being composed of those persons, provided the whole of the owners, in the first place, instruct the Committee what is to be done with the land; then the Committee instruct the Board to carry out these directions.

191. Then you agree to handing over the land to this Board of management?—I agree, with this reservation, that they must carry out the wishes of the people.

192. You are insisting all through on something which is not the case?—I am only speaking of what I wish done with my own land.

193. I do not want to weary, but I would like to ask you to go to the last part of the Bill, in which great powers are given to what is called the Governor in Council?—I am not at all weary, but I would like to have a smoke.

194. Have you looked to the provisions in Part IX. of the Bill. The interpreter will read to you clauses 62 and 63. What do you think of those provisions; do you agree to them?—I have now heard of this for the first time. I am not in the habit of reading myself; my impression was from hearsay, that the powers conferred on the Governor in Council were simply to carry out the wishes of the people—that is, of the owners.

195. There is only one other subject that I wish to ask you any question about, but it is a very important one?—But how can one man himself deal with such a great fish as this; I think that the whole House had better deal with it.

196. It is because we have an important person before us that we are anxious to get his opinion. What I want you to give your opinion about is, whether you think the Native people would be prepared to consider, in the policy of such a measure as this dealing with their lands, they would prefer that it should be dealt with as formerly, under what is called the right of pre-emption

to the Crown?—The Maoris are not a people difficult to deal with; they are easily satisfied if the real authority is given to them in the first place; if it were done that way I think I would agree to the right of pre-emption.

197. *Mr. Hobbs.*] You have been speaking of the Native Land Court; I want to ask you whether you approve of the Native Assessor sitting in the Native Land Court?—I approve of the principle of having an Assessor to assist the Judges, provided I know that man to be a good man.

198. Has any evil resulted from that in the past?—I will not answer that question, because in regard to the Native Land Court I do not know what has been done in the past.

199. What is your objection to the Native Land Court?—Hearsay: I hear the administration is very bad now, and I will not hand over my pet lamb [*Interpreter:* He means the land] to be torn to pieces.

200. *Hon. Mr. Ballance.*] Would you explain what you mean by pre-emption?—That principle I understand is this: that if the Governor gives a higher price than any one else, I approve of selling the land to him. That is my idea of pre-emption; for what person would be so foolish as to take a small price when a larger one was offered him?

201. *Mr. Pratt.*] Is your objection to the Native Land Court on account of its refusal to grant a rehearing?—Yes.

202. *Mr. Wi Pere.*] On what grounds do you think a rehearing should be granted?—I mean in cases where there are good reasons for granting a rehearing. If there are good reasons for granting a rehearing, then I say grant a rehearing. If you do not find the true owner, that would be a good reason for rehearing. Another fear I have is this: that if we throw open land to be dealt with by the Native Land Court, seeing that we are an ignorant people and do not understand the working of that Court, our land will be awarded to those who understand the working of the Court. I am afraid lest the Court will be led away by their knowledge of conducting the cases so that the land will be handed over to them. Another objection I have is this: that the officers of the Court and the Assessor may be paid money to award the land to other persons than the owners.

203. *Hon. Mr. Bryce.*] Paid money? That is that they may take bribes?—Yes, that is what I mean.

204. *Mr. Wi Pere.*] If facilities were given for granting a rehearing would you approve of the Court?—Yes; because I would weigh in my own mind whether my land was properly dealt with or not: if I was not satisfied I could appeal for a rehearing.

205. Do you not think there is another tribunal that might adjudicate on Native land—namely, the Native Committee?—I think the Native Committees could adjudicate on the land, but if these Judges were wrong in the first instance, then the case of the land should be reheard again and again—even the third time; where the judgment was satisfactory, it might be referred to another tribunal to ratify it.

206. I would now ask you something about the Committees on separate blocks provided for in this Act?—I approve of this idea. Supposing every one in this room were the owners of a block of land, it would then be for them to elect the Committee. I approve of that idea: I think also that the people in this room who are the owners of the land should also elect the Board. I do not approve of the provision in this Bill which provides that the Chairman of the Native Committee should be a member of the Board. I do not approve of that idea: I say that the only powers of the Committee should be to carry out the express directions of the owners of the land; and that the Board also should only carry out the written instructions of the owners as conveyed by them to the Committee, and by the Committee to the Board. With regard to the settlement of land, I say this: that if the administration of our land be absolutely assured to us, then, in that state of things which Mr. Ormond has asked me about, it will likely come to pass that we may be able to provide for settlement of the land along the railway. It may come to that; but I do not approve of the Committee, or the Board, or the Government doing what they like with our land; selling it or leasing it, just as they please. I do not approve of that. I say that neither the Government nor any other person should buy or deal with the land, except through the people and the Board; it being understood that both the Committee and the Board are simply giving effect to the wishes of the owners.

207. Suppose a law is passed which provides for granting rehearings, and the power of refusing a rehearing is taken out of the hands of the Chief Judge, would you consent to have your land brought under the Committee or the Native Land Court?—Yes; I would consent. I do not agree to those provisions of the Bill which validate past transactions: that is one of the provisions which I object to. There are some clauses in this Bill that I object to: I object to these clauses which have regard to past transactions, for those transactions may have been wrong.

208. Do you not think that a Commission should be appointed to inquire into those transactions?—Yes, I do.

209. *Mr. Hobbs.*] Did you not further say, or imply, that you had no objection, if it were found that the past transactions were right?—Yes; if the past transactions were proper ones I think they should be validated.

210. *Mr. Ormond.*] Would you be willing that power should be given in this Bill to the Governor, or to the Minister—which is the same thing—to confirm any judgment that was given by the Commissioner; would you agree to that?—I would approve of those past transactions being validated, provided it was the wish of the whole of the owners of the land; that is the principle which I take my stand upon; everything depends on that.

211. *Mr. Wi Pere.*] Is it your great wish to expunge objectionable clauses from this Bill, and to substitute clauses meeting the views of the Natives? I will put the question again this way: is it your wish that the amendments—the printed amendments which I have submitted—should be incorporated with the Bill—[*The Chairman:* You should ask Wahanui whether he knows them first.]?—I approve of the amendments brought forward by Wi Pere being incorporated, and the objectionable parts of the Bill taken out.

212. *Mr. Ormond.*] Then if the amendments which you wish made are not inserted, what will be your opinion then about the Bill?—There may be some Natives in this room who would approve, but for myself I will not approve of this Bill if the amendments are not inserted.

213. I will ask you one more question. Suppose this Bill passes in its present form, and the whole of it is subject, as now, to the land going through the Native Land Court, and the Committee being appointed by the owners; would you prefer that rather than go back to a pre-emption arrangement with the Crown?—If the amendments which we propose to make are agreed to, and incorporated and become part of the Bill, then I would be prepared to hear a proposal as to the right of pre-emption.

214. But if they are not, what then?—I will not consent to this Bill.

215. Would you be prepared to discuss with your people this question of pre-emption with the Government, or would you advise your people to discuss it?—It is possible that we might come to an arrangement with the Government.

216. Are we to understand that you would be prepared to submit that to your people?—I would be prepared to discuss it with some of the people, not with all. I could not do so with all: different people have different ideas.

217. You have said that you would agree to the Bill if certain amendments were put in: do you mean the amendments that are printed by Wi Pere?—I am not clear what those proposed amendments are.

218. I understand you to go further than Wi Pere, and that you demand that always the control should be left still with the tribe?—Aye; that is my wish.

219. Do you add that condition on to Wi Pere's?—Aye; I think that that should be added to the amendments which are submitted by Wi Pere.

220. Do you insist upon that to secure your assent to the Bill?—Yes, then I will consent; but of course I approve of Wi Pere's amendments; only I wish this to be added to them.

Mr. Ormond: I have asked you these questions because I wish to have it plain before the Committee what was to be understood by your evidence.

221. *Hon. Mr. Bryce.*] I wish to put one or two more questions in continuation of this point of view. I should like to know from you, admitting the land to be in the hands of the tribe, and the tribe having elected the Committee to carry out the wishes of the tribe at the time, how long do you wish the control of the tribe to be kept up—that is, after the tribe has once given its directions to the Committee, how long do you wish the control to be kept up after that?—The control exercised by the owners is to be retained by them until perfectly satisfactory arrangements have been made.

222. Let me put the question another way. The land is in the hands of the tribe; the tribe elects the Committee; then the tribe says to the Committee, "You sell that particular piece of land." The Committee, according to this Bill, hands the land over to the Board then for sale. Do you think that the tribe should have the right to interfere after that stage has been reached?—No, no; I do not think that the Board should be interfered with; the functions of the owners have ceased when they have given explicit directions to the Committee, and the Committee's functions cease when they hand over the land to the Board.

223. *Mr. Hobbs.*] We are in the dark yet as to the amendments of yours which you speak of: we have not seen them?—We were drafting them when Mr. Butler came, and we gave them to Mr. Butler.

224. Where are they—given to Mr. Ballance?—They were not included in the first printed amendments that were sent to him.

Hon. Mr. Ballance: I have sent to the office to get the original and the translation of them.

Mr. Hobbs: What I want is a copy of the amendments that were handed to Mr. Butler. I understand that the Minister proposes to send for the original and the translation.

FRIDAY, 21ST AUGUST, 1885.

HIKAWERA examined.

225. *The Chairman.*] We will be glad to hear what you have to say on this Bill. First of all, where do you come from, and what tribe do you belong to?—I live in Wairarapa (near Greytown), and belong to the Ngatikahuhunu Tribe.

226. Have you a copy of this Bill?—Yes. I wish to speak about the amendments proposed by Wi Pere: we are all interested in that. We wish that those amendments should be incorporated with the Bill in their entirety, and that the objectionable parts should be taken out. We are the more anxious that this should be done, because this is the first Bill affecting the Natives that has been brought before the Native Affairs Committee and which the Natives have been allowed to take a part in considering. It is on account of this opportunity that the Native chiefs have assembled in Wellington and considered the matter very carefully, and drawn up amendments which they think will express their views. Speaking on behalf of the Wairarapa people (Natives), I am desirous that these amendments should be added to the Bill. We ask this Committee to accept these amendments.

227. *Mr. Hobbs.*] Have you read the Bill as brought down by the Government?—Myself and all the Natives in Wellington have read the Bill. These are the directions which we wish to make. I am well acquainted with the Bill.

228. Do you approve of that Bill?—I consider that some of the clauses are objectionable, and these clauses we meet by the proposed amendments.

229. Do you say this is the first Bill that has dealt with Native lands: do you mean after they have passed through the Court?—No; this is the first Bill.

231. Do you not think there should be one law for the Maori and one law for the European—that is, one law for all?—I can only consider about the law for the Natives.

232. Do you understand what I mean: with a European, when he gets the Crown grant for his land, there is an end; there is no interference with him by anybody; whereas under this Bil there is a Committee, a Board, and a lot of complicated machinery for managing Native lands?—I think it is only right it should be so—that is, that the authority of administration should be vested in the Native owners of the land.

233. Do you approve of Wi Pere's suggestion, and—which is the main thing—do the Natives wish to hold control of the land in their hands? Do you think that the power of selling land, or leasing it, or passing it through the Court, should remain solely with the owners of the land: that, although there might be Committees and Boards, both Committees and Boards should take their instructions from the owners?—Yes.

234. And that the owners of a block should be allowed the power to dispose of the whole block as they thought fit, by sale or lease?—Yes.

235. What do you say about the minority?—The portion of the non-consenting party should be cut off and left with them.

236. But that is not in the Bill?—That is suggested in our proposed amendments.

237. Do you consider that the Native Assessors work well in the Native Land Court?—The work of the Native Assessors is bad: they have acted improperly.

238. Do you know of any cases of gross injustice where these Native Assessors have acted badly?—I have heard quite recently of the Maungatautari case; that is a case in point.

239. Are there any other cases?—I have heard of other cases; but this is one very notable case: one to which attention has been drawn.

240. Do you think there is any danger under this Bill of the Committees being got at in something of the same way?—The difference is this: that the Assessors are not elected by the tribe, but the Committees should be elected by the owners.

241. Would there not be complaints after they were elected and had done what the Natives would not agree to? Would not the Natives consider that it was their own fault: that they deserved to suffer because of electing men who had not acted properly?—If they are detected doing anything wrong, then they should be dismissed and a fresh Committee elected.

242. But then the wrong is done? Do I understand from you that the Natives do not want to part with their legal rights in the land to these Committees and Boards; that they only wish such bodies to carry out the instructions of owners?—I think, supposing there are fifty owners of a piece of land, and these persons give directions in writing to the Committee to lease or sell that land, then the Committee should have power to do so.

243. But suppose they are not unanimous?—Then cut off the share of the dissentients.

244. *Hon. Mr. Bryce.*] I would like to have this matter made a little clearer. If I understand you right, you say that the whole of the owners must agree in giving a block into the hands of the Committee?—Yes.

245. If the whole of the owners do not agree, then the disposal of the land must be held in abeyance until the subdivision is made; is that your meaning?—Yes.

246. Well, now, I would ask you how you think that subdivision ought to be made: who is the party to determine the boundary of those who wish to dispose of the land and of those who desire otherwise?—The Committee can be appointed, also the Board; and the Committee and the Board can direct the steps to be taken.

247. But do you not see that, in case the people object—that is, there is a minority who object—then the Committee cannot, according to your idea, be appointed? That is why I ask whether every one of the owners must join in putting the land into the hands of the Committee?—I have already stated that if there are four or five persons who do not agree, then a portion should be cut off.

248. The Committee would not come into existence until the whole of the owners should join?—In the amendments we propose the whole of the owners should agree in writing to hand over the land. If they did not do so, then the shares of the non-consenting parties should be cut off.

249. But how is their share to be cut off if there is no Committee?

Hon. Mr. Ballance: You assume that there is no Committee, but, according to his idea, there will be.

Colonel Trimble: Make it clear to his mind how it is that there is no Committee.

250. *Hon. Mr. Bryce.*] I am assuming that the Committee will not be elected at all, unless on the unanimous application or desire of the whole of the owners?—There would be no dissentients as to appointing the Committee; the only dissension would be about the selling and leasing of the land.

251. In that case, the Committee having been appointed, that Committee would have the power of disposing of the land by placing it in the hands of the Board: do you approve of that?—I approve of the Committee leasing or selling land, providing they have received directions in writing from the owners authorizing them to do so.

252. You mean then, I understand, that the Committee should be elected, but it should not have the power of doing anything until it receives some further instructions from the owners?—There are three distinct proceedings that would have to be taken, (1) for the owners of a block of land to elect their Committee, (2) to elect a Board, (3) for the owners to give written directions how they wish the land to be disposed of.

253. Do you understand that written directions from the tribe are not required by this Bill?—We are aware that it is not in the Bill, but we propose amendments that it might be.

254. Then you think it ought to be in the Bill?—Yes.

255. Now I come back to the old question. When these final directions for the disposal of the lands are given, must that be signed by every one of the owners?—Yes; each person must sign his name.

256. Every one?—Yes.

257. Now, supposing there are some who object to the land being disposed of—that is, a minority who object; what is to be done then? Take the case put by yourself? There are fifty owners, and five who object to the disposal of the land; what is to be done?—Suppose there are forty-five who agree, and five who disagree; then the shares of these five should be cut off.

258. That is the point I want to come at. How is it to be cut off? who is to define the boundaries?—Apply to the Native Land Court to make the subdivision.

259. Then the whole affair must be held in abeyance until the Native Land Court has made the subdivision?—Yes.

260. Are you content that the Native Land Court should do this work?—Yes, the Board must call on the Court to do this.

261. And the disposal of the block must be held in abeyance until the Court completes its work?—Yes.

Hon. Mr. Bryce: What I have been trying to bring out is simply whether the whole of the owners must join in the disposal of the block before that disposal is proceeded with. I think he has made that tolerably clear.

262. *Colonel Trimble.*] You have told us that in the amendments proposed by Wi Pere, the wishes of the Natives are carried out; am I right in that supposition?—So far as they go; but there are additional amendments proposed by Wahanui.

263. Suppose that Parliament refuses to adopt the amendments proposed by Wi Pere, how will the Natives stand then in regard to the original Bill as brought down by the Government?—I should like to ask why should not Parliament agree to these amendments.

264. That is not the point; Parliament will be guided by what it thinks right: some of the amendments might be adopted and others objected to. But supposing it throws out the amendments of Wi Pere, what then will be the position of the original Bill in your mind?—Our opinion is this: that if Parliament does not accept the proposed amendments the Bill should be withdrawn and held over until next year, so that the whole of the Natives in this Island should have an opportunity of considering what ought to be done.

265. Are you speaking for yourself alone or giving the opinions of the Maoris you have come in contact with since you came to Wellington?—I am speaking on behalf of myself and the people of all the Island.

266. Are you speaking also on behalf of the Wairarapa Natives as well as for yourself?—Yes.

267. Then am I quite clear in understanding you to say that, supposing the amendments now proposed by the Natives are not adopted by Parliament, you wish the whole matter postponed until next session?—Yes.

268. With regard to these amendments which you refer to as proposed by Wahanui, the first thing I want to know is whether you have seen them, for they are not before the Committee yet?—I have seen them.

269. Do you include these amendments with the amendments of Wi Pere as essential to the settlement of this question?—Wahanui can speak for his own amendments; I am only insisting upon those which Wi Pere has brought forward.

270. I want to know whether you are quite clear as to what I am saying. Do you think it essential to have the amendments of Wi Pere, and also, on behalf of the Natives, do you consider the amendments of Wahanui to be essential to their interest?—Yes; they should be added to Wi Pere's.

271. I cannot ask you about Wahanui's, because they are not before us. But you say that you have seen them. I put this question now in order to save time, so that we need not bring you up here again. Do you approve of those amendments of Wahanui's or not?—I approve of the amendments proposed by Wahanui.

272. *Mr. Ormond.*] Do you specially go with that part of Wahanui's condition that the tribe should really control the whole proceedings of the Committee and the Board?—Yes.

273. Do you think that would be an essential condition?—Yes; I approve of that principle and the amendments which we wish inserted to meet that case.

274. Wi Pere's amendments do not meet that case; Wahanui's goes further than Wi Pere's?—Our amendments provide that the owners of land should give directions in writing to the Committee and the Board as to how the land is to be dealt with. That is our wish.

275. Then he thinks it is the wish of his people to have Wahanui's condition included with Wi Pere's?—Yes.

276. I want to ask you now something about the working of the Committees. I understand you come from Wairarapa; what part do you come from?—I live at Te Uhiroa, near Greytown.

277. I suppose that, living there, you have some experience of the working of the Native Land Court?—Yes, I have.

278. Have you been concerned yourself in cases in the Land Court?—I have not been affected largely by the proceedings of the Land Court, but I have seen its effects on other people.

279. But you have a knowledge of its operation in general?—Yes; I have looked on and seen its effect: sometimes there was great trouble over it, and quarrelling, and the land was given to the wrong people, and things of that sort.

280. While you have been watching these things you have seen the operation of the Court, and you must know that when the Court is inquiring into title it has the owners before it, and that it is upon the evidence of the owners that it awards to the grantees. That is the object of the Court to ascertain the owners of the land?—The owners are appointed after, and upon the evidence of those who have been before the Court.

282. Then the outcome of the position has been, under the law, that the Natives have named so many to represent them as owners of the land—some number under ten?—It was the Court or the Judge who said there should be ten in the grant to the Maoris; the Maoris did not have any check.

283. It was the law?—Yes; I believe it was the Parliament.

284. Have you not known cases where these ten have been fixed by the consent of all the Natives concerned as the persons in whose names the grant was to be made?—Yes; but the law provided that these ten people were to be trustees for the bulk of the owners; but trouble has come on these people from outsiders getting it.

285. But you must have known plenty of cases in which ten have been appointed by consent of all the owners?—I know of many cases where ten persons have been appointed, and these ten people have sold the land on their own responsibility.

286. Do you know of any cases in which persons have been put into the grant who were not really owners of land, but were put in out of compliment—that is, they were put in to manage because they were clever people?—I do not know.

287. Perhaps I can suggest a case. Do you know Karaitiana?—Yes, I knew him.

288. Do you not know of cases round the Seventy-Mile Bush, for instance, in which Karaitiana went into the lands in that way which I have described?—I heard that Karaitiana was put in on account of ancestry.

289. Do you not know of any case where he was put in from the point of view I am asking about?—I do not know of any such cases.

290. But you do know of the cases of Natives appointing ten to act for them?—I know that Parliament passed a law that only ten could be put into the grant.

291. You have told us that you know of cases where all the owners agreed that these ten persons should go into the grant as trustees for them?—Yes; it was on account of the consent of the tribe that those ten were put in.

292. Do you know of cases where the ten disposed of the land without reference to any people outside them—the ten?—Yes, I do.

293. I understand that that has been one of the great grievances under the Native Land Court system—the disposal of the land by the persons who were put in as trustees?—Yes; that was one of the evils of the Native Land Court in the past.

294. Well, if that be so, if these ten people who have been appointed by the Natives have, as you admitted, so dealt with them in the past, do you not consider there is considerable risk of handing over some of the property, or, perhaps, the greater portion of the property, by this Committee elected in the same way?—I do not think the cases are analagous, because the Court does not place any restriction on the functions of the ten people.

295. What restriction do you think there will be on the Committee when seven are appointed under the Bill as it is now?—Our amendments provide for restrictions to be placed on the functions of the Committee.

296. But do you understand that this Bill will allow them to deal with the land more effectively than the ten would under the Crown grant, or, at least, quite as effectively?—Yes; we know that that is the case in the Bill as it stands; but we ask these clauses to be struck out, and our amendments inserted in lieu of them.

297. Then you do not want to give the Committee any absolute power to deal without continual interference from the body of owners?—I say that the Committee have authority.

298. Then, do you think they should have that authority to deal with the land without the overswaying power that Wahanui talked of yesterday?—Our idea is, as Wahanui put it, that the Committee must first receive directions in writing from the owners of the land.

299. But supposing that they have those directions, but getting afterwards the power, what is to hinder them, as has been done by grantees in the past, acting in opposition to the wishes of the owners?—The action of the Committee would be overruled by the owners if the owners saw that they were doing wrong. They would elect the Committee.

300. But they have already done that; they have already acted under the powers which they take under the Bill?—The Committee are not to do anything until they have received written instructions from the owners saying that they can lease or sell, as the case may be.

301. Unless that is in the Bill you would not agree to the principle of the Committee acting? I say that this provision might be inserted in the Bill; then it will be time to elect the Committee.

302. *Mr. Hobbs.*] I wish to ask you, in respect of the land, do you think the Natives should be allowed to sell to the highest bidder, or should the Government retain the right to purchase—that is the pre-emption right?—It should be entirely a question of the highest price.

303. Then you would not agree to any restriction of that kind, such as making the Government the sole purchaser?—That was the law formerly.

304. But I want to know whether you approve of that; that was the law under the Treaty of Waitangi?—Under that law no great trouble came on the Natives; it is only lately, since the Native Land Court has been appointed, that the Natives have been injured.

305. Have you not agreed to that?—I have not agreed to it.

Mr. Ormond: Put it this way. Does he or does he not? It could not be more fairly put.

306. *Mr. Hobbs.*] Do you agree to it?—I do not agree.

307. *Hon. Mr. Bryce.*] Let me press this a little further. The present law is that the Maoris may sell direct to private Europeans. Do you think that that system ought to continue; that is, that they may sell direct, not through the Native Land Court, but to sell direct?—I think the whole of the owners should hand over the land to the Committee and Board, and that they could sell to the Government if they thought fit.

308. *Colonel Trimble.*] You have stated that you spoke for yourself and also for the Natives of Wairarapa in reference to this Bill?—Yes.

309. I wish to ask you whether you had a meeting in Wairarapa to consider the original Bill?—Yes, we did; and two of us were directed by our tribe to come here and bring with us the result of our deliberation.

310. Did you consider at any part of this meeting the amendments suggested in the Bill by Wi Pere?—Yes, we did.

311. You say you saw the amendments that Wahanui proposed?—Yes.

312. Was your attention called to one of those proposals—namely, that he would have the provisions of this Act "not to apply to land within the boundaries proclaimed by the Alienation Act of 1884"?—I think that Wahanui had that clause put in to meet his own district.

313. No doubt; but this is what I want to know: Wahanui stated yesterday that he agreed with the proposed amendments of Wi Pere, but would add certain amendments of his own. Now, this is one of the proposed amendments. I want to know whether you approve of that particular amendment?—I approve of the whole of the amendments as proposed by Wahanui.

314. Do I understand you to mean that you desire that one part of the Maori people in future should be governed by the Bill and that the other part should not be governed by it?—I cannot make any objection to the proposal of Wahanui.

The Interpreter: He says, literally, I am not strong enough to object to that proposal of Wahanui's.

315. *Colonel Trimble.*] But do you approve of it?—Wahanui is the best judge; and if Wahanui thinks that it will meet the requirements of the case, he is the best judge.

316. *Mr. Wi Pere.*] Was it the Maori that passed that law of the ten men in the grant?—No; it was not.

317. Was not that law passed in order to bring evil on the Maori people?—It has brought evi upon the Maoris.

318. And is that the reason why the Natives come here to direct attention to this Bill?—Yes.

319. Do you know whether the former law placed restrictions on the action of the ten persons?—I do not know.

320. Did not the law place absolute control in the hands of these ten people?—Yes.

321. Did Europeans go to the Natives and deceive them, and say that it was a very good Act, and that they should take advantage of it?—Yes.

322. Afterwards, when the Crown grants were issued containing the ten names, was it then that the Maoris became aware that it was a bad law?—Yes.

323. Is it not understood that one of the duties of the Committee is simply to carry out the wishes of the people?—Yes.

324. Have not both Wahanui and yourself stated that you would not hand over land to the Native Land Court because its work is bad?—Yes, I have said so; we have said so.

325. If the administration of the Native Land Court were approved of would you give your land to be dealt with by the Court?—Yes.

326. Would it not do for the Native Committees appointed under the Act of 1883 to subdivide the land?—Yes; it would be a good arrangement for the Native Committees appointed in 1883 to subdivide the land.

327. Is not the object of your coming here to see us that you may get our assistance in helping you to make amendments and correct this Bill brought in by the Government?—Yes.

328. Do you approve of the question put by Mr. Ormond, and say with him that if the objectionable clauses are retained in this Bill trouble will come upon the Natives?—Yes.

329. Do you wish that we, the members of this Committee, should assist you in correcting the clauses objected to?—Yes.

330. Do you consider that, if it is provided that the Committees for the various blocks of land should only carry out the wishes of the owners, there will be no abuse of their power?—Yes.

331. Seeing that the real power would remain in the hands of the owners, do you think that the Committee, once appointed, would abuse their power?—No.

332. Do you not think that the position of the Committee would be something the same as the relation between a European and his labourer, and that the labourer would carry out the wishes of his master?—Yes.

333. Have not the past evils been caused by the fact that no restrictions were provided giving power to the owners of land?—Yes; the owners had not sufficient voice in the matter.

334. I will now ask you a question about Wahanui's amendments: do you not think it would be a good idea for you to go to Wahanui and get him to strike out the objectionable clauses he spoke of?—Yes; he said he would do so.

335. And if Wahanui insists upon his own amendments being taken altogether, would it not be a good plan to leave him to settle with the Committee about them?—Yes.

TUESDAY, 25TH AUGUST, 1885.

HIKAWERA'S examination continued.

336. *Mr. Hakuene.*] What are your ideas with respect to this Bill before the Committee? I am not now referring to the amendments, but asking you about the Bill itself?—Some of the provisions of the Bill we accept in their entirety, others we propose to alter by the amendments which we have submitted to the Committee.

337. What do you think about the provisions of the Bill which prevent Natives selling to Europeans?—I know a great number of Natives from whom Europeans got their Crown grant, paying for it in rum, sugar, and other things.

338. I ask you again, what is your opinion about that particular clause?—I approve of the Native having power to sell to the European, providing it is the unanimous wish of the owners of the land; and (2) that the negotiations be carried on through the Committee and the Board.

339. What are your ideas with regard to that clause which says that the Natives are to sell to

Government only?—I approve of the land being sold to Government or outsiders, provided the negotiations are carried through by the Committee or the Board.

340. Then you wish the present state of the land to continue; that is, that the Natives are free to sell to any one—to the Government or to Europeans?—Yes; seeing that the Natives are to sell their land to the highest bidder, the matter will be left in the hands of the owners. It is for them to consider who the person is that gives the highest price; they will instruct the Committee and the Board accordingly.

341. Do you think that the Maori should be placed, as it were, between two fires?—I have already explained that formerly the Government had the pre-emptive right; but since the constitution of the Native Land Court there has been freetrade in land.

342. Do you know of any land sold to the Government in respect of which purchases there is still some trouble?—Yes. I do know of cases similar. I would instance the Wairarapa land, which the Government bought from anybody—from stray people, in fact; indeed, from any one the officer happened to meet on the roads.

343. Did the people who felt aggrieved by these purchases petition Parliament for relief?—Yes, they did; and they are still acting.

344. Did they succeed in obtaining relief?—It has since been found that the land belonged to a hundred and seventy owners, while the Government purchased from only sixteen or seventeen.

345. Has not that trouble been set at rest?—No, it has not.

346. Do you know of any cases where Europeans have purchased lands improperly?—I do. I have already said that, in consequence of the land having passed the Court, Europeans have advanced money on the lands or paid for them in flour, sugar, clothing, and other articles.

347. Are you not aware that certain cases have been sent to Parliament, complaining about recent transactions in land, troubles that have been caused through the action of Europeans?—I know that a great many petitions have been sent to the present Parliament complaining of the action of Europeans in purchasing land. This is one of the troubles that have come upon the Napier and Poverty Bay Districts.

348. Do you think that Parliament can give relief to the people who suffered from these transactions?—No sufficient relief can be given to these people who have suffered in this way. Had the transactions been carried through by Committees and Boards, such as we propose in our amendments, the matter would have been different.

349. *Mr. Te Ao.*] You said, the last day you were examined, that it would be for the Native Committees to adjudicate in respect of the land, but that the Native Land Court should make the subdivision?—Yes. I did make such a statement.

350. I want you to explain to the Committee how this is to be done?—I am alluding to those lands that have passed the Court and for which a Crown grant has been issued. If there is any dispute about that land the matter can be handed over to the Committee and the Board which will consider what is to be done with the interest of the minority. I did say also that the land could be handed over to the district Committee; but I think that Committee would not be able to investigate the matter, and that the Court should make subdivision. I am, I say, speaking of lands that have already passed the Court.

351. Then how are the other lands to be dealt with— lands that have not passed the Court?—With regard to lands that have not passed the Court I think that should be left entirely in the hands of the people owning the land. It is for them to say whether they should apply to the Native Land Court to have the title investigated or not; they should not be forced or hurried into having their lands brought before the Court.

Colonel Sir GEORGE WHITMORE, K.C.M.G., examined.

352. *The Chairman.*] You have been summoned here to give evidence; have you seen the Bill?—I have just read up for the first time what I was told I was sent for to give evidence upon. I have a general idea of the policy of the Bill, but I cannot say that I have seen the Bill before.

353. *Sir George Grey.*] I should like first, Sir George Whitmore, to put some questions to you about the 54th section of the Bill, second part?—I must have got the wrong copy, for there is no second part here.

354. Will you look to the heading "Concluded Transactions?"—Yes.

355. What I want to know from you is, what effect this section, and what effects the 55th and 56th sections, will have in reference to transactions going on on the East Coast?—The position of Native land on the East Coast is something like this: Owing to the absence of the Native Land Court for seven years, notwithstanding the immense number of applications from Natives to have their lands passed through the Court, it has been impossible for them to do so; consequently there has been no possibility for lands that had not already gone through the Court to be dealt with, nor for any that had except under "memorial of ownership." In the years 1878 and 1879 the Government had for their policy the virtual resumption of the right of pre-emption. Private purchases or treating with Natives for lands that had not gone through the Court had virtually ceased. In 1879 the policy was to a considerable extent reversed. It was declared to be the policy of the Government simply to complete such purchases as it was worth while for the country to complete, or which were very nearly concluded. In a considerable number of cases moneys were refunded to Government by persons who wished to deal with Natives, and the Government offered no further obstruction. Except in cases in which the Government had been dealing for lands, it had never been illegal to deal with lands belonging to the Natives which had not passed through the Court—that is, there were no penalties; but Europeans did not receive the protection of law to enforce their occupation, nor did the Natives receive the assistance of the law in enforcing the payment of rent. It consequently became an equitable arrangement as between man and man whatever agreement was come to by a Native chief and a European who desired to utilize the land. Europeans, finding that the Government was not likely to proclaim any more land and had withdrawn the Proclamation over a great many lands in the colony, began to lease lands on the East Coast and elsewhere

throughout the colony directly from the Natives. Such was the state of the land, such the mode of acquiring land on the East Coast until 1883, when Mr. Bryce introduced a Bill to stop such arrangements; and his views on that point were agreed to by settlers everywhere, for abuses were beginning to creep in, in which the "middleman" was beginning to injure both the Native owner and the European. The Natives, as a rule, always observed their own engagements, but they were incited by certain Europeans to break their bargains. I do not know of any occasions where they did so, but still certain persons who stood between the Native and the European were beginning to levy blackmail under a threat of preventing those bargains being carried out. Mr. Bryce, to those who asked him what was to be done in the cases of persons who had leased lands equitably from the Natives and were giving proper rents for them, answered that, in the event of his legislation coming into force, he could assure them that reasonable consideration would be shown to persons who had equitable claims, repeating in effect what had been intended by the policy of Sir George Grey's Government in cases where investigations would show that fair private equitable interests were uninjured by the policy of the practical resumption of the right of pre-emption. I gather from the wording of this clause—which I may state that I have not read until this moment—that the intention is to provide a means by which any such claims should be investigated, and, if found reasonable, admitted, a certain compensation of fourteen years tenure being given. I wish to observe that almost all of these—and there are not very many—have been transactions entered into between 1879 and 1883; and, unless for some law of this kind, occupation would have remained perfectly legal, or, rather, not illegal, till the Natives brought the land through the Court, which would break down the lease, but would admit of the tenants obtaining a fresh one. Most persons conceived that a lease direct from Native chiefs had in the past proved better than a lease from the Government, inasmuch as no Natives, to my knowledge, ever disputed a lease they had gone into in good faith. Such I take to be the meaning of that clause.

356. That is, if I understand you rightly, you think these sections relate almost entirely to land that has not gone through the Native Land Court?—The law does not apply to it at all until it does.

357. Are there very large transactions within your knowledge which are likely to come under these clauses?—The biggest block that I am aware of at this moment which has not passed through the Court is certainly under seven thousand acres. Of the question as to whether the transactions are large or not the Committee can form its own idea.

358. Are there many blocks of land of such an extent, the title being denfied, that the leases under these sections will probably be very large transactions?—I will point out on the map. There is a block of two thousand acres, there is also a block of three thousand acres, but it has passed through the Court. There is a little block of four or five hundred acres, but, small as it is, there are between two and three thousand owners. I should inform the Committee that the acreage I give in these cases is from my mere idea, because the land is really not surveyed yet. There is also a block of six thousand acres subject to reserves which are not defined. There is also a block of four thousand acres. Some of these lands are in my occupation. There is also the block of land belonging to the Williams family—some thirty thousand acres.

359. *Hon. Mr. Bryce.*] You say that these transactions with the Natives for land have never been illegal?—I should guard myself in saying that. I believe that under an old ordinance there was at one time a penalty upon such transactions.

360. But you spoke of them afterwards as being "perfectly legal." In what sense could it be said that they were "perfectly legal?"—I say it was neither illegal nor legal. The law stood entirely on the outside: that the law would neither enforce occupation nor help to recover rent.

361. In the case of stock being interfered with, would there be any legal remedy for that?—I do not see any legal gentleman here that would give us his view on that; but there have been decisions that you may not interfere with stock throughout the colony trespassing on such lands. I think that was the law that was laid down in Auckland, or something to that effect. They did not recognize any owner for land that had not been through the Court. The occupation was legal in this way: that it was impossible for any one particular person to lay information, or in any legal way to remove any man's stock, until he took the land through the Court. Practically, it amounted to nothing; because the stock that people feed are usually sheep, and if sheep are driven about you might as well cut their throats at once. If the Natives did not like you to keep them there it was impossible to do so.

362. Then do I understand you to mean that the law did not recognize the European or the Native occupier?—They were in exactly the same position so far as the law was concerned.

363. Then you referred to the Act which you say I introduced in 1883. Did that Act alter the law in this respect at all?—If by alteration you mean removing something from a statute and substituting something else for what you removed, I cannot say; but if you mean an extension of law, then I say that the law was extended.

364. But in reference to "legal" or "illegal?"—No; it left it precisely as it stood. As regards prior transactions, it dealt only with the future.

365. You have said that I had given assurances that equitable claims would be considered?—Yes.

366. Do you mean in the debates in the House, or otherwise?—In your official capacity; to me, for one.

367. Do you not remember that in the course of the debate on that Bill in 1883, the clause preserving the equitable rights of persons was introduced but rejected?—I cannot remember; but I think Mr. Whitaker said that things would remain as they were to existing tenants.

368. Are you aware that I resisted that clause for hours in the House, and ultimately defeated it?—No.

369. Do you not know that it was a clause introduced by Mr. Stevens, of Rangitikei?—I do not

remember the circumstances. I do remember that Mr. Stevens used to talk about this subject at the time. I remember that I was indignant at the law passing, because I thought an injustice was being done; but I have since admitted to Mr. Bryce that in forming that opinion I had done him some injustice. I did not know all the details; perhaps, if I knew as much as I afterwards knew about it, I would not have suspected it would do any injustice. You must not understand me as saying that the Government would guarantee anything; for it appeared to me quite a chance whether we got anything whatever except justice. I was quite willing to rest on that basis. I only wished that there should be nothing retrospective in that assurance.

370. I wanted to correct your impression of my giving assurances of the preservation of equitable claims, but, if necessary, I can bring evidence before the Committee on that subject. I think there must have been some misapprehension as to Sir George Whitmore's replies; and that he has been giving evidence to the first part of Part VII., instead of the second?—I was anxious to give particulars of all transactions that I was personally acquainted with. With regard to this second part, as I understand the subject, it is this: When land has gone through the Court the first step is to give what is called a "memorial of ownership" to the ascertained owners of the block. Subsequently a step is taken which is called getting a "certificate of title." When this legislation was set up the idea evidently was that these certificates would be taken out under the Act of 1873. This part of the Act applies to a great deal of land on the East Coast. I will give you an instance, which, being quite familiar to me, I am pretty certain that I can give an exact account of; it may also serve as an explanation of all such cases, for as it is in this case so it is more or less with the whole of the East Coast occupation. Near and about Gisborne there have been a few cases thoroughly completed, because the people at Gisborne had been able to get the Native Land Court to sit there. But when the Native Land Court first began to hold sittings on the East Coast it seemed to be the policy of the Government of the day, or of the Native Land Court at that time, to put as many names into the respective memorials of ownership as they could find, so that the chiefs were practically set aside by persons who were put in as owners. As these properties are usually dealt with there is no distinct statement of individual shares in the memorial of ownership, and the chief who would perhaps have a right to a large acreage finds himself practically with a proportion of three or four acres. Consequently in a block of that kind, in all cases on the East Coast, there are a great number of persons whose signatures must be got before you can comply with clause 62 of the Act of 1873, which has more or less guided all transactions of this kind since it was passed. In my case, in a block of five thousand acres (less 600 acres of the block to be a reserve), for which I gave £200 a year, I have 1,400 owners to sign. Every hereditary chief and every relation of every hereditary chief signed the lease within a few days of its being drawn. In all, out of each seventeen owners thirteen have signed my leases, two-seventeenths are dead, half a seventeenth cannot be found, if they ever existed, and one-seventeenth of the nominal owners and a half are to be found somewhere between the North Cape and Stewart Island. Resident on or near the land there are possible twenty men and women who might at a certain expense be got to sign a lease, but to get the rest must necessarily be a work of time. The shares of dead people can only be got through their successors, and these can only be declared when the Government gives us a Court. Now, I have considered my title for practical purposes is good enough to induce me to improve the land, and I have spent £12,000 on that small acreage. The Government must so far think that I have a good right, for they tax me very heavily under the property-tax for improving it; and also very heavily for local rates. They make me pay 20 per cent of the rent on thirteen and a half years' occupation. Now this is also precisely the case of other blocks held under "memorials of ownership" on the East Coast. The position that such occupants under a memorial of ownership are placed in is this: that much as they may have paid, and completely as they may have got their leases signed, these leases are held in law to be not illegal (for, if so, the Government would not make so much out of them by taxing the property held under them), but they are not valid, and the practice is, when there is a section of owners who do not want the lease to exist, they come before the Court and have their interests cut out. But wherever there is a reasonable ground for the belief that the whole will sign, then you must wait until you know whether the people will sign—as, for instance, in case of death of one of the parties, and the belief exists that his successor so far as is known of him will sign; but that can only be done when the law declares such a person to be the successor. The difficulty does not arise much in my case, for I have conceded a right to the Natives to run their horses and cattle all through, and to make any cultivations they like, and also to make ample reserves. But in other cases it has been found necessary to cut out the shares of those who did not want to lease; but when persons (Maoris) are brought from a distance the lessee has to bear great expense in bringing them, of maintaining them while they remain, and keeping them until they satisfy him that it was their signatures that were on the lease.

371. *Mr. Locke.*] As the law now stands the lessee has no means of applying to the Court?—In the Act of 1882 there was, I am aware, an intention that persons holding claims should be enabled to approach the Court.

372. But they cannot do it as the law now stands?—There is a translation of the word "person" which takes most people by surprise. At any rate, Mr. Whitaker, who was the exponent to me of the intentions of the Government, told me that the word "person" did not mean only a Maori person. I have not the Act of 1882 before me, but I think it can easily be found.

373. *Hon. Mr. Bryce.*] You are mistaken as to the intentions of the Government?—In that case the Government had one intention in the Upper House and another in the House of Representatives. Mr. Whitaker said that all transactions might be determined by the Native Land Court, and the word "person," I know, was put in with that intention.

374. No, it was not?—I must adhere to what I say, for I have a distinct recollection of this matter. The Native Land Court has since decided that "person" means a Maori only. The consequence is that the law remains in such a condition that Europeans cannot apply directly, and it has to be done in a circuitous way, the Natives vesting their lands in one "person," so that that

"person" could claim. In every case of such transaction it should be borne in mind that the Legislature had imposed from 10 per cent. to 20 per cent. (according to the time in which they could be got in) of stamp duty and Native duty, and compelled the purchaser to pay these duties before they would allow the claim to be adjudicated on by the Frauds Commissioners. I have heard—but in this I stand under correction of Mr. Macdonald, the chief Judge, who can correct me—that there has been a judgment since where the word "person" is held to mean otherwise by the Supreme Court. I am not positive in the matter (so that you may take what I say on this subject *cum grano salis*); but about six months ago I understood so from something that took place. It certainly did not interest me, and I was under no obligation to remember it. But I think it interested Mr. Locke.—[*Mr. Locke:* Yes; it interested me, for the judgment gave ten-elevenths of the land back to the Natives from whom I bought.]—It did not interest me much, for it was only people who would not lease but wanted to sell from whom I bought. I see there is nothing in the interpretation clause that makes the word "person" apply only to the Maori race.

375. *Mr. Locke.*] By the law as it now stands you had to pay 10 per cent.?—It is capitalized. In my case it is about thirteen and a half years. They oblige you to capitalize it as soon as you get one signature. There are 1,400 to get in my case. In a district such as I live in, where there are no roads, I am subject to an additional 20 per cent. on that 10 per cent., for unless I can get to Napier or comply with the convenience of the officer there I have to pay 20 per cent. on the 10 per cent. if not submitted.

376. Within the month?—Yes; before thirty days.

377. What is the distance from Napier?—From my place it is about a hundred and fifty miles as the crow flies.

378. How often can you communicate?—I think in about fourteen days from my own place; but you do not know where you may have to go to a Native for his signature; then the moment you get it you must send off to Napier.

379. Would the having a registry office at Gisborne assist the matter?—Yes, it would a little; but the real relief that is required is that transactions should not be held to be complete when one out of fourteen hundred signatures has been obtained; for, practically, it amounts to this: as it must be many years before all can be found to sign, you must pay before you get the signature of the greater number; three months after you have to pay 10 per cent. on that 10 per cent.—that is to say, 20 per cent. in all if the deed has not before then been submitted.

380. Do you think that capitalizing in that way prevents the land getting into the occupation of small settlers?—Yes; for it is impossible for any man who has not a considerable backbone in the money way to do anything.

381. Do you think that it would be right both for Europeans and Natives to have this fairly declared?—In the present state of the law the cost is so great of attempting to settle, that very few persons will set to work to improve the land so as to enable it to carry stock. People while waiting for their title are liable to rates and taxes. There are many persons holding lands under memorial of ownership for the last fifteen years, and perhaps the non-signing by one or two owners prevents them finishing.

382. Practically, then, it prevents the development of the whole area?—It is usually computed that that country would carry from two to three million sheep if it was properly used, which cannot be till titles can be obtained.

383. *Mr. Hobbs.*] Your evidence was at first in reference to lands which have not passed through the Native Land Court?—I mean that when we survey and take off the reserves we do not know how much we will get; when everything is done you reckon upon getting fifteen thousand acres if you get it all; but it is very uncertain whether you get it or not.

384. The latter portion of your evidence related to land held under memorial of ownership?—My first lease was for the whole area; afterwards we separated what had gone through the Court. I do not expect to get more than fifteen thousand acres in all. One or two blocks of that land are perfectly wild country, and some of it would not carry a sheep to ten acres.

385. You are not interested in any large transactions?—No, I am not. I am perfectly prepared to show the Committee every transaction in which I have been engaged, if time is given me to send for the papers. The other day a Judge said he never saw a lease so liberal to the Natives as mine. I do not care how many persons examine it.

386. I suppose these unconcluded transactions are illegal transactions?—I hardly think that: how can they be illegal if the Government taxes them, registers them, and makes you pay stamp duty upon them? A man has to look forward for thirteen and a half years, but it is recognized in most of the legislation since 1864 that such transactions are not illegal, but void. In one Act it is said "no lease under memorial of ownership shall be valid;" but that does not mean that it is illegal. There is no penalty for it. I should not say that it was illegal, although it may not be valid. If you made a will and did not get it witnessed it would not be valid, but it would not be illegal.

387. You are not satisfied?—I think it is a cruel law for the *bonâ fide* occupant; it seems to be kept up for the purpose of putting an enormous amount of money into the pockets of interpreters, Native agents, and other persons throughout the country.

388. Do you know of your own knowledge any one of the large transactions in leased land?—I cannot tell you the details, as I have done in my own case, for I have not made any particular inquiry There is one large transaction, but I know of it only as a matter of repute; there is a large transaction of the Williams family. There appear also to have been considerable transactions by a company. The Williamses bought some freehold originally, but now they have obtained occupation of a very considerable extent of country; they are near me, but I have nothing to do with them. There is also another corporation, the New Zealand Settlement Company.

389. *Mr. Locke.*] The "Native Land Settlement Company?"—I think they have pushed their

transaction through to the end, and have got it through the Land Transfer Act in some way; but in the Williamses' case their occupation is under leases like mine, with the exception of the freehold that they bought first.

390. *Mr. Hobbs.*] Are these persons spending large sums of money in reclaiming the wastes?—Mr. Williams, I heard the other day from his manager, is spending £12,000 a year in wages alone. I have no reason to doubt it; and that is exclusive of many thousand bags of grass seed, wire-fencing, and material of every description. I do not know what they are spending on the other block. It was said to be thirty thousand acres, but I have heard that it measured out less—that is, exclusive of the freehold they have got.

391. Under what tenure do they hold?—That of memorial of ownership.

392. Do you know what rent they pay?—I do not know, but it is commonly said £50 to the thousand acres; that is about the ordinary price—1s. an acre.

393. Are not most of these leases taken up with the object of acquiring the freehold?—In this case they cannot work the freehold unless they have the sea-board country. I do not think they will try to buy that: there is an immense number of Natives to sign.

394. Do you think that this country could be cut up into small sheep-runs?—I think it is already in small sheep-runs. I think the average areas are from four to six thousand acres—that is, of those that are at all near Gisborne. I should say that the country is very difficult to subdivide, for not only are their tribal difficulties in the way, but there is no plan of it, and it is also mountainous; it is a country that the agriculturist could only use in patches where the Natives now have plantations.

395. There are not many blocks of thirty thousand acres?—None other that I know of. I wish to add, if you wanted to improve it that could only be done at the greatest expense, and then it is a hundred to one whether you get the land, so the difficulty about title prevents improvement.

396. Is that "Settlement Company" the same that we have heard so much of in Parliament?—I do not know anything of its history.

397. Is that the company of which Mr. Rees was promoter?—I believe so.

398. Does that company hold under the same tenure that you do?—I think not. I think they have their transactions completed. Mr. Locke, a member of this Committee, ought to know, for I understand that he is a member of the company.

399. Has the company been a success so far as settling people on the land?—Exactly the reverse: it has made a desert of the country. I judge by Tologa Bay, a place that was once fairly successful and had many respectable men, blacksmiths and tradesmen, and one or two publichouses; now it has three publichouses but no blacksmith, and there is no blacksmith to be found until you come to Mr. Williams's private blacksmith, at Waipiro, thirty miles away up the coast.

Mr. Locke: There is a gaol there as well as the three publichouses.

400. *Mr. Hobbs.*] I was anxious to ascertain whether that land scheme had been a success?—Well, I do not know; whether it is from any fault inherent in it I cannot say; but there have been no roads made, and there is no means of getting about that country.

401. Did not the Natives hand a great deal of land over to this company—I mean to dispose of for them?—Yes, they did.

402. They absolutely conveyed to the company the freehold?—Yes, they did, on certain conditions.

403. Do you know what those conditions were?—As far as I know the Natives were to get two-thirds of the proceeds after expenses paid.

404. Has that been done?—The only place they have settled is in the immediate vicinity of Gisborne, across the river; they have settled that.

405. *Mr. Locke.*] That is but a few acres?—It is rather a township.

406. They are all small allotments?—I understood that the Natives were to have a clear profit of £40,000 over all.

407. *Mr. Hobbs.*] Have they got any of the money?—I cannot say. Wi Pere would know more about that. I think they must have got some of it; but my evidence is really not worth anything on that question. That has been a burning question on our coast.

408. You are a resident in the district, and, I presume, pretty well acquainted with what goes on there. I have thought it important that the Committee should have the benefit of all the knowledge you possess; it is for that reason that I ask you these questions?—Well, I am not absolutely upon oath, but I do not wish to disguise anything I do know. I am perfectly willing to give the Committee every information about my own transactions. When I say you must take what I have to say on other matters *cum grano salis*, I am simply giving my own ideas from hearsay evidence. I have no personal knowledge.

Mr. Wi Pere: I think if the Committee want to know anything about the company they should ask me.

409. *Mr. Hobbs.*] I wished to get information from a person who was disinterested, and not from one who was directly interested. I think that, as we are considering this Native Lands Disposition Bill, it is only fair that we should have all the information that we can get?—I think it is only fair I should say that, since the Native Settlement Company came into existence, there has been an enormous fall in the price of land. There is no more buying by the company. Although I may appear impartial, and desire to be so, it must be borne in mind that they were against me from the first moment they went there. I may therefore not be quite unprejudiced. Six months ago they ceased to buy.

Mr. Wi Pere: I think this is going beyond the subject which the Committee was appointed to inquire into.

Mr. Hobbs: I maintain that we have a right to get as much knowledge as we can from the witness for the information of the House.

WEDNESDAY, 26th AUGUST, 1885.

Colonel Sir GEORGE WHITMORE's examination continued.

410. *Mr. Ormond.*] In the evidence you gave yesterday you spoke almost entirely of the East Coast District?—Yes.

411. Now, with regard to the first part of the evidence you gave, it referred to land which was altogether outside of any land that was under the jurisdiction of the Native Land Court?—Yes.

412. Do you know of any other part of the colony which is dealt with outside of the law altogether in that way—for instance, is there any land round Lake Taupo that is in the same position?—Yes; there was some land there so situated, but I think most of it has gone through the Court lately.

413. I understand there is a good deal of it under lease; but I ask you this question, because you conveyed the impression that your district was the only district in that position; but what I want you to tell me is, whether you know that there are around Lake Taupo sheep-runs with leases before the land has passed through the Court?—There was a large quantity of land at Whakatane that has gone through the Court. There is Mr. Grace's run, and there is a man named Neville Walker who, I think, has a run, but I am not sure that that has not gone through the Court now; and there are others.

414. *The Chairman.*] You say you are not sure?—I am sure he has the run, but I am not sure whether it has gone through the Court.

415. *Mr. Ormond.*] Then, I take it that there are other lands that are in the same position as the East Coast lands affected by this Bill?—Yes; there are lands at Cape Palliser, I believe, and there is St. Hill's run, which has not gone through the Court. There are others on the East Coast nearer to Wellington which have been twenty or thirty years in one hand, but I have never heard that the persons holding made any complaint of their Maori landlords.

416. I should like to hear your view of the working of these Committees?—Yes; I know a good deal about that.

417. You know the Act, and what is intended to be done by it?—Yes.

418. Perhaps you do not know that since this Committee has been sitting important amendments have been submitted by the Native members; have you seen them?—No.

419. In these amendments it is proposed that these Committees should have the assent of all the owners before any action could be taken by them. Yesterday you gave us a good deal of information respecting a block of land which you knew on the East Coast, where there were a great many owners?—Yes; in my own case 1,400.

420. Do you think it would be possible ever to get a Committee appointed if you had to obtain the signature of every owner?—Impossible; there are always a good number dead and others who cannot be got at.

421. Your case which you told us of yesterday was an extreme one?—Yes; but I know of cases where eight or nine hundred signatures have to be got. There would be an average of two hundred owners in blocks of from one to five thousand acres.

422. Do you think it would be possible in any case to get them unanimous?—Absolutely impossible. In some cases there have been people who have not been born, but were only expected to be born, and, as a fact, never came to be born, put into the list of owners.

423. *Hon. Mr. Ballance.*] You stated yesterday that you obtained a lease, and that thirteen-seventeenths signed your lease?—Yes.

424. Have you looked into the provision of the Bill which relates to the election of the Committee, clause 16?—I have just read it.

425. You state that you think it would have been impossible to have got the Natives to sign unanimously?—Yes, if they had to be unanimous.

426. Would it be impossible for the majority to elect the Committee?—No.

427. Would it have been easy?—My experience is that there is nothing of that kind that is easy: it means travelling expenses; but I should say there would be no great difficulty in getting the majority to sign.

428. Had you any difficulty in getting your thirteenth-seventeenths to sign?—No; but there is a good deal of expense in all cases. You have to get the signature before a Justice of the Peace; to pay a licensed interpreter; then there usually are no roads through these blocks, and the Natives are living all over them in every direction. All that involves expense, trouble, and more or less delay.

429. Much of your difficulty was to get the presence of a Justice of the Peace?—Yes, and a licensed interpreter.

430. Would it have been much easier to have got nine-seventeenths?—Yes; the difficulty becomes greater as the number of signatures to the deed increases. All those who are resident in one place it may be easy enough to get; but they are often scattered, some are not to be found, and as the number increases there are always some malcontents.

431. Looking to the clause, do you think there would be less difficulty in getting the majority to elect a Committee than it was for you to get thirteen-seventeenths to sign your lease?—Of course it would.

Colonel Trimble: Take clause 13.

432. *Hon. Mr. Ballance.*] Well, take clause 13. Will it apply to that? Do you think that the election of a Committee would give as much trouble as getting the signatures to a lease?—They would have to be taken before a Justice of the Peace, a licensed interpreter, or a European in the service of the Government.

433. Do you think, from your knowledge of the Natives, there would be an inclination on their part to elect Committees?—If I might explain to the Committee, I will say what I think on this matter. The election of Committees is not a system that is traditional among the Maoris at

all. It is a novelty introduced by ourselves. The consequence of it, I think, will be considerable division in the tribe. If there is to be an election the older chiefs and larger owners will think they should have the greater "say" in the matter. The older men will separate or perhaps hold aloof, whereas the young men and the more eloquent men will be favoured with the support of the other large section of the tribe.

434. But then, you think that a deep interest will be taken in the election of the Committee?—It is not at all times the principal owners or the principal chiefs of the hapus that would get elected under these circumstances.

435. That answer does not apply to my question; it only applies to people who would be elected. I am asking about the interest taken in the election itself. Do you not think that if there are different sections of a tribe holding different views, that of itself would increase the interest?—Yes; I have seen a great deal of interest taken in the election of a member for the House of Representatives. When Wi Pere was elected the candidates must have polled the great part of the tribe; but in that case it went chiefly by hapus. The people who belonged to a particular district overwhelmed those who belonged to another. I think it would be the same in some blocks of land. There are always several hapus concerned. The principal owners might be overwhelmed or not, according as they might have the most names in the deed.

436. Now, with regard to the men elected, do you not think that the chiefs of influence with the hapus and the tribe would stand the best chance of election?—Speaking from my experience of the past of the country that I know best, I do not think they would be at all certain to be elected.

437. Then what class would be chosen in your part of the country?—In my part of the country the men that would be chosen would be those who were most about the European settlements; they would be the persons supposed to know best how to get the highest prices out of Europeans without regard to their having or not having any interest in the block, and those Natives who could talk most would be supposed to be best qualified.

438. But I suppose they would talk best?—The talk among Maoris is altering altogether. The old Maori talk is altogether different from the new; the old Maori orator would look upon the younger orator as a very poor speaker, but the younger man would say that it was more in accordance with the usages of Parliament to talk in his way.

439. *Mr. Ormond.*] Of course, in making this inquiry, you understand we are endeavouring to arrive at the means of providing machinery for the land being settled?—Yes.

440. And that the formation of these Committees is the first necessary element?—Yes.

441. In your former evidence you described the difficulties Europeans have had in getting a majority of owners to agree either to lease or sell, or indeed to any proposal; all such transactions, then, you would say, are only arrived at after great trouble and expense in getting the people together for the purpose?—Yes.

442. Now, when it was left to the Native to take the initiative altogether, and no pressure of any kind was upon him, do you think that he would be likely to take much trouble for this purpose?—Well, I suppose the members of this Committee are aware that the Maoris are not very fond of persistent trouble for any length of time, so that I think they would not be likely to take the same trouble that Europeans would under similar circumstances.

443. Do you or do you not think that effect would be given to the provisions of the Bill by the Natives themselves being allowed to take the initiatory action and appointing a Committee?—It will be a good many years before it is carried out in some places. I am living among a people where, judging from what one sees, I think it could hardly be done under three years in any place.

444. *Colonel Trimble.*] You have told us that it cost you a great deal of money to get the signatures required?—Yes.

445. It is a mere truism to say that it costs less to get half the signatures than to get, say, thirteen-seventeenths of them?—Yes, but you must bear in mind that it is disproportionate; that is to say, as you increase the number the signature of each is more difficult to get, each remaining man being more difficult to get at; several are always out of the way.

446. You have stated that two or three hundred would be by no means an unusual number interested in a block?—Yes; but I guard myself by saying that I speak of the district which I know best. I never had anything to do with Native land myself except up there.

447. According to clause 13 you are aware that a majority of the owners of the land have to make a nomination in writing to the seven persons that they require to be on the Committee?—Yes.

448. Would they be likely to insist on exactly the same persons?—It appears to me to be a cumulative vote: the one that got the most votes would be elected—something like the school committee.

Hon. Mr. Ballance: No; you can concentrate seven votes on one person on the school-committee system. It is different in this.

449. *Colonel Trimble.*] Unless the majority concur in appointing exactly the same seven persons, would it not require a considerable number more than the bare majority to elect the seven?—That is obvious. I have not given much attention to the mode of election.

450. This is the ordinary mode. If that be the case, then; is it not obviously necessary that a very much larger number than the mere majority should take part in the election?—Perhaps so. That, surely, is a question that this Committee would be more capable of answering than I am.

451. But I want to put it in evidence?—I would like to make a remark, if the Committee will allow me, on this subject, in order to show how, in my opinion, the principal intention of the Bill might be facilitated.

452. We were talking about the expense of getting signatures?—Yes; it is very great in my part of the country—in fact, all over it.

453. Your attention has been already directed to these nomination-papers. Have they to be signed in the presence of a Justice of the Peace, or licensed interpreter, or a person in the service of the Government?—It is less, I believe, than it used to be in the case of private persons getting signatures.

454. Taking into account the answer you have given?—I wish to make a remark. It is only necessary here to go before one person. That would, of course, diminish the expense.

455. But, still, having to get a large number of votes—that is, a considerable number beyond the mere majority—would the expense be even still great in a case where there are, say, two or three hundred owners?—In that, or rather in this, case it would be just the expense of a continuous payment to one person; for he would have to ride about from hapu to hapu or kainga. It would not be so expensive as where you would have to pay two professional men to go driving about the country.

456. Do you think the expense would be great or small in carrying out this clause in regard to property where there are from two to three hundred owners?—It would be considerable in any case, seeing that some are dead; some would be found at the Bay of Islands, or Mercury Bay, or in the Wairarapa.

457. *Hon. Mr. Ballance.*] You said that it would take three years to complete an election under this Bill?—No; I do not say that. I did not refer merely to the operation of the clause providing for the election of the Committee; but there is another question which I thought I was answering—namely, whether I thought it would take a considerable time before the Maoris themselves would be disposed to come in and deal with their land in this way. I think it will be several years before they become so disposed. If they were disposed of themselves to come in and do it, the mere "doing" would not take long.

458. Have you any knowledge of the Committees provided for under the Act of 1883?—I have experience of other Committees, but not under that Act. I have a Committee on my own run, but in my case it is not a Committee like that: there are two pakehas on it.

459. Are you aware of the time it took after that Act was passed to bring it into force, and for the Natives to elect?—I think they were all elected in one day—the day appointed: they were not limited to any proportion. I think it was a majority of those who voted only. I do not say more than that each candidate must have a majority of owners.

460. Did not the greater number respond?—Yes; I think most of the Natives voted.

461. Do you not think that, where the Natives have to deal with their own lands, their interest in the result will be greater than in that case?—I feel sure it would be greater.

462. You said that where they have to take the initiative themselves they would not take much trouble, and you also said that in Wi Pere's case they took a vital interest, for all the people voted?—Perhaps I should have been more guarded in expressing myself. That was a political election, which at another time would have produced war among the Natives: it was a defiance of the old hereditary chiefs by the young ones; it was also a defiance on the part of the Natives of the Coast against those of Gisborne and other parts. That was the reason why there was such great interest taken in it.

463. You also pointed out that there would be some rivalry between the old and the young men in the case of these local Committees under this Bill?—Yes; but I think the old men will go to the wall under this system. I think the interest will be gradually stamped out if this policy is carried into effect.

464. You have been asked whether it would not require a much larger number than a simple majority to elect a Committee. Where there are more than seven candidates will it not happen that, under this 13th clause, a simple majority of owners is quite sufficient, irrespective of the number of candidates?—Speaking from a hurried reading of the Bill and clause 13, which I was questioned on at first, it appears to me to contain no provision as to that one way or the other. Clause 14 leads one to the view that the persons who get the most votes will be the elected. I do not know what alterations are being made, but I cannot say that clause 13 conveys to my mind any information whatever.

465. First of all you would read it that the names receiving the most votes would be elected the Committee?—Yes,

466. If there were twelve candidates, those who received the most votes would be elected. Then, under clause 13, it is provided that the election shall be by nomination in writing. What do you think that means? does it mean the election of one owner or of the whole Committee?—It appears to me to refer to the entire body—that it means the entire nomination.

467. *Sir George Grey.*] I should like to ask you a question or two with reference to your answers to the questions put to you yesterday. You stated yesterday that it had never been illegal to deal with Natives for land that had not gone through the Court?—With the exception of the law as it was under the Ordinance having effect till about the year 1864 and lands under proclamation, that would of course be understood.

468. Are you aware of this clause relating to that (1865): "Every conveyance, transfer, agreement, contract, or promise affecting or relating to any Native land in respect of which a certificate of title shall not have been issued by the Court, shall be absolutely void?"—That did not make it illegal to my mind; there is no penalty attached.

469. Do you think that the going about making deeds which the law said were not to have any effect, but were absolutely null and void, was a proper thing to do and not an illegal thing?—It is outside the law. The law gave you no protection if you did it. It called it "void," certainly; but, on the other hand, it did not say that there was a penalty attached to it.

470. This proposed Act will give a certain validity to what the law at present says is void: it will give validity to such transactions?—As I understand it, it is proposed, in bringing these lands under the law, which are at present as I have said outside it, to take them over with all such objec-

tions as the Natives by their conditions appear to consider obligations upon them—that is, if the Natives recognize them. But these transactions are not now under the law, as you know.

471. This Bill proposes to make good transactions which the law has declared to be void?—No; it provides means by which Natives, in selling you their property, may induce you to offer better terms, or to induce you to recognize what they think is a lien on it. You have nothing to do with it at present. It is not obligatory by this Bill, as I read it. The Government will give assistance in examining whether the original transaction was fair—whether the Natives themselves think it was a fair thing. Then, presuming that they, the Natives, desired it, they would give an extension—not an extension, but an endorsement—for a portion or the unexpired term of the lease.

472. But the Natives had previously entered upon transactions with the European which the law declared to be void?—I do not consider that because the law did not give an endorsement of the section it was illegal. I do not deny that it is void. Sometimes it is held "not to be valid;" but it is nowhere said that it is "illegal."

473. But do you not apprehend that the object of declaring it void was to protect the interests of all the Queen's subjects?—It was done for the purpose of obliging the Natives to sell all their lands to the Government; they thought by putting in that clause that no European would brave the risk of having any land-dealing with the Natives, and their lands would therefore be useless to them.

474. Would it have the effect of giving equal rights to all European subjects of the Queen?—I do not see that the European has not equal rights now. I do not see that any European is debarred from making the same arrangement.

475. Do you think it will be an advantage to those who have entered upon transactions which were declared by the law to be void?—It will give an advantage to all those who were straightforward and honest. It would give no advantage to those by whom the Natives had been taken in, for that transaction would be thrown out as a matter of course.

476. Is not one effect of the present law this: that, the title of the Native having been ascertained and having been proclaimed in the *Gazette*, then all Europeans had a fair chance, or, rather, an equal chance of purchasing from the true owner?—So they have now. You mean to say it would give a second chance, so that after one person had improved another might go in and take advantage of his improvements?

477. No; I mean that, in my belief, that man is wrong who encourages the Native to enter upon transactions which the law declares to be void. I think he does wrong to the Natives and wrong to his fellow-Europeans. Taking that view, I put the question to you whether this Bill, if passed, would not give validity to transactions which are now void?—It will provide an opening to give certain validity to transactions that were entered upon without the protection of the law, certainly, if found fair to the Natives.

478. Taking that view of the case, I ask you whether you are aware that the Native Minister made this statement in bringing in the Bill—putting his Bill before the House. "One great difficulty that we have to contend against was forcibly pointed out by the Hon. Mr. McLean last session in discussing the Alienation Restriction Bill. He said, 'I wish to point out to my honourable friend Mr. Reeves that there is a large number of interested people on both sides of the House who will not allow a Native Land Bill adverse to their interests to go through; and those from the South whom you would expect to give assistance to the work would, through party exigences, be compelled to vote against carrying a proper Bill through. With these interests hanging together, it has been hitherto impossible to get a good Native Land Bill through the Legislature." [*Sir G. Whitmore:* I think it is Mr. McLean who says that.]—Yes; but the Native Minister adopts it. [*Sir G. Whitmore:* Just so.] Now, I ask you whether you agree with those views?—I know there have always been possibly a tenth, or thereabout, of the persons in both Houses of the Legislature who are interested in Native lands. As a rule, they have paid very heavily for touching them at all. But I do not think that they have ever been strong enough to prevent legislation in any direction. Even since 1865 legislation has been made more and more oppressive on any person who touches Native land, and more in the interests of the lawyers and agents. I might say Parliament had got to be ashamed of all the trickeries of the middleman, and confusing them with the true settlers. I do not think that persons in Parliament really interested could have altered the Bill, not even if they would, because all the legislation since 1873 had been wholly against them.

479. *Mr. Ormond.*] There is one question put by Sir George Grey referring to this occupation, which the law says shall be void?—Agreements which the law says shall be void: not occupation.

480. Having regard to what you know has been taking place in the colony almost since its commencement, has that occupation tended towards settlement?—I am not aware that any land has been obtained unless first so dealt with by the tribe.

481. But I ask you what would the position be if people had waited and only acted under the law as it is?—There would be three or four small publichouses between Gisborne and the East Cape at which a good deal of drunkenness would go on. There would be no stock in the country. In my district the Natives did try to occupy the country themselves, and at one time they had about twenty thousand sheep there. But the scab got among them, Government had to intervene, buy up the sheep, and kill them all. Over the whole of the district all Europeans that took up land did so under an agreement to put the land through the Court as soon as they possibly could. But, as I have said, in my district there has been no Court for seven years; so that it was impossible to get a legal sanction.

282. As a matter of fact, did the occupation of these lands by these first settlers interfere in any way with other European occupation?—As a fact, it is all purely pastoral country; there is hardly any at all suitable for agriculture. There is no flat country, and the difficulty was for the Natives to get a pakeha to come up there and settle among them; wherever the country is suitable for agriculture there is not a bit more than the Natives want for themselves.

483. Of your own knowledge can you say whether in your district the Natives would have been willing, at the time these early occupations took place, to have agreed to any general settlement on land by sale?—No; they are very indisposed to sell now: they always disliked selling. It was only by experience, as each hapu became acquainted with pastoral occupation, that they liked them, and consequently the men who followed them. In order to extend settlement of that kind, the Natives looked about for a pakeha who they thought would not cheat them.

484. Do you think, then, generally, that had no occupation of the kind taken place the country would have remained unoccupied?—Certainly; all the country beyond Waiapu, right away to Hicks's Bay is a desert still; there is only one European that I know of living there.

485. You spoke yesterday of the duties you paid to the Government?—Yes.

486. Do you consider that the receiving these duties does in any way admit—that is, can the receiving of them by the Government form any part of an admission of some sort of the right of occupancy?—In my opinion it is so; of course I can only offer my opinion for what it is worth. It appears to me a shabby thing to take advantage of a legal quibble after taking a man's money upon a large scale out of his pocket.

487. I do not know whether you can go so far back as to be aware of what took place on the East Coast at the time of Sir Donald McLean's administration of Native affairs?—Yes.

488. Do you know whether there was encouragement given of this kind of occupancy by that Minister, or the reverse?—I think he did encourage it. At the time when I was Civil Commisioner on the East Coast, when dealing with the Natives for their lands was a penal offence, I was directed that if settlers who hired lands did not cheat the Natives, if there was no trouble arising out of such transactions, I was to refrain from bringing the Act into effect; but if difficulties did arise I was to bring the Act into force.

489. Do you remember whether the Natives at their meeting about that time put it generally to the Minister that he should assist them in letting Europeans come and occupy their land?—I was not present on any such occasion, but I remember having seen that reported.

Hon. Mr. Bryce (to Mr. Ormond): What date are you speaking of?

Mr. Ormond: It was just after the settling down after the war.

Hon. Mr. Bryce: That would be about 1870.

490. *Mr. Ormond.*] I know, as a matter of fact, that the Natives were encouraged in that way, but my object was to get from Sir George Whitmore more information; I thought he knew more about it than he supposes?—That is a little accentuated by the circumstance that up to certain points Europeans were allowed to go; beyond that they were forbidden. Mr. Hallett was put in the guardhouse for a breach of the rule; but afterwards the Government put no further obstacle in the way.

491. Was it not that he was prepared to prevent occupations if they were likely to lead to trouble among the Natives themselves—that is to say, disputes about occupancy?—Yes; that was the theory.

492. Do you know any case of the Natives requesting the Minister to facilitate this kind of occupation among them?—Yes; I remember to have read that in a Hawke's Bay paper.

493. Was not the outcome of this wish on the part of the Natives that instructions were given to the Civil Commissioner, which office you filled, not to take action unless difficulties arose?—Yes; that was about 1863, when it was a penal offence.

494. *Hon. Mr. Bryce.*] 1863?—Yes; it was a penal offence; and I once had to threaten to enforce the law in the case of Mr. Gannon.

495. *Mr. Locke.*] Is it not a fact that the whole of that peninsula, with only one or two exceptions, has been occupied in this way?—So far as I know the land taken up there, that has been the case.

496. *Hon. Mr. Bryce.*] I should like to ask if it is so—if the whole country has been so taken up for so many years—what benefit has resulted from these transactions; to what extent have they settled the country?—The colony has got property-tax, taxes of other kinds, and rates to pay.

Mr. Locke: Then, there are five thousand Europeans there.

Sir G. Whitmore: And these pay 20 per cent. upon their transactions; the Government also gets all the stamp duties which these people have to pay without getting anything in return.

497. *Hon. Mr. Bryce.*] That is not a reply to the question I put. What has been done in the way of settlement of the land?—All the people that are settled there are people who have come in in that way; they are making their own towns; they are increasing every day.

498. I want your opinion of the legal position of this matter. I think I have already got it but you might again give it me, short. Were leases from Maoris before the ascertainment of title void in law?—Yes; Sir George Grey asked me that question.

499. Is there any provision in the law at present by which such leases can be rendered valid?—The law has absolutely no power over such land.

500. Then there is no such provision?—No provision whatever; the law has nothing to do with such land; the land belongs to the Maoris, and the law has nothing to do with it.

501. Is there a provision in the Bill before the Committee for rendering these leases valid?—In certain cases; after examination, and after ascertaining the views of the Natives themselves—after the land becomes subject to law.

502. Now, I would ask you as a matter of opinion, whether you do not think that these transactions, which you have described to be void, have tended to prevent ascertainment of title and lawful occupation?—No; I am quite sure that there never would have been ascertainment of title, not only in my district, but right down to Wairarapa, if these transactions had not existed.

503. Can you give any reason to the Committee for holding that opinion?—Yes, I will. In the first place, the Natives, generally speaking, are unwilling to part with their land; leasing, to them, appears to be half-way between selling and refusing to sell; their original power was only that of

selling to the Government. But that was not what they liked. Consequently, if they did not wish to alienate their lands they had to lease in some way, or, rather, in such a way as they could: that is, if they could induce some European to take it with such insecurity hanging to it. Now, that applies to the great bulk of the country which was settled on the East Coast before the Native land law came into force. After the Native land law came into operation there was considerable fear on the part of the Natives that, if they brought their land before the Court they might, somehow or other, lose it. I will give you a very good instance of this in what occurred to myself with Chief Ropata. I mentioned yesterday a block of land called Akuaku. Chief Ropata offered me the land to rent from him. I said to him that "I would like to take it, but then only on condition that you should take it through the Court; and there is a Court promised this year." "Well," he said, "I do not like putting it through the Court; the result of that is very often that every *tutua* and every *taurikarika* in the tribe is equal to the chief; and every time one of this description gets drunk he may sell his share."

504. What do these terms mean: "Common persons"?—One means a "slave," and the other a "common person." I then said to him that I had not been to see the land: that I would go and look at it, and if I liked it I would lease it, and we could leave aside the question of putting the land through the Court at present. I said to him, "I thank you for the land. If you gave me a horse, I would thank you for that; but if you gave me a horse with a saddle on its back I would prefer it." He did not say anything then, but the next day he said to me, "I know what you meant by saying that if a saddle was on the horse's back you would prefer it; by that you meant that you could stick closer." He then said, "Well, I do not want any one to hold on so fast as that: I would rather lease it in the old Maori way." Such is their objection to putting their land through the Court. They only become reconciled to putting their land through the Court when they get advances of money from Europeans settling in their midst, if that does not interfere with their retaining such portions of the lands as they want. They put their land through the Court to oblige the European, that he may get a legal lease, and then they go and occupy their reserves.

505. *Mr. Grace.*] Do you know much about the reasons or causes which led to the opening up of the King-country?—No; you must ask some one about that who knows the other side of the Island.

506. I suppose you could not say whether it was not the pioneer settlers?—I am afraid I cannot speak of my own knowledge on that point. I have only spoken as to how far this Bill applies to my coast, that is all.

507. *Mr. Wi Pere.*] Will you look to Part VII. of the Bill? What will be the result if it becomes law?—As far as I am concerned, it would suit me very well.

508. Do you not think it would be better to strike these provisions out of the Bill?—Why should they be struck out of the Bill? I do not see why: I told you just now that it suited me.

509. Would it not be proper for the Commissioner to make inquiry into rights?—It says so: it says the Commissioner has to inquire and find out whether the Natives like it; next, whether it is just in itself.

510. Do you not think these provisions should be struck out of this Bill, and brought forward in another shape in another Bill? This Bill, you see, effects the whole Island. Would it not be better to make an inquiry into all those claims and then legislate?—I do not care how it is done: if there is a wrong done, I should like to see it made right. Would it be fair for the Maoris to have taken rent from the Europeans for a long time, to have profited in a great many ways by the occupation of Europeans, and then that the Maoris should retire without carrying out the bargain which they themselves made personally? I should like a full investigation of everything that I have done—if that is what you mean.

511. No special cases are mentioned, but it applies to every case in New Zealand. Do you not think that a Commission should be appointed to make inquiry into all such cases? If the Commission decide that certain reliable good men have certain rights, then a law should be brought in?—I am not a member of this Committee. I do not care how it is done: it will suit me as well one way as another; I do not want to say how it should be done. I do not care which way it is done.

512. I want to get your opinion, and I repeat the question?—I have said one way will be as good to me as another if the thing is done. It will come to the same thing whichever way it is done; the only difference will be, that in one case it will be done by two Bills (as you suggested), in the other by one Bill.

513. Do you not think that, if this Bill is passed without due inquiry having been made into things, it will be an incentive to certain Europeans to be upon their good behaviour at once, and that those who have done wrong in the past will behave properly for the future?—So far as I can see into it, there is to be a strict inquiry; and if people are not quick in getting it done they will lose the benefit of it. The area and character of the land will have to be considered, also the names of the Natives, the amount of live stock it carries, the entire value of improvements—all these things will have to be considered. If the Judge does not think it right, he will not give guaranteed occupation for fourteen years.

514. Do you not think that the effect will be this: if this Bill passes into law without such a Commission first having performed its functions that it will be an incentive to those Europeans who have behaved wrong in the past to go to the youngest men in the tribes, to flatter the Maoris so as to get them to uphold the claim in the Commission Court?—Yes; but if the Bill does not pass tenants will take off every head they have got and every sheep, and the Europeans must put up with the loss.

515. Do you not think that some bad Europeans might bribe the Commissioner to give a favourable report?—Every European must prove his case; the Commissioner will have to go and look at the land; he must hear the Natives.

516. This Bill wil become law before the Commissioner commences his duty?—I do not see the harm if it is put in "Commissioner" instead of "Judge;" why not?

517. Will not a long time elapse before the Commissioner or the Judge can act?—Well, but they will have to count every sheep and every head of cattle, and to see the land.

518. Will not Maoris be bribed by Europeans to keep quiet and to shut their mouths? Do you not think that the Commissioner should make all these inquiries before the law is passed?—I think it would put the country back about three years, for until the law is passed no one will do anything, and people will not be disposed to throw away good money after bad.

519. I think the Commissioner ought to be appointed at once?—That may be very fair and very right. I do not know. I have not considered the matter.

520. You say that the Maoris could not elect a Committee?—No; I did not say that. The question asked me was whether in certain circumstances—so many votes to be given to each member or the whole lot—whether it was to be half or more. I said I thought Maoris would be much slower in getting signatures for elections than Europeans would be for their titles. That was a question as to the construction of the Bill.

521. Do you not think that, if single individuals were prevented selling land, that would be an incentive to cause all speed in getting their Committees?—I do not think a chief in my part of the country will sell at all. It is only the small sort of people that will do so, and until the land goes through the Court nobody can sell.

522. Do you not know that this Bill provides that no leasing or selling can be carried on until the land is put through the Court?—Yes.

523. Do you not think that that will be an incentive to the Natives to make haste?—They must put it through the Court. I find, as a matter of experience, that it takes a long time to induce Natives to put their land through the Court. After it is put through the Court I do not suppose that it will be very difficult to get a Committee elected; they cannot elect till the land is through the Court.

524. And when passed through the Court?—I think my Committee that is working for me is of great use to me in passing the land through the Court.

525. Has it ever been shown in former legislation that the Maoris are not capable of electing Committees?—I do not think so; by this Bill they have Committees for separate Crown grants; but I believe all the existing Committees are for districts.

526. You have stated that for some of the lands in your district there are 400 owners. Do you think it would take two or three years to obtain their signatures?—If they were all living on the land, or if they were all alive, it would not take so long; but you do not know where many of them are living, or whether some of them are not dead. Some are living at Kororaraka or other places at a great distance. If you could afford money to pay Magistrates, licensed interpreters, and other people to be constantly hunting them up, you would do it sooner.

527. Do you know the block of land called the "Oil Springs?"—Yes.

528. Do you know that the Committee dealt with that in a month?—No; nor in nine months. About half the signatures were got, disputes with the Europeans arose, and both sides agreed to settle their differences.

TUESDAY, 1ST SEPTEMBER, 1885.

Mr. F. D. FENTON (formerly Chief Judge of the Native Land Court), examined.

529. *The Chairman.*] You are an ex-Judge of the Native Land Court?—Yes.

530 Do you know this Bill, that is now before the House, entitled the Native Land Disposition Bill?—Yes.

531. You have read that Bill?—Yes; I have read it.

532. The Committee are anxious that you should state to them what you think of that Bill. You have had, I believe, a very large amount of experience in matters of this kind, therefore it is that the Committee desire you to state your opinion of this measure. There will be questions put to you by various members of the Committee, so as to elicit from you the effects of certain clauses of the Bill?—I presume you do not intend that I should critically review the Bill as to its artistic formation, but rather that I should speak as to its general principles.

533. We require you to speak only to the effects which, in your opinion, the Bill will have?—My opinion on this Bill, founded upon very long experience, is that, inasmuch as practically it throws the whole administration of the ascertainment of title and dealing with Native lands into the hands of the Government, or what is called the Governor in Council, it will not be acceptable to the Maoris.

534. You say your opinion is founded upon long experiencce: will you state the number of years over which your experience extends?—Thirty-five years, I think I may say. I was living in the Waikato in 1850, and in 1851 Governor Sir George Grey saw me there, and I was introduced to the public service. I was made Resident Magistrate in the Kaipara in 1853, I think. That was the year when Sir George Grey went to Dunedin. In 1855 I was made Native Secretary. At that time Colonel Browne was Governor; Sir Donald McLean was Chief Land Purchase Commissioner. There arose a controversy between us as to whether the Land Purchase Department should be subordinate to the Civil departments or the reverse. I need not go into that controversy, but it resulted in my relegation to Raglan as Resident Magistrate. The Governor offered me the appointment of Land Commissioner, which I declined. I was then thrown into the midst of the King movement, which was assuming importance. I wrote a long paper about it. It appeared to me that it had not attracted the attention of Parliament and the Government to the extent that it ought to have done. That paper was laid before Parliament and resulted in a Committee called the Waikato Committee. The final result of these proceedings was the abolition of the Native Land Purchase Department.

In the meantime I had been appointed Law Officer of the Crown. After I held that appointment about six years, Sir Frederick Weld came into office. He asked me if I would take charge of the Native Land Court. I said I would if it were founded upon my own principles, and held office during good behaviour, responsible only to Parliament. That was agreed to I became Chief Judge of the Native Land Court under the Act of 1862. Afterwards, when the Act of 1865 was passed, I became Chief Judge under that Act. I am speaking now in reference to your question as to the length of my experience. Two or three years afterwards I was appointed Chief Judge of the Court under the New Zealand Settlements or Confiscated Land Act. I held that office until, I think, the duties were completed so far as they could be completed by the Court. I held the office of Chief Judge of the Land Court until I finally left the public service a few years ago. But, during the period to which I have referred, I held other offices as well, such as District Judge; but that does not affect this question.

535. Will you be good enough to inform us what opinion you have formed of this Bill. You say that you have read it?—I will take it backwards, if you please. I find that the whole policy of the country, as it seems to me, so far as the disposal of Native lands is concerned, is comprised in clause 62, and the effect of that clause, as it appears to me, is to make Parliament delegate entirely to the Governor in Council its own proper functions. It seems to me a question affecting very large ideas of policy, into which I should not like to enter, as to whether you deal with the principle of leasing or selling land in large quantities or in small quantities. I would merely say that this whole provision appears to me a delegation by Parliament of its powers to the Governor in Council.

536. *Mr. Ormond.*] Would it be so if you were told that the aspect of the Bill had been entirely changed. The Government has stated that it is their intention not to deal with lands in the manner prescribed by clause 62, as it first appeared in the Bill; but to introduce a clause which will put the land in such a position that it can be dealt with by the Waste Lands Board. I think Mr. Fenton should be acquainted with that, so that he may be perfectly right in the point of view he takes.

Sir G. Grey: But there is this to be considered: that is only a contemplated alteration. Mr. Fenton's evidence might go to reverse that.

Hon. Mr. Ballance: I should wish him to go through the Bill from the beginning. The clause just referred to gives power to bring the land under the authority of the Waste Lands Board; but there is no difference between the Bill as it stands with the clause proposed and as it was, except that here it is more definite.

Sir G. Grey: As they have not yet agreed to clause 62, I think it is better to allow the witness to take his own way.

Mr. Fenton: When I was in the Legislative Council I made it a rule to object to clauses conferring extensive powers on the Governor in Council. My opinion remains the same as it was. It is for Parliament to lay down down a policy, in my judgment. I now come to the restrictions, Part VIII., clauses 60, 61. I find that the Court, the Native Land Court, or the Chief Judge or two Commissioners, sit to inquire into the advisability of removing restrictions; but the result of this judicial proceeding is a report for the consideration of the Governor in Council. It seems to me objectionable that a Court of justice should sit, whose opinions or objections should have no effect except to aid the Governor in Council in forming their opinion. I pass over "Unconcluded transactions," and the clauses entitled "remediable," and come to the clause regulating the disposition of moneys, Part VII. I find that moneys received for purchase or rent of Native land are subject to a percentage, to the cost of surveying roads, and to the cost or part cost of making roads, as well as the cost of surveys. I am afraid—apart altogether from the justice or injustice of a clause of that sort, of which I would like to say something—that after all these things were paid for there would be very little left for the Maoris. There was a case in which a Maori cut up a piece of land near Auckland, called Taupaki. It was very favourably situated. It was surveyed, put into the market for sale. The Helensville railway now runs through it. But it did not pay as a commercial undertaking. The last block of it was sold two years ago: it was cut up into several blocks or pieces; but they did not sell immediately. Ultimately, the remainder, that is several of these subdivisions, were sold together. I am quite certain, speaking of lands that I know of in the Provincial District of Auckland, that they are not able to bear the expense of cutting-up and surveying in parcels. I think, further, with reference to the same part of the Bill, that this perpetual intervention of the Government in one form or other will be found very distasteful to the Maoris. I cannot help thinking that any law relating to Native lands, to be successful, must be acceptable to both races. I now come to Part V., the duties of Boards: Here I must say that it is difficult to form an opinion of much value, because the Board is to be guided by "regulations," which have to be made under clause 62, and we do not yet know what they may be. The power which is given to lay off such roads as it shall think fit, coupled with the power of afterwards charging Maori lands with the cost, seems to me to be very oppressive. I do not refer to the provisions which give, I think, twelve months' imprisonment for sitting on Maori land; that is the same as was provided by an old Native ordinance. I believe I was subject to the process myself for about two years.

537. *Sir G. Grey:* What is the date of that ordinance?—1846.

Mr. Fenton: I now come to the Board itself. Here I can speak with very great confidence. Each Board is to consist of a Commissioner, being the Chairman of the Native Committee, and another person to be appointed by the Governor—that is, as I read it, there are two Government officers and one Maori. In the first place, I feel very sure—that is to say, as certain as a man can be of anything that is a matter of opinion—that there are no Natives in New Zealand that will recognize a Board so constituted as competent to deal with their lands; and the other officer, in most cases, will probably be quite as objectionable—that is, the Chairman of the Native Committee,

The Maori will very unwillingly give any authority to a form of administration such as is here provided. The men of a different tribe, I am certain, will prefer to deal with their own lands through their own people. It is likely that a Committee, which is a change of name for "trustee"—in fact, this is a return *pro tanto* to the principle of the Act of 1865—would be acceptable to the Maori if we were to assume that this Bill goes as far as that Act did—I mean with respect to perfect freedom. Under that Act the Court had no power to issue title to more than ten persons, the intention being that, if there were more than ten, the land could be divided into pieces, so that every ten had a piece of land. Here the number is seven, but there powers are more limited than under the Act of 1865. I do not say that I object to this at all. I think this is a very good principle: to have these representative men. I think, if this principle were properly elaborated, guarded from danger of the mischiefs that became apparent in the operation of the Act of 1865, and, properly carried out, it affords a true solution of the difficulty of dealing with Native lands. The great difficulty to be guarded against is the care of the disposition of the money in case of sale. I am not at all certain that four years' tenure of office is not too long. I think that the Maoris would like a more frequent change of representation; but I do not give that as an opinion. I find that in this Bill what is called the "pre-emptive right" of the Crown is preserved. As a question of law, of constitutional law—which possibly the Committee may not wish me to say anything about—I am very doubtful whether that right can be resumed by the Crown. As a a matter of law—I do not know whether the powers of Parliament are or not here subject to any supervision, such as they have in America, but I suppose that is a point which cannot be determined, not here, at any rate—I must say I do not see how, having abandoned that right, given under the Treaty of Waitangi in 1862, Parliament, without the consent of the Natives, could ever resume it. The Act of 1862 was reserved for Her Majesty's pleasure. It was drawn by some of the ablest men we ever had in New Zealand. It recites the Treaty of Waitangi. It recites that the chiefs yielded to Her Majesty the exclusive right of pre-emption, and it goes on, in rather a solemn way, to declare the objects they had in view. It was, no doubt, a very good thing they were doing: it certainly appeared so at the time. The preamble sets forth that, "Whereas by the Treaty of Waitangi, entered into by and between Her Majesty and the chiefs of New Zealand, it was, among other things, declared that Her Majesty confirmed and guaranteed to the chiefs and tribes of New Zealand, and the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, which they collectively and individually held, so long as it should be their desire to retain the same. And it was further declared that the chiefs yielded to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof might be disposed to alienate: And whereas it would greatly promote the peaceful settlement of the colony and the advancement and civilization of the Natives if their rights to land were ascertained, defined, and declared, and if the ownership of such lands, when so ascertained, defined, and declared, were assimilated as nearly as possible to the ownership of land according to British law: And whereas, with a view to the foregoing objects, Her Majesty may be pleased to waive in favour of the Natives so much of the said Treaty of Waitangi as reserves to Her Majesty the right of pre-emption of their land, and to establish Courts and make other provision for ascertaining and defining the rights of the Natives to their lands, and for otherwise giving effect to the provisions of this Act. And it is expedient that the General Assembly of New Zealand should facilitate the said objects by enacting such provisions as are hereinafter contained." Having read that preamble, I merely reassert, having called the attention of Committee to that preamble, that I do not see how that right could be again set up without the assent of Her Majesty and the Native people. Of course, Parliament is omnipotent in one sense.

538. *Sir G. Grey.*] You mean that the Queen, having absolutely waived her right, cannot resume it?—Yes; without consent. We may say what we please about it, but the Treaty of Waitangi was made by the British Government as with a "foreign Power."

539. What is the number of that Act?—42.

540. And the date?—15th September, 1862.

541. And the title?—[*Interpreter:* It is an "Act to provide for the Ascertainment of the ownership of Native Lands; for granting Certificates of Title, for regulating the Disposal of Native Lands, and for other Purposes." The Short Title of the Act is "The Native Lands Act, 1862."]

542. *Hon. Mr. Bryce.*] I do not wish to interfere with the manner in which the witness is giving his evidence; but perhaps it would be convenient if Mr. Fenton stated wherein the right of pre-emption waived, as has been described, is set up by this Bill. I merely suggest this for the purpose of making Mr. Fenton's evidence on this part complete. Will you state that to the Committee?—The Crown is not subject to this Act. Supposing my view is correct, that the Act will operate very little, if at all, in enabling transfers of land to be made from one race to another, any one purchasing otherwise than under this Act will be liable to imprisonment—*except* the Crown; the Crown, that is, is exempt from all operations under this Act. I apprehend that is an indirect return to pre-emption.

543. It would not become me to say anything in the way of argument upon this just now, but I may remind you that the main object of this Bill is to provide a means of disposing of Native lands otherwise than by sale to the Crown?—I think I see what you mean. Assuming, whether it is so or not, that the Crown has no right over lands except such as are common to the Crown's subjects, you can find no reason, except that of public policy, why pre-emption should exist.

544. *Hon. Mr. Ballance.*] You said that the act of throwing the ascertainment of title into the hands of the Government would not be acceptable to the Maoris?—Yes.

545. You say this does not deal with the ascertainment of title: what do you mean by that?—I mean the disposal of the land; I did not say investigating title.

546. What reason have you for supposing that?—I have observed that Natives prefer to deal with their land themselves.

547. Do you state that, practically, they have not power of dealing with their land themselves under this Bill?—I should think not. None at all.

548. Have you studied that part of it relating to local Committees?—They have power to say whether they will sell; but, having expressed their inclination to sell, it appears to me there is no power left them in any way.

549. Have they not the power of saying what portion shall be used for roads and surveys?—I cannot say: it is all subject to those rules to be made by the Governor in Council. But we do not know what they are.

550. If the Committee had power to say what proportion should be used for this purpose, would not that be a safeguard?—No. What the Board does is subject to rules made by the Governor in Council. The Governor in Council is the chief authority.

551. I shall repeat my question: if the Committee had the power of saying what proportion of the money which is the price of the land should be used for roads, would not that be a safeguard?—Nothing could guard them; for all that is subject to rules made by the Governor in Council.

552. You know that a positive provision in the Act cannot be overridden by the Governor in Council?—If it says so.

553. I am asking you whether, if it is laid down positively that the local Committee shall say what proportion of the money may be used for this purpose, that would not be a sufficient safeguard, and a power which could not be overridden by the Government?—I do not think so: it appears to me that the Governor in Council has supreme authority in this Act, and the Board are to be guided by the regulations of the Governor in Council.

554. But a positive provision cannot be overriden by the Governor in Council?—Not if the Act says so.

555. That is the question I ask you: if it is laid down that the Committee shall determine what proportion shall be used, is not that safeguard sufficient for the Natives?—You mean the local Committees.

556. The local Committees. But I would direct your attention to the fact that you said that the power of charging for roads laid off was oppressive. I now ask you whether, if the Committee have the power to say what portion of the money be so expended, this will not be a sufficient safeguard for the Maoris?—Yes, if they have absolute power, and there is no superior authority, it would be sufficient. But, as I look on it, there will be two superior authorities, the Board having got the report of the Committee, and being guided by the orders, rules, and regulations. Clause 31 says, "A Board being guided by such report, and by any regulations, rules, or orders made under the Act, and having regard to any such objections and suggestions, may proceed in such manner as it may deem best to make sale or lease of the land the subject thereof: And such Board is hereby empowered to lay off such roads, make such surveys, and generally to perform all acts, matters, and things which they may deem fit for carrying into effect disposition of land under this Act."

557. "Having regard to such objections:" does not that limit the power of the Governor in Council?—I should think not. I should think that the Governor in Council under this clause, if it thought fit, could do what it liked.

558. What is the meaning of "having regard to" objections?—Practically, when you have been "ordered" by the Governor in Council, by "Proclamations in the *Gazette*," whether they exceed the law or not, they are taken as law, and will be taken as law by all these Boards.

559. Will they be taken as law if they are contrary to any express provision of the Act?—Yes, by many persons. But they will have the same force as the Act itself. The clause says, "Such orders, rules, and regulations, when gazetted, shall have like effect as if the matter thereof had been enacted herein." The new clauses are as follow: "62. The Governor in Council may from time to time make such orders and general regulations as may be deemed fit for prescribing and regulating (*a*) the areas in, and the estate, term, or interest for, and the conditions upon, which land may be conveyed or leased under this Act; (*b*) the reservations, conditions, and limitations to be made by or contained in any conveyance, lease, or contract made under this Act; also like orders or regulations to be special to any particular land, or to land in any prescribed district. 63. The Governor may make such other rules and regulations as he may think fit for the better enabling this Act to be given effect to, and for regulating the procedure of persons engaged under it. Such orders, rules, and regulations, when gazetted, shall have like effect as if the matter thereof had been enacted herein."

560. Would the regulations made by the Governor in Council be accepted as law by any one if those regulations were contrary to the positive provisions of the Act?—I think so.

561. You do?—I have seen notices in the *Gazette* that several lawyers, myself among the rest, have objected to. I allude to one order put in under which one honourable member who is is now present put restrictions upon a large tract of Tauranga land. There was no authority for it.

562. Then it was illegal?—There was no authority for it.

563. Then it was illegal?—I should not like that to be put down so. It may be without authority of law but not contrary to law.

564. Then, you will only go so far as to say that there was no authority for it, and yet you will not say that it was illegal?—Well, I think I might go so far as to say that it was illegal. It was illegal. I think I may carry it as far as that.

565. You say that no Maori will recognize a Board constituted as this is?—I think so.

566. Would not that depend on whether the Board was carrying out the wishes of the people or not?—I do not see how that could be known, because it is the cart before the horse.

567. But assuming that the Board was so constituted as to carry out the wishes of the people as expressed through the Committees, would not the Board then be recognized by the Natives?—If it was constituted for a purpose, yet did not effect that purpose, or they thought it would not

effect the purpose, they would have no confidence in it: they would not care about the objects of the persons constituting it.

Hon. Mr. Bryce: I do not quite understand this myself.

Sir G. Grey: Nor do I.

Hon. Mr. Bryce: Do you mean that they are to give directions from time to time after going to the Board?—I am somewhat confused about the meaning of the question.

568. *Hon. Mr. Ballance.*] I am assuming that the Committee represents the wishes of the owners. The Committee gives directions to the Board to do a certain thing; the Board carry out this specific direction: would not the Board then have the confidence of the Natives?—I think the Maori would be very reluctant to put his confidence in such a body. I need not go so far as to say that, if the direction given were absolute to do what the local Committee wished, the Maori might think of it. But I am of opinion that the Maori will be reluctant to put his business into the hands of a foreign body. He would rather do it himself.

569. You say that the penal part of the Bill is very oppresive. You referred to the penal clauses?—I do not think I spoke about that twelve months' imprisonment. I treated it rather as a joke.

570. But why treat it as a joke?—Because I was once subject to it myself. I was living on Native land.

571. Do you think, if this Bill becomes law, that persons will purchase land privately?—They will not pay money; but I think you will find that they will occupy land, and possibly put cattle and sheep upon it. They will do what I did in 1850 and 1851 in spite of any penalty.

572. Your experience, then, is drawn from your own action in 1851?—Yes.

573. Was there any penalty then for living on Native land?—Yes. I think, too, it was imprisonment, but I am not certain. On referring to the ordinance (which witness read) I find the penalty is a continuing one not exceeding £100. It recurs on continued breach.

574. You say that the intervention of the Government in dealing with money under the Bill would be distasteful to the Maoris. Do you not think, in regard to the dealing with money, that it is absolutely necessary to guard the disposing of it?—I do very strongly.

575. Do you think that the clauses in this Bill are likely to be effective in this respect?—If I understand the clauses aright—I am not well acquainted with the Public Revenues Act—but it appears to me that the centre of all these things is in Wellington. The trouble and expense of dealing with money and the interest on money from here is well known. It is also well known how great is the reluctance which the Maori has to put money into the hands of the Public Trustee.

576. But I suppose you would admit that some kind of stringent audit is necessary?—Yes, I do; I feel that very strongly.

577. You have said that the Natives will deal with their own land through their own people: what do you mean by that?—I stated it very broadly that they would prefer to deal with their lands through themselves.

578. *Sir G. Grey.*] Through themselves? If I understand Mr. Fenton rightly, he means they would act each through his own hapu or tribe; they would not like it to go through another hapu or tribe?—That is it exactly.

579. *Hon. Mr. Ballance.*] What do you mean by that? How do you propose that they should deal with their own land?—In any way they think fit.

580. Do you think that the settlement of the country ought to be considered in dealing with land?—I do.

581. Have you considered how that can be reconciled with the interests of the Natives themselves?—I have.

582. Will you state to the Committee the plan that you would propose?—I am not quite certain whether this is the place to give my views of Native policy.

583. You say the Maoris would prefer to deal with their own land through their own people, and you add to that the question of settlement?—You are asking me, Mr. Ballance, whether I am able to develop a Native policy. I am, or I think I am, but I am not certain that this is the place for it.

584. How do you propose that they should deal with their land through their own people?—Having set up representative men, and having guarded that principle with the knowledge which we have acquired from our experience of the Act of 1865, I would give these representative men absolute power. I may say here that the evils of the Act of 1865 did not arise from selling the land, but from the misappropriation of the moneys. Some time ago I referred to the word "committee," and it appeared to me to have the same meaning as "trustees." But the word "committee" is now well known to the Maoris, while "trustee" is a word which you cannot put into the Maori language. It is something of a personal matter this, and it is the reason why I expressed a desire to an honourable member that you would give me an opportunity to be heard before this Committee, not on this Bill, but that I wished to remove an impression which I know existed in the minds of members of Parliament that grantees under the Act of 1865 were Trustees. They were not Trustees.

585. I understand you to say that you prefer the local "Committees" under this Bill to the "trustees" under the Act of 1865, and you give as your reason that their powers were more limited?—Yes, I do mean that. With respect to the guardianship of the money, I would prefer the Government to nothing.

586. You approve of a system of trusts for them, but subject to limitations?—Not limitations of power over land, but limitations of power over money.

587. But, generally, you approve of the clauses relating to local Committees in the Bill?—Yes.

588. The only objection you made was that the tenure of the office was too long?—I think it is too long.

589. Was that the only objection you had?—My objection is that the local Committees are subordinate to the Board; both the Committees and the Boards are subordinate to the Governor in Council. If you stop at local Committees and give them full powers I should be very glad.

590. Would you give the local Committee powers to dispose of money?—No; I would not let them touch it.

590A. Who should dispose of the money?—The owners of the land.

591. Who would divide it?—You come now to a practical difficulty. I should like to see the money all divided in the presence of the Court. The objection to that is that you put a hardship on Europeans; but if European purchasers had some one, properly authorized as an officer, to whom they could go and pay the money, so that they would be free from further responsibility, they would be saved a great deal of trouble. In my opinion, the tribe who are owners of the land ought, in case of purchase, to be assembled when the money is to be paid. The absence of considerable numbers of the owners, and the necessity of getting a signature here and there, have been the source of great mischief in the past, especially since the passing of the Act of 1873.

592. Is not that practice still in existence?—I do not think anything is in existence: everything is stopped, I think.

593. But the purchase of Native lands is not stopped?—Not by law; but practically it has ceased. We have such a bad name in the colonies and in England that the money which was flowing into this colony is at an end.

594. What was the cause of that?—The interference of Government; the difficulties that have been placed in the way of the acquisition of land; the expense, the loss, the trouble, the distress and misery connected with it.

595. These causes, you think, have done a great deal of mischief in stopping the flow of money?—I cannot speak of this province; but in the North I look upon it that the operation of these difficulties is producing results very injurious to the Provincial District of Auckland. I think these results, before twelve months are over, will be serious. It is the influx of money which contributed to give to Auckland its wonderful growth.

596. But now you say that the acquisition of land is coming to a standstill?—It has ceased, or nearly so.

597. Then, there are very few transaction taking place in Native lands now?—Very few, I think.

598. *Sir G. Grey.*] Are you aware that in the early days of land purchase all the purchases were publicly and openly made in the presence of the tribe?—They were so. I would like to add—because it will tell honourable members not only the wonderful change that has taken place in the country—that the money was also paid in public. Not only were the arrangements made in public and the money paid in public, but it was paid in sovereigns. I will give you an instance of what used to be the practice. It occurred in 1854. The Government had just completed the purchase of the Toktoka Block in the Kaipara. The people—the Natives, that is—were assembled at Mangawhare to get the money. It was land that had been conquered by Te Parawhao, a hapu of Ngapuhi. There were assembled the people of the tribes Ngatiwhatua, Te Uriohau, and others; who had been defeated and expelled. There were all the chiefs in a circle. Beyond were the people. There were Mr. Johnson, the Land Purchase Commissioner, and myself looking on. Mr. Johnson produced a canvas bag with 800 sovereigns in it. He set it in the centre of the circle of chiefs. Te Tirarau, who was the most eminent Native man in that part of the country, took it up and placed it in front of old Te Wheinga, who belonged to the original owners. There it stood about a minute. Then Te Wheinga returned it and put it in front of Te Tirarau. He took it up and put it in front of Paikea, who represented another branch of the conquered. So it went round to all, and went back again to the original position before Te Tirarau. There it stood a long time. Then Te Tirarau took out a handful of sovereigns and gave them to Parore. Then he took out another handful of sovereigns and gave them to the next, and so on, all round. At last he held up the bag inverted. There was nothing in it, and he got nothing for himself.

599. *Hon. Mr. Bryce.*] I understand you to say that a repetition of this scene could not be now expected?—No.

600. Then, suppose the Natives were assembled for the purpose of sale, as you have suggested, what sort of scene might be expected now. I want you to describe what you would expect. You have described what you had seen?—I should expect to see every man, without respect to rank, title, or anything else, try to get as much as he could.

601. Yet, if I understand you rightly, this is the way that you would recommend the money to be paid—that is, before the Natives assembled in that manner?—No.

602. Yes, you said so: you said that the tribe should be assembled?—That scene would be what I should expect to see if the bag were put down as in old days. It is not what I would encourage.

603. But you have said that the tribe should be assembled to receive the money?—Yes.

604. Then, having been assembled, you would expect to see every man grabbing for as large a share as he could get?—Yes; they would desire to get as much as they could; but I do not suppose they would be permitted to do that.

605. Now, how would justice be secured in view of this endeavour of each one to seize as much as possible. I want you to describe the process, if you will?—The equitable division of money among the hapus by Europeans is impossible. Before you can divide among twenty people money according to their several rights in the land, you must ascertain their relative rights, that, is what represents the mana of the land. To find the relative values of the claims of chiefs in the land I have always found to be impossible. You will find a judgment of mine to that effect.

606. That was given at Napier?—Yes. There was also one given at Taranaki, where I said it was quite impossible to ascertain the proportionate value of the several classes of chiefs and tutuas; but if that cannot be arranged by the people themselves, then you must divide the money by the rule of thumb, *i.e.*, in equal shares, as is now the general practice.

607. I understand that this is your plan, to have the tribe assembled in this way. You then point out the difficulty of Europeans making the distribution of the money; you have also pointed

out that the Maoris themselves have lost that primitive feeling which facilitated the distribution: I would now ask you how it is to be distributed properly and proportionately among the Maoris now that the old feeling has disappeared?—All I can say is that if I were a person interested either on behalf of the Government, or as a representative man, and had to distribute money to the Natives, I would keep possession of it until the Maoris had arranged among themselves their shares.

608. Now, I pass to another phase of the same question, and I would ask you whether, in all cases, you think it possible to cause this assemblage of the Natives to be made?—Practically, I think you would not get them altogether, perhaps not nine out of every ten; but if all had notice I think they would be content.

609. What proportion when assembled would you be content to allow to act?—I should not make any arbitrary figures at all. Very likely there would be a number of letters come in; perhaps some would send representatives. You cannot put down any arbitrary rule for cases of that sort.

610. Then, would it not be possible that, in some cases, a very small proportion of the owners would act in this way, and receive the money?—I think not, if you had a judicious officer; if he would decline to proceed when there were few people present. You would indeed have to leave much to his discretion. It could be done.

611. Then, you would really leave it in the discretion of an officer to proceed or not: whether he be satisfied with the number present or not?—I think I would. I should prefer, if it were not for the expense, that this officer should be the Court, and that the whole thing, if possible, should be done in the presence of the Court. But the practical difficulties are so great, arising from delay and the uncertainty when the Court would sit. If you had Courts periodically—say, on the 21st of June at Taupo, the 21st of October at Taranaki, the 21st of May at Gisborne, and so on—a great many difficulties would be remedied. Then, I would say, let all these moneys be paid into the Court; let the Court decide all these questions as to the sufficiency of the attendance and so on.

612. Do you think it possible that the Court could undertake this duty completely—that is to say by itself—without in some cases having to do it through officers?—It would, no doubt, add to its labours; there would be a certain amount of friction about it; but, if you think that you will ever elaborate a system that will transfer the land of a country from one race to another without some friction, and risk of failing to achieve perfect justice, then I think you seek for that which you will never find.

613. I heartily agree with that, but it was not in respect of that I put my question: it was more with the view to ascertain whether, in your opinion, the Court would be able to do the work?—It must do the best it can.

614. Those blocks which are to be settled this way would be of all sizes: might there not be the same friction in the case of one acre as ten thousand acres: many of them would be small blocks?—I made a return, I forget now in what year, of the number of blocks under five acres, under one hundred acres, and under five hundred acres, and so on, and I was astonished to see what a large proportion the small blocks bore to the big ones.

615. We have a return now which shows that the number of blocks passed through the Native Land Court amount to something over four thousand: then, the number of blocks in which the Natives would be disposed to sell or lease being so large is it possible that the Court would have time to undertake the duty which you have suggested?—Not unless you greatly enlarge it. I merely mention the Court as the best authority or the officer which I should prefer. But, although I am in the presence of this Committee, I must say that the House of Representatives has been so parsimonious in its treatment of the Native Land Court that I am afraid an entirely efficient establishment is something we can never hope for.

616. Then, if I understand you, you say this: that, in your opinion, unless the present establishment shall be greatly increased, the Court could not hope to do this duty completely?—I am afraid it could not do it with its present staff.

617. Then, assuming that to be so, that an officer or officers are appointed for the purpose, do you or do you not think that it would be a dangerous power to leave in the hands of an officer—that of deciding whether there are sufficient owners present to justify his disbursement of these moneys?—There is not, it appears to me, much risk about it, or at all events very little. Supposing your local officer to be the Resident Magistrate, for instance, he would look to it that notices were sent out that on a certain day the money would be divided. When it was known that on that certain day the money was to be divided, the Natives, you would find, will be there. If, on the other hand, it became known that there was to be an appeal to the Committee to upset all that had been done, some people would stop away on purpose.

WEDNESDAY, 2ND SEPTEMBER, 1885.

Mr. F. D. FENTON: examination continued.

618. *Hon. Mr. Bryce.*] Towards the close of your evidence yesterday you were good enough to give a very graphic description of a change that has come over the Maoris in the manner of receiving payment for their land; I want now to bring out two points in connection with what you have described. I will put my questions with a view to elicit them, but perhaps you would be able to describe what I mean without putting these questions. Briefly, I want to know—(1.) When that change began to come about? (2.) What brought it about? I could of course put questions to bring the answers out, but if you see my meaning it is very much better that you should give the description yourself?—You are speaking with reference to the disposition of the money?

619. Yes.—A change has come over the Maoris in the way of receiving these payments, and I may tell you, further, that I dwell on this point because I see that a great difficulty is to arise, whatever system we may adopt, from the disbursement of this money?—I do not think I can say

exactly the date when it commenced. My knowledge of any change in the old feeling of honour among the chiefs, which I described yesterday, did not come to me until some years after the division of that money had taken place. The knowledge of the change came to me at a subsequent period.

620. May we assume that this feeling of honour rendered the disposition of the money easier? —I should say so.

621. Did it exist generally previous to the year 1862?—Yes.

622. In other words, it existed during the prevalance of the system of purchase under the "pre-emptive right of the Crown"?—Yes; but in this case the principle *post hoc propter hoc* does not apply at all. I do not think it was the system of purchase that caused the difference. I think it was the mode of ascertaining the title. Previously to the time you speak of—it does not matter about the date, 1862 or 1863 will do as well as 1865—the owners of land were not known. It depended upon the experience and skill of Sir Donald McLean and his officers to find out who were the proper people to deal with; the men he dealt with were the Native chiefs.

623. Do I understand you to say that Sir Donald McLean took the signatures of the chiefs for the purchases?—I should not like to answer that question in that general way. I had a great many purchase deeds produced before me as Judge of the Native Land Court; some had only two or three signatures, some had a great many. I apprehend the system, so far as I could be a witness of it, was this: that he (Sir Donald McLean) talked to and negotiated with the chiefs; then, as a rule, the chiefs would tell their people what he had been saying to them and what they were going to do. Afterwards, I think it very likely, having made arrangements with the chiefs, he would get as many people to sign as possible. I may mention a case because it will declare my mind on the subject better than I could do it now, as the question came before me in my judicial capacity. It was the case of Heremaia Mautai in the other Island. The objection to the deed was made by a lawyer, and there was a lawyer on the other side; that is, the point was argued by two lawyers with very considerable ability. I think, if I remember rightly, it was Captain Symonds's deed. The deed purported to invest the land in Colonel Wakefield on behalf of the New Zealand Company. The point was, that Heremaia not having signed the deed was not bound by it. I gave a decision upon it. I would rather refer you to that decision. It is in print. You will get from that better than I can give it to you the views I have upon the subject of this question.

624. Would you mind saying whether your decision upheld the contention of the lawyer or overruled it?—I overruled it.

625. Nevertheless we may assume that, whatever the reasons were, the fact is that the disbursements of money for the purchase of their land among the Maoris was easier under the pre-emptive system of purchase by the Crown than it is likely to be now under the present system?—No doubt; but I must qualify that in this way: if you persevere in ascertaining the title and discovering the owners of the land, and give them a certificate of title, the difficulties the Crown will then experience will be precisely the same as the private purchaser would experience. It was easy in those early times because many of the persons who were to receive the money were not known at all; generally only the chiefs were recognized and they had all the difficulty of dividing the money among the others.

626. After the pre-emptive right of the Crown was waived by law, as you described yesterday, private purchasers commenced operations; when did private purchases commence?—In 1865.

627. In your opinion, did the efforts made by private people to purchase bring about that altered state of feeling on the part of the Maoris in reference to making the disbursement of payment difficult? You see I am now coming to the second part of my view?—Yes, I think it was so; I think it must be so, until you can invent some system (which I look upon as impossible) by which you can define the interests of owners, that is, their proportions of the money. It will be impossible to do this by a European Court.

628 Then, after this time, whenever the Crown desired to purchase land from the Maori, they had to do so in competition with private individuals?—It was so, but, if I remember right, the period at which the system of land-purchase operations, which had died out—"dried up" was the phrase for it used in Parliament—a very expressive phrase, I thought—recommenced did not arrive until Sir Donald McLean's Government.

629. Was that about 1870?—Yes; from 1865 to 1870 the Crown was not purchasing at all.

630. Not actively?—Not actively. I remember when Sir Donald McLean came into the Government, with Mr. Fox, I think, and some others, he came to me and said, "We are going to have a Public Works Act, or we are going to have public works." He then said, "Will you draw me a clause that will protect us when we want to buy lands alongside the railway?" He meant, I believe, to protect him from competition. I drew up the clause. It was put into the Act with some alterations, which I saw afterwards. I did not know that it was altered at the time, but it was altered. Then the purchasing operations on the part of the Crown commenced actively. Agents were sent all over the country again.

631. That system of purchase by the Crown must have been, may we presume so, very different from the former system under pre-emptive right?—Yes.

632. Did that system tend, in your opinion, to increase the difficulty of satisfactorily disbursing the payments as compared with the former system under pre-emptive right?—No doubt; it could not be otherwise. I apprehend the difficulty the Crown would have would be as great as that of the private purchaser. I speak with some deference in the presence of Captain Mair, who has had a great deal of experience in the matter of paying money to Natives.

633. You told us that you understood the object of the clause which you drew up to be "to protect the Government in acquiring lands near the railway"?—It was so stated to me by Sir Donald McLean. I believe that I put in a preamble to that effect.

634. Was that used afterwards in a more extended sense?—Yes.

635. Will you describe shortly how it was used in a more extended sense?—Shall I ell you a case?

636. If you please?—There was a block of land called Rotomahana Parekarangi. It comprised between eighty and ninety thousand acres. It belonged generally to different sections of the big tribe of Natives known as the Arawas. The Government agents made arrangements with some of the people: I do not know their names.

637. Were they owners?—Some of them turned out not to be owners. But the Government officers made an arrangement for either a twenty-one years' or a thirty-one years' lease, at £130 a year. I speak from memory as to the sum, but I think that was the sum. One year's rent was paid. From that day until now no rent has been paid. The owners altogether objected to proceed with the agreement; in fact, they asked me to try and ascertain who it was that the Government made the arrangement with; but they never succeeded in finding out. It subsequently passed through the Native Land Court and was cut up into eight or ten pieces. The chief of that tribe, I may say, is one of the few men that I know who is a thorough gentleman: he is as true a representative and type of the old Maori chief as you will find in New Zealand—Te Keepa Rangipuawhe, a man whom I have the highest respect for.

638. Does he live at the Wairoa?—Yes. He came to me. In fact, I had several conversations with him about the matter. He considered that he was suffering a great hardship that his land should have been proclaimed.

639. Under this very clause?—I think it was proclaimed under my clause, though I never saw the Proclamation. I know it was proclaimed under the Act of 1878. The matter was brought to a head in this way: he or his wife, or some relative of his—is there a man named Michael Kemp, Captain Mair? [*Interpreter:* There is. That is his son.] At all events, some relative of his got a lot of goods from an Auckland tradesman—clothing, and necessary things of that sort. He was threatened with proceedings, and he gave a promissory note. Te Keepa became very anxious about it. The amount was £70 odd, or something about that. He felt that the only means he had of paying this debt and some other small debts were by the sale of some portion of his large estates, but these were unavailable. I had advised him that I knew of no remedy. A petition to Parliament might do him some good; but I very much doubted it. But I told him that if we were in England there was a remedy there made for such a case as his, and that he might try it in New Zealand. This was the petition of right. He presented to the Governor a "petition of right"—the old English remedy—stating the circumstances, and complaining that right had not been done to him, inasmuch as the proclaiming powers of the Crown, given by Parliament to the Governor for one purpose, had been improperly used to his disadvantage. An answer came from the Governor, stating that he was advised "the petition was irregular." I think these were the words. If a petition of right were presented to the Queen it would be returned with the answer "Let right be done," and it would go to the Queen's Bench or other Court, where the complaint would be tried as an ordinary action. The proper course, whether the petition was right or wrong, was to refer it to the Supreme Court, where the Attorney-General would demur; and, if it was wrong, get it dismissed. There the matter dropped.

640. Then practically the effect of these Proclamations was to restore the pre-emptive right of the Crown over the blocks to which they were applied: is that so?—No doubt.

641. Do you think that this power of proclamation has been used to a greater extent than was contemplated by law?—I think so.

642. That, in short, it was abused?—That is the word that I would use if I were out of doors.

643. I would like to put a question or two to you touching some answers of yours yesterday in reference to the pre-emptive right of the Crown; that is to say, to the absence of power to restore that pre-emptive right when it has been waived by the Crown. You are aware, I suppose, that the General Assembly of New Zealand—that is to say, the Representative of the Queen, the Legislative Council, and the House of Representatives—have very large powers to the preservation of good order and good government in the country?—Yes.

644. Now, in order to make the questions and answers clearer, I would, if you please, refer to that portion of the country that was included in the Alienation Act of last session, that is to say you are aware that that Act absolutely prohibited—so far as an Act can prohibit anything—private individuals from purchasing any portion of the land described in the Schedule to that Act: did that Act debar the Crown from purchasing?—The Crown is bound by no statute unless specially named therein; if the Crown is not specially named there is no bar.

645. The Crown is specially named, but with the right to purchase?—That was wholly unnecessary; it is supererogation.

646. I pointed out that at the time, but what I want to ask you is this: Does not this Act of last session restore the pre-emptive right of the Crown in a more absolute way than what the present Bill proposes to do generally?—No doubt.

647. Are you aware whether the power of the Assembly to pass this Act has ever been officially questioned?—I am not.

648. Would you be good enough to refer to clause 25 of the present Bill: "Owners may sell or lease to the Crown without and notwithstanding the appointment of a local Committee: a local Committee may sell or lease to the Crown: a conveyance or lease of land made to the Crown executed by the members of a local Committee shall be good and effectual, and be entitled to registration." Is that the clause which you regarded yesterday as being *ultra vires* of the powers given by the Constitution Act of New Zealand?—If you remember I said Parliament was omnipotent and had power to do what it thought fit. We have no Court here which questions the constitutional character of a law as they have in America. Parliament, doubtless, has the fullest power to make any alteration in the law it thinks fit. Similarly the Imperial Parliament would have power to make any alteration in, say, the Act of Union with Scotland. No doubt it could do it, for that is now part

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

by the Ngatihaua and other allied hapus. It had never been divided among the people. It was not ancestral land. It was obtained by force of arms in 1831. Nine years afterwards there was the land still undivided. They made a certain rough arrangement among themselves that this hapu should have that piece of land, and that this piece of land should belong to a certain other hapu. The Court sat, and found that there were, say, forty owners of a certain block. I told them that we could only put ten in the grant, and that they must subdivide into four pieces. They objected to that on account of the expense of survey. I said then that no grant could issue, and the case was adjourned. They came afterwards. They agreed on a subdivision into two pieces, and that ten should go into one grant and ten into the other; and that the people who were cut out should be provided for somewhere else. I explained the effect to them. I remember it all perfectly well. I recommended them to be cautious as to what they did, for the grantees when they got the grant could sell and do anything they liked with the land, and those outside would be entirely at their mercy. They said there was no danger, that it was all right, that the others were provided for. Afterwards it was found that certain sets of the owners sold, and other sets of ten did not sell. They were prudent. But now those who had sold (having eaten their pudding) came in and claimed title with those who had not sold their grant. That was the general character of these transactions. It was never intended that there should be trusts. The grants were founded on an arrangement assented to by the whole of the people in the presence of the Court. There was another class of cases, slightly different, in which they had already sold the land or agreed to sell it in a large block, rather than go to the expense of survey. "It is only a question of money," they said, "let us have ten in as it is, and we will divide the money: let it be sold." These proceedings were at the early date or commencement of the existence of the Court. We were all men of some experience. We had a belief that, however, Maoris might behave to Europeans in the way of "sharp practice" (that is the nice phrase for it, and it is not a bad phrase to use), they would not resort to it as against each other. It was not so. Our confidence was misplaced. We found they cheated each other.

662. Now, in that latter class of cases, these people might not improperly be called trustees—not in the legal sense, but in a moral sense—for the remainder?—Trustees of the money.

663. Then, you think they have not always been faithful to an implied trust?—No.

664. Now, looking at the Committees as proposed to be constituted under this Bill, do you see any danger of similar abuses of implied trusts?—I think I expressed myself favourably of the Committees of management, provided they have nothing to do with the money, as to fingering of it in any way.

665. I will not go further into that, because I put the same question to you yesterday, and it appears to me you have sufficiently answered it?—I have since then thought over the matter, and I am rather confirmed in that view. I have before me a Bill which I drew to enable certain Maoris to settle their private estates. It was intended to be an Act for the Settlement of certain Lands in the District of the Bay of Plenty belonging to the Members of the Ngatiwhakaue Tribe.

666. We will come to that presently, but I had proposed to ask you, if you will be kind enough to give us your ideas on the subject generally—that is, what a good Native Land Act, in your opinion, should be, you rather demurred to do so yesterday. I am anxious to have your opinion on the subject, and, if you would wish to enlighten the Committee, I am sure they would also like to have the benefit of your experience. I wish to give you the opportunity of expressing your opinion. I think what you were going to read just now will probably form some part of your reply. Perhaps you would not object to answer that question after giving your other evidence. Meantime I will pass from that general subject, and ask you about the block of land which you described as having been cut up and sold for the benefit of Maoris on the line of the Helensville railway—the Helensville railway now going through it—how was the sale of that land managed; was there any exceptional expense or higher charges connected with it?—The large item, I think, was for surveys.

667. What was the quality of the land?—Alongside the railway it is very bad. They are cultivating it now, but I would not like to undertake it. Towards the sea it is a better quality of land. There is a very large quantity of valuable timber on it. It has been very recently purchased for the timber upon it.

668. I presume that the land sold brought rather low prices?—I think it did not sell at first, or very little of it; they did not sell at all, I think, for many years. It was in 1867 or 1868 it began. It has been dropping off gradually ever since. Whether it is all gone now I am not certain.

669. Were the upset prices high?—I do not remember. I only remember the general result. Mr. MacCormick was the gentleman employed in doing it. He told me he looked on it as a failure.

670. Was it, in your opinion, a favourable block of land to try such an experiment upon? You can answer that from your present knowledge if you like?—From my knowledge of the Provincial District of Auckland, excluding the East Coast, which I do not know much about, I should say there are very few blocks upon which it would be wise to try such an experiment. The quality of some of the land is very poor, with the exception of some blocks and the totara forests, which are only valuable for timber; but these totara lands, after the timber has been taken off, in a space of two or three years, become totally barren. Going towards the the land becomes better. With the exception of the Rangtioto Valley and some of the forest lands and the scattered fertile places, I do not think there is any land you could experiment on in the way you suggest. It would not pay for the fencing.

671. *Sir. G. Grey.*] I did not hear the last bit of your evidence. You said you could do nothing with the land ultimately?—With the exception of these oases, I do not think there is any land that would be remunerative to the seller if cut up for farms as Taupaki was cut up.

672. The mode of disposal could scarcely improve the quality of the land. Might it not be a bad investment for the purchaser by whatever method he purchased?—I should say, speaking briefly, of

the Bay of Plenty country, with the prospect in view of the heavy taxation we are likely to have, that I should be sorry to have the great bulk of it for nothing.

673. *The Chairman.*] That is, if you had to keep and cultivate it?—Yes. I think if I had it, I would get rid of it to-morrow if I could.

674. *Hon. Mr. Bryce.*] Then, if that is the case, the fact of the sale of that block having failed in the manner you have described can scarcely prove that system of dealing with the land to be a bad system: it proves nothing, the fault being inherent in the land itself and not in the system?—It comes to this: that if you have a piece of land of ten square miles in extent and you cut it up into ten pieces, you have to pay £3,200 for fencing, which expense you would avoid if you kept it in one block. I calculate fencing to cost £80 a mile: that would be £320 for the square mile.

675. Your evidence, or your opinion rather, goes to show that the only hope of dealing properly with such land is to deal with it in large blocks?—That is so; and not only in large blocks, but with considerable sums of money.

676. This closes my questions, with the exception of one more, which I have already indicated, and which I shall now put to you. I know you are a gentleman who has studied this question at considerable length. I am sure the Committee would be gratified if you gave them your opinion as to what a Native land law should be. I, for one, would be gratified, and I feel that the Committee would be gratified?—I should be very glad to do so if I thought it could do any good. But I have had an oppressive feeling on my mind through this investigation—I may be wrong, but it is there—that my day is gone; that I should look upon myself as a man of a past generation, and having no influence in the present. We are "old identities," and our experience is very slightly valued now-a-days. I think, if I am allowed to form an opinion from observation of proceedings in Parliament, that my views would not be palatable; and if they are not palatable they would not be accepted. For instance, the very ground of my creed in dealing with this subject would be that the Government of the colony should confine itself to its business of governing, and should not be interfering with Maoris in every operation of their life. Still, if honourable members wish me to give my views on this great question, I will do so, but with a certain amount of *pouri;* that is, of darkness, of sadness, that I shall do no good.

677. I assure you that I shall be glad to hear your views. I will tell you the length to which I have got: although I have filled the office of Native Minister, I have just got to the length of distrusting my own judgment?—That is a great step. My first principle would be, having elaborated a good system, acceptable to both races, to put it on such a foundation in Parliament that the Government (which means, under responsible Government, the Ministry of the day) should have no power whatever to interfere with its working. I would then say that my system should be founded on the recognition of principles some of which I am afraid will hardly be acceptable to my Maori friends on the left here, but which are true nevertheless. My mind on these matters is very clear. First, having ample lands marked off for their own cultivation—under the word cultivation I include all the means by which, in the old days and up to the present, the Maoris obtain the means of subsistence—fisheries, eel-weirs, fruit-groves, and so on—the Government, through an officer appointed, having effectually provided for that, my opinion is that the sooner the Maoris get rid of all their surplus lands the better for them. I believe that the sooner they are taught the lesson, which we have learned through many ages of progress towards civilization, that every man must work for his living, the better it will be for them. I think the state of bodily inactivity, except in connection with the Land Courts, and the conditions of mental inertness, will aid in expediting their decrease in this country. I will not say altogether what I think upon this matter. One of the most painful thoughts I experience, being the author, to a large extent, of the Act of 1865, is that the operation of the Native Land Court has been entirely to destroy the chiefs of the country. That is a matter of deep regret to me. I should like to have seen a very considerable proportion of the proceeds of those lands that have been sold invested in some way for the chiefs. There are two principles which contribute to the conclusions at which my mind has arrived. [There was a sentence missed here through noise in the room.] In the first place I would accept the principle of Mr. Bryce's Bill.

678. Which Bill do you mean?—The Agency Bill. I would exclude all the burdens that he has put into that Bill, but I think the Government is entitled to charge a percentage, say, 10 per cent. or more, for the trouble and expense they are put to in keeping those Courts going and conferring title. But the other charges which were in the Hon. Mr Bryce's Bill would not be in my Bill. Again, I think that selling by auction by the Waste Lands Board would be utterly destructive of any consideration coming from the land to the Maoris; but I think it would be advisable not to compel, but permit, the Maori to sell land through the Government agent, or privately by agent, or, if they think fit, by auction, not in small pieces necessarily, but in any sizes, to the public through the agent, or through private persons if they like. I am quite convinced that the cutting-up of great blocks of land in the Province of Auckland would consume all the district purchase-money. Simultaneously with that system I would have an alternate one. Having ascertained the title I would allow private purchase to go on in blocks of any size. I would compel the purchaser to give notice to the Government that he purchased the piece of land described in his notice, with a statement of the expense he had been put to, properly vouched, and subject, of course, to examination thereafter. I would do that simply on account of the public and the presumed necessity of providing for immigration, if such there be—not that Government has any right over this land but such rights as they created by expenditure on railways and other public works. Within three months after the Governor has received that notice he can give the purchaser notice in return, if he sees fit, with the acquiescence or at the request of the Surveyor-General, and the local Commissioner of Lands (so as to prevent political influence coming in), that he will take the land from the European purchaser. On paying the price, after satisfying himself that the statement returned was correct, with, say, 20 per cent. (which I mention as a purely conjectural sum) for agency charges and so on, the purchaser should be bound to convey to the Crown. That would

enable the Government to acquire any lands they thought fit along the railways or elsewhere, and at the cheapest rate too. The purchaser would not falsify his accounts because there would always be a check upon him; nor would he pay an exorbitant price because he would be under the fear that the Government might not take it, but leave it on his hands. As to taking accounts, I suppose there would be no more difficulty than in calculating the consideration-money and assessing the duty on deeds, which I had to do myself for years. I think that until the Natives have sold their land there ought to be no taxes put upon it. They cannot pay, and it would come to nothing but an incumbrance on the land, and an inducement to them not to get titles, but to maintain the communal ownership. That is a very brief sketch of a plan which I think would work with advantage to both races. By this plan every Maori agent would find his interests on the side of the Government, instead of in hostility to it. Moreover, the Governor or Native Minister would then occupy a position of dignity with respect to the Natives, for he would not come in contact with them as a person desiring to possess their property—a position entirely destructive of mutual confidence. Of course there would be the preliminary necessity, which must be apparent to everybody—namely, that the Native Land Court should be put in a respectable position, holding its authority as other Courts do, and not subject to any authority or interference from the Government, and as little as possible—as I may say so in this room—to the supervision of the Native Affairs Committee. I presume that if the Judge, having accepted office during good behaviour, as I did, were guilty of misconduct, he would be removed, as I presumed they would have removed me if my conduct had been ill, instead of sitting as a Court of Appeal on my decisions; that is, they would have got rid of me and obtained the services of a better man. Auxilliary to that general improvement in the position of the Court would be, of course, the providing for what I have always felt was an imperfection in our system, the want of an appellate tribunal for rehearing. There is a great objection to the Governor in Council or the Native Land Court itself doing this duty. I think that a better tribunal could be found than either of them.

679. What tribunal would you suggest should it be—the Native Affairs Committee: I mean what sort of tribunal?—I have thought of that question, and I can find nothing better than an external tribunal altogether. I should prefer a Judge of the Supreme Court or a skilled lawyer especially appointed for that duty, and no other. This is somewhat obscurely sketched, but these are the ideas I have. These two plans should be put into one Bill, and the Maori owners allowed to operate under either as they might think fit.

680. Then, as to the question of looking after the moneys?—The Commissioner in Mr. Ballance's Bill, if separated from his colleagues, would, I think, be a very good man for the purpose. As to ascertainment of title and disposal of lands, and the way it should be done, I have thought that the Bill which I have before referred to would represent my ideas on the subject to the Committee. It would do it much better than I could in replying to questions, because the whole subject was well thought out in drawing it up. It is entitled the Ngatiwhakane Estate Settlement Bill.

Colonel Trimble: We can take that as part of Mr. Fenton's evidence.

681. *The Chairman.*] I presume Mr. Fenton will not object to leave it with the Committee?—This is the Bill I refer to.

Ngatiwhakaue Estate Settlement Bill.

[The words inserted in italics are proposed to be inserted in Committee.]

A Bill intituled an Act for the Settlement of certain Lands in the District of the Bay of Plenty belonging to the Members of the Tribe Ngatiwhakaue.

Analysis.

Whereas the Native persons composing the tribe called Ngatiwhakaue have been found by the Native Land Court to be the owners of the land comprised in the blocks mentioned in the Schedule hereto, and such land has been divided under the provisions of "The Native Land Division Act, 1882," and orders have been made by the said Court declaring certain persons in the said orders named to be the owners of the said several blocks respectively:

And whereas at the request of the said owners the said blocks of land were ordered by the said Court to be subject to the following restriction or condition, that is to say, that the land comprised therein should be inalienable by sale or mortgage, or by lease for any period, except by consent of a majority of the owners living and adult at the time of the making of such lease: Provided that the consent of the Governor for any such leasing be first obtained:

And whereas companies have been established for the purpose of forming railways from the Auckland-Waikato Government Railway to Rotorua and from Tauranga to Rotorua respectively; and the making of such railways would be of great public advantage, and would greatly increase the value of the lands and estates of the said owners. And they are desirous of assisting in raising

funds for the formation thereof, but they have no means of so doing except by the devotion of some portion of their lands for the purpose:

And whereas the whole of the said blocks of land are included in a Proclamation made on the twenty-second day of October, one thousand eight hundred and eighty-one, under "The Thermal-Springs Districts Act, 1881," by force of which Proclamation the said owners are prevented from alienating any of their lands in aid of the formation of the said railway or otherwise:

And whereas there are no mineral springs or thermal waters in or on the said blocks of land or in or on any of them:

And whereas the said owners are desirous of making a settlement of their said lands, so that sufficient portion thereof may be made perpetual reservations for the use and benefit of themselves and their successors, and the remainder of the said lands may be made available for occupation by European colonists, in such a way as may avoid the expense, trouble, and delay which has hitherto affected dealings with lands the property of Natives:

And whereas the scheme for effectuating the aforesaid objects has been agreed to by all the said owners, and is hereafter set forth:

And whereas such objects are not attainable otherwise than by legislation:

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

General.

1. The Short Title of this Act is "The Ngatiwhakaue Estate Settlement Act, 1884."
2. In this Act, if not inconsistent with the context,—
   "Court" means the Native Land Court:
   "Owners" means the persons named in the said orders of Court made under "The Native Land Division Act, 1882," and their successors:
   "Committee" means the Committee constituted by this Act, and the Committee for the time being in existence hereunder:
   "Resident Magistrate" means the Resident Magistrate stationed at Tauranga until such time as a Resident Magistrate is stationed at Rotorua, when the phrase shall mean the Resident Magistrate stationed at Rotorua.
3. This Act shall avail and be in force notwithstanding any Proclamation heretofore made or or hereafter to be made under "The Thermal-Springs Districts Act, 1881."
4. There is established by this Act a Committee consisting of the following persons: Petera Pukuatua, Henare Pukuatua, Pererika Ngahururuhu, Hamuera Pango, Eruera te Uremutu, Mohi Moke, Aterea Pango, Te Whareauhi, Arataki Rotohiko, Haupapa Paora, Te Amohau, Retireti Tapihana, who, with their successors, to be appointed as hereafter set forth, shall be called "The Ngatiwhakaue Estate Committee," of whom seven shall be a quorum.
5. Whenever any of the persons hereinbefore named shall resign or die, the rest of them shall, by resolution, appoint another of the owners in his place, selecting such successor from the hapu of the person dying or resigning, and so *toties quoties*.
6. The power and authorities of the Committee shall not be affected or diminished by reason of any diminution of their numbers by death or resignation, but the remaining Committeemen shall have effectual power and authority under this Act so long as there shall be a quorum.
7. The Committee may frame rules for their guidance and the conduct of their business, and may from time to time appoint a Chairman, and shall keep a book and enter therein all orders, resolutions, and proceedings of the Committee; and the record of each meeting shall be signed by the Chairman of such meeting.
8. Such book shall be received in all Courts as evidence of the orders, resolutions, and proceedings therein recorded, without proof of the signature or appointment of the Chairman.
9. The first meeting of the Committee shall be at the house called Tamatekapua, in Ohinemutu, on the first Tuesday in December next, at the hour of eleven o'clock in the morning; and, until the Committee shall make other provision in this behalf by resolution, a meeting shall be held on the first Tuesday in every month at the same time and place. The Committee may adjourn their meetings, and may meet as often as they think it proper to fix by resolution.
10. The Committee shall deposit with the Registrar of the Supreme Court a schedule of the names of the persons constituting the Committee, and shall deposit with that officer a new schedule whenever any person shall be added thereto, as hereinbefore prescribed. Such schedules shall be open to public inspection.

Powers of Committee.

11. The Committee may from time to time exercise the powers and do the things following:—
   (1.) Set apart and reserve as absolutely inalienable to Her Majesty, or any person, the whole or any part or parts of any or all of the said lands for the use and cultivation of the respective owners thereof:
   And, as to the remainder of the said lands,—
   (2.) May alienate, by absolute sale, or by gratuitous cession, or by lease, portions to any person or company, for or towards the formation of a railway or other work of advantage to the said lands, or in aid of the funds of such railway or work; and may make any contract or arrangement it may think fit either for gratuitously ceding land to, or for exchanging land for shares in, the company negotiated with or for selling land for the joint benefit of the owners and the company;
   (3.) Dedicate land for roads, schools, places of worship, or other works of public advantage;
   (4.) Lay out land for townships, subject to "The Plans of Towns Regulation Act, 1875;"
   (5.) Appoint any attorney, agent, or manager, at such terms as may be agreed upon; and
   (6.) Do anything that may be necessary for the advantageous management and administration of the said lands.

12. All lands subject to this Act, excepting such part or parts thereof as may be made inalienable under the provisions before contained, and not required for roads or the other objects stated in subsection (3) of the preceding clause, may be demised and leased by the Committee in such quantities and subject to such conditions and at such times as it shall think fit, and for any term of years not exceeding ninety-nine years, and for such rents as can be got for the same by public auction, without any price, premium, or foregift for the making of such lease. At least thirty days' notice shall be given by advertisement in a newsper published in the City of Auckland of any such public auction.

Money.

13. All rents or other moneys payable to the Committee shall be paid to a receiver to be from time to time appointed by it by resolution, whose receipt shall be a sufficient discharge to the person paying the same; and such moneys shall from time to time be by such receiver paid over and applied as the Committee shall, by order respectively signed by any three of them and by their Secretary, direct.

14. The objects for the application of such moneys shall be payment for clerical, professional, and other assistance, and the payment of the balance, after deducting the proportionate share of such previous payments, to the owners of the land whence the money dealt with arises.

15. The Committee shall keep a book of account containing an account for each of the said blocks of land, showing therein the moneys paid and the moneys received on account thereof; and any owner shall have the right of inspecting such book so far as the block in which he is interested is concerned.

16. The apportionment made by the Committee of any payment made for surveys or other clerical or professional assistance shall not be questioned by any owner.

Legal.

17. All deeds or instruments of conveyance under this Act, either absolute or by way of lease or partial interest, by which any interest in land shall purport to be conferred on any person by the Committee, shall be made in the name of the Ngatiwhakaue Estate Committee, and shall be valid and effectual if made and executed by any five of the Committeemen, authority so to sign having been previously given by the Committee at a regular meeting. The purchaser shall not be bound to inquire as to the regularity of a meeting authorizing such signing, nor as to the authority or constitution of the Committee, nor shall his estate, interest, or title be affected by any irregularity or want of authority.

18. All such deeds or instruments shall be in the English language, with a Maori translation annexed. Both shall be executed in the presence of a Justice of the Peace and a licensed interpreter. The attestation shall certify that the signor read the instrument in Maori, or that it was read to him by one of the witnesses before his signature was attached, and that the Maori translation is a correct rendering of the English instrument. An execution so made shall be valid and effectual, and the validity of the instrument shall not be questioned by reason of any inaccuracy of the translation.

19. On execution of any such deed or instrument the purchaser, grantee, or lessee therein named shall stand possessed of the land so purchased by or leased to him, according to the terms of his deed or instrument, freed and disburdened from all prior rights, interests, charges, incumbrances, obligations, or demands whatever, save and except such rights, interests, charges, incumbrances, obligations, or demands as in any such deed or instrument, conveyance, or lease may be specially excepted or set forth.

20. All contracts executed by any five Committeemen authorized for the purpose by a resolution of the Committee, in the execution of their powers, shall be valid and binding on the Committee and the respective owners.

21. All notices which are to be given by the Committee may be given under the hand of their Secretary for the time being.

22. All notices, writs, processes, and other proceedings, which in consequence of anything done or purported to be done under this Act are to be served on or given to the Committee, may be served by the same being transmitted by registered letter through the post, directed to the Ngatiwhakaue Estate Committee, at Tamatekapua, Ohinemutu, or being given to their Secretary.

23. Any action or other proceeding arising under this Act may be brought and carried on or defended in the name of the Ngatiwhakaue Estate Committee.

24. Any action or proceeding so brought or defended, and any judgment recovered, shall affect or bind the interest of the owners in the particular block of land respecting which the cause of action arises and the owners thereof.

25. The Committee may agree to settle any matter in dispute between it and any person by arbitration, and may execute, in manner hereinbefore provided with respect to deeds, any submission or instrument required for appointing arbitrators.

26. There shall be no personal liability attached to any Committeeman by reason of anything done or omitted under this Act by the Committee unless wilful misconduct or culpable negligence can be shown, nor shall any member of the Committee be personally liable, nor shall his property be liable to any legal process or execution in or in consequence of any such action, arbitration, or other proceedings as aforesaid.

Miscellaneous.

27. Provided always that, if any owner shall at any time desire that any block of land in which he is interested shall not be dealt with under this Act, it shall be lawful for him or for the Committee to apply to the Court to have his interest defined and apportioned under "The Native Land Division Act, 1882," and the Court may then proceed to make an order as in the case of an ordinary

application thereunder; but in all such cases the piece of land so apportioned for the recalcitrant owner shall be absolutely inalienable, and the Court shall make order accordingly.

28. If any owner is dissatisfied with the conduct of the Committee respecting any money which such owner is or claims to be entitled to, he may apply to the Resident Magistrate, and the Resident Magistrate may then, if he thinks fit, but discretion is hereby given to him whether he exercises this authority or not, summon the Committee to appear before him. The Committee shall thereupon produce their book of accounts and vouchers. The Resident Magistrate may not question the wisdom or propriety of any payment proved to have been made by the Committee, but shall examine the accounts as an auditor would examine them, and shall give his judgment between the parties simply on the ground of account. Nor shall he entertain the question of sufficiency or insufficiency of the share apportioned by the Committee to the applicant.

29. It shall be lawful for a Judge of the Supreme Court to order that any other block of land shall be deemed to be included in the Schedule to this Act, and to be subject to the provisions thereof, if he shall be satisfied that such block has been decided by the Native Land Court to belong solely to the persons herein called the owners or to any of them, and that they are desirous that it should be subject hereto; and upon such order being made the land comprised therein shall be subject to the provisions of this Act as effectually as if it had been included in the said Schedule.

30. On the first Tuesday in December, one thousand eight hundred and eighty-seven, the members of the Committee named in this Act shall go out of office, and another Committee of the same number shall be elected by the said tribe Ngatiwhakaue after the Maori custom. Old members shall be eligible for election. When the schedule containing the names of the new Committee, certified by the Resident Magistrate, shall be deposited with the Registrar of the Supreme Court, such Committee shall have all the powers and liabilities hereby conferred or imposed upon the Committee constituted by this Act, and shall be in all respects as if constituted by this Act, and as if the names of the members thereof had been inserted herein, and so at the expiration of every three years.

SCHEDULE, showing Name of Block and Estimated Area.

WHARENUI A, 2,330 acres; Wharenui B, 320 acres; Puketawhero A, 995 acres; Puketawhero B, 320 acres; Owhatiura South, 775 acres; Okoheriki No. 1D, 3,632 acres; Okoheriki No. 1E, 2,681 acres; Okoheriki No. 1F, 891 acres; Okoheriki No. 1H, 1,300 acres; Okoheriki No. 1H^1, 50 acres: Okoheriki No. 1H^2, 50 acres; Okoheriki No. 1I, 1,250 acres; Okoheriki No. 1I^1, 50 acres; Okoherika No. 1I^2, 100 acres; Okoheriki No. 1K, 896 acres; Rotohokahoka C, 2,372 acres; Rotohokahoka C1, 50 acres; Rotohokahoka C2, 50 acres; Rotohokahoka D, 3,300 acres; Rotohokahoka E, 50 acres; Rotohokahoka F, 1,520 acres; Rotohokahoka F1, 50 acres; Rotohokahoka F2, 50 acres; Waiteti No. 2, 4,800 acres; Kaitao No. 2A; Kaitao No. 2B; Kaitao No. 2C, 100 acres; Kaitao No. 2D, 200 acres.

THURSDAY, 3RD SEPTEMBER, 1885.

Mr. F. D. FENTON'S examination continued.

Mr. Fenton: I wish to qualify or to supplement my evidence given yesterday, in reply to questions put to me by Mr. Bryce upon two matters which, being left incomplete where he dropped them, might tend to mislead. What I said was correct; but the examination stopped at a point which left the conclusion arrived at imperfect. To save time I have written out what I wish to add as follows: "When, in reply to Mr. Bryce's question whether the ten owners under the Act of 1865 could not, in truth, be trustees of the money, though not of the land, I replied, 'Yes,' I desire to qualify that answer and to say 'they would be trustees even of the purchase price of the land, when sold, only in a moral sense, not in a legal or equitable sense, or in any quality which would render them amenable to Courts.'"

682. *Hon. Mr. Bryce.*] You are using the word "equitable" there in its legal sense?—Yes, in its technical sense; we are often misled by the confused use of this word.

683. It might mislead a layman but it would not mislead a lawyer. It might be taken to mean in one sense "justice;" that is, in effect, that these persons could not, with justice, or justly, be regarded as trustees?—I think, when you take it with the context, you will perceive that it is used only in a "moral" sense, and therefore it is sufficiently explanatory. The word "justice" by itself has no meaning, for what is just to you is not just to me, and what would be justice to others would be injustice to us, and so on. I think the use of the word "moral," in the context, will lead to the correct inference, especially when read with what follows: "or in any quality which would render them amenable to Courts." I also wish to explain, with reference to the old land-purchase operations which terminated with the Maori wars, that in later days the first purchases made from the first settlers were rarely conclusive. After one lot of settlers had been paid another used to start up, and the Land Purchase Commissioners, who had to give a title conferring undisturbed possession to the settlers, were compelled to extinguish their claim, and so on, as often as a new set of claimants started up. In the case of Rangitoto (in the Harbour of Auckland) four sets of deeds were produced before me, representing four tribes or hapus, all of whom had been bought out. Finally, Governor Browne, driven to extremity by the difficulty of procuring land attempted, in the case of the Waitara Block, to purchase from the individual. War, which had long been threatening, then broke forth. In truth, the Government were unable to acquire more land under the pre-emptive system. All the District Land Purchase Commissioners, in reply to a circular, had, in no less strong language, reported that the system could last no longer. Mr. District Commissioner Cooper (now Under-Secretary), writing from Hawke's Bay District, well expressed the general sense of the Commissioners as follows: "I am asked to report

on the state of the land-purchase question in Hawke's Bay. In reply, I have to state that there is no land-purchase question. These reports are contained in a Blue Book. When the system was recommenced in 1872, under Proclamations which excluded competition from private purchasers, difficulties began to display themselves, and the Government officers were compelled to resort to the system of getting individuals to accept deposits, affording a remarkable contrast to the publicity of the old system. In most cases the Government have not succeeded in getting whole blocks, but have been compelled to employ the Court to cut off portions of blocks equal to the money paid. In other cases the land is still locked up. Deposits paid in 1872 or 1874 remain as they were: the Natives refuse to complete, the Government refuse to withdraw." It was my duty subsequently to sit as Judge on that Waitara Block.

Hon. Mr. Bryce: Your explanations make more clear to me what I already understood.

648. *Mr. Locke.*] Do you go much amongst the Natives now-a-days?—No.

685. Are you in the habit of talking about these matters tothem at the present time: have heard them discuss the Bill?—I think not.

686. Have you had no conversation about it?—Speaking generally, I have had no conversation at all about it. I remember when last here a copy was given to me, but that copy was not given to me to give to any one else or to talk about it.

687. Have you read the amendments proposed by the Native Minister and Mr. Wi Pere?—I did not know there were any amendments proposed by the Native Minister.

688. Were they not mentioned to you some time since?—You gave me some paper, that is all have seen.

689. You have before you Wahanui's amendments and those of the Native Minister: will you tell the Committee whether these alter the principle of the Bill at all?—Generally speaking, they are inartistically drawn, but, if I gather the meaning of Wahanui's and Wi Pere's amendments, they make a new Bill of it.

690. *Sir G. Grey.*] What is it you say?—I say that the principle of the Bill is destroyed by these amendments.

691. *Mr. Locke.*] Do they go towards the improvement of the scheme or the contrary?—I see that both Wi Pere and Wahanui have taken many of the points of objection that I have taken, that is, in respect of the very large powers—the legislative power—that is given to the Governor in Council. They have substituted for "Governor in Council" the word "Board." They have also attempted to patch up the Board, and to make it more in consonance with their own notions. In my judgment it ought to be eliminated from the Bill altogether, all but the Commissioner. But I really think that if that Commissioner were made an important officer he might do duties that would be immensely valuable. The duties of that Commissioner should, in my judgment, be confined, so far as land is concerned, to simply seeing that the moneys are fairly dealt with. He should have no jurisdiction about the land at all. Their mana of the land, and the management and entire disposal of it, ought, in my opinion, to be left to the Maoris. I strongly think that no other system will produce any results. If Parliament will also set up this Commissioner, as an independent officer, that is, holding office during good behaviour, only responsible to the Crown, it would be his duty to go through the country and see the most desirable places that should be left as a reserve for every hapu in the Island—places that should be absolutely inalienable. Another most important duty which I thought that officer should discharge, and I think so still—I felt the necessity of it in my office as Judge—power being given to him for that purpose, would be to appoint temporary or permanent representatives, such as Resident Magistrates, if only for a short time, whose duty it would be to follow the sittings of the Native Land Courts, to keep an eye upon them, for they sit a long way off in parts of the country where there is no public opinion —an inconvenient word indeed to apply to a Court of justice—but still I am of opinion that where there is no public opinion there should be, somewhere near, an agent or officer on the part of the Crown. I consider that such an officer as the Commissioner is essential in view of the lot of Government work which is really going on. In view of that, at the same time I propose that it should be his duty, in cases including land at the mouth of a river or the conjunction of two rivers, which ought not to go into private hands, that he should have the right to interview, as representing the Crown, and demand some restriction for the protection of the public. I, therefore, should be very glad indeed to see this Commissioner established, with as much power and authority as Parliament can be persuaded to give him.

692. Would it be an improvement to transfer the Land Court branch of the Native Department to the Minister of Justice?—I would rather not answer that question, for it simply depends on the man. I had considerable experience when I was Chief Judge, I will not say "under," but when I corresponded with, the Minister of Justice. That was a very pleasant change.

693. Would it be an improvement that a portion of the department should go to the Minister of Justice?—I think it would be consonant with constitutional principle; but, then as I said, if the Minister of Justice had been somebody else it would not have been so pleasant as it was.

694. Now, I am going to the land side of the question, that is, to purchase and dealing with lands. If that were placed in the department of the Minister of Lands, you would have nothing left but the Commissioner, and the reserves to be reported on to Parliament?—Do you mean that the Native Minister should be abolished: there is an enormous amount of miscellaneous work that comes before that officer? I have seen it stated that the day was come for abolishing that office, but it has not come, and it will not come for some years yet.

695. Would you mind stating something about the reorganization of the Native Land Court?—Do you require me to do so? I used merely general words. You will understand how distasteful it is to me to say anything on that question. I do not think "reorganization" was the word I used. I think the words I used were equivalent to "setting it up on its legs." I endeavoured to avoid all allusion to any confusion that may be alleged to exist in it at present, or I tried to do so.

696. You say that in 1865 the land-purchase system became different; was not that very much due to the old chiefs dying off, and a fresh generation rising up?—I am afraid that some of these questions are very disagreeable to answer. I am afraid I must say that the generosity of the old Maori chiefs must be attributed to their intercourse with their own race.

697. That change having come about, do you think it would be possible to continue the old form of purchase without ascertaining title?—That has broken down. As to continuing it, there is nothing to continue; all sorts of persons were satisfied in saying that that system had "dried up." All those wars—the Waitara war, the Waikato war, the Hawke's Bay war—arose from one cause.

698. *Hon. Mr. Ballance.*] What cause?—The land.

699. What do you mean?—Attempts to sell land by a portion of the the tribe which had been purchased from another portion.

700. It was under the old system, then?—Waitara was bought in that way.

701. Do you attribute the Waitara war to that cause?—You mean the system of purchase. I do so far that if there had been no attempt at purchase there would have been no war.

702. *Hon. Mr. Bryce.*] At that time?—At that time.

703. *Hon. Mr. Ballance.*] You spoke of three wars?—I have got the impression on my mind, although the grounds of it are gone, that all the wars except Heke's war, which was a purely political war, a war against the English flag, originated in land troubles.

704. *Mr. Locke.*] You know the foundations of the various Land Acts since 1865: I presume you should know them very well: there have been many amendments: do you think those amendments were improvements or in the line of improvements?—I do not think that any of them were improvements except that of 1869. What I mean is, that certain defects had been seen. Naturally, it could not have been expected that the first Act, drawn when nobody had any experience, should have been very good.

705. But what I want to know is, whether we have been going on improving every year: that was my question?—I think we are getting worse every year.

706. *Mr. Ormond.*] You have said that, in your opinion, all the wars originated out of land troubles, and you named three: you named the Hawke's Bay war as one of them: did you mean the war on the East Coast?—No; I meant the war of Moananui and Hapuku.

707. You mean difficulties between the Maoris themselves?—Yes; I was not alluding to the East Coast war.

708. Your answer would have conveyed the impression that you referred to the wars of New Zealand?—I was thinking not of Europeans but of Moananui and Habuka.

709. Respecting the "Commissioner" that you spoke of just now, you described to the Committee certain duties that you would wish such an officer to perform. Among these duties there was one you referred to—namely, that such an officer should go about the country following the Native Land Court and keeping watch on its proceedings?—Yes; I always felt the necessity for such an officer. I stated in the Legislative Council, I think it was in 1870, that there ought to be such an officer, with the right to represent the Crown, not on mere sufferance, but with the absolute right, just as in the Divorce Court, the Queen's Proctor, or in the superior Courts, the Attorney-General, has a right to intervene in certain cases.

710. Did not your evidence just now go to show that you thought such an officer should be a watch on the Native Land Court?—In a certain degree it would be so.

711. That one of his duties would be to report on any misdoing: that was certainly the direction of your answer?—Yes; I think there ought to be some such officer. At present the Native Land Court is a very important institution. I should say that while the country is in this transition state its prosperity depends, or, at least, the prosperity of this part of it depends, more on the administration of the Native Land Court than any other institution except the Supreme Court.

712. To whom is this Commissioner to report?—To the Executive Government.

713. I thought you proposed that this officer should be an officer acting solely in the interest of the public and responsible only to Parliament?—Yes.

714. Would not it put him in an anomalous position if he had to perform such duties and report to the Minister?—I think not. If he were an honourable man it would not affect the way in which he discharged his duties; but, looking at what human nature is—and we must not forget that—if you have an officer liable to be dismissed by the Minister at discretion, the character of his report will not be entitled to as much confidence as if feeling that he had his duty to discharge. Having discharged it—however he might have discharged it—he would not be removable except by Parliament.

715. In your evidence as to the working of the Native Land Court, did you not lead the Committee to believe your opinion was that that Court should be made absolutely independant of all interference?—Yes, from the Executive Government.

716. I understood you further to say that the Court, in order to get the respect of the Natives, should be known to be an absolutely independent Court, which they could look up to?—That is my opinion.

717. Do you think, then, that a Court followed about by such an officer as you speak of would not be deprived of a great deal of its usefulness by its being necessary to have such a watch kept upon it?—I do not think so at all. Parliament, of course, is superior to all authority in the country. Whether Parliament is represented there or not does not appear to me to matter at all. I think it would be advantageous if everybody had the means of knowing what takes place in the Court.

718. I now refer to your evidence as to the character of the country, particularly in the Province of Auckland?—Yes.

719. I understood you to say that with the exception of particular places—a very limited area—which you named, the great mass of that country was not capable of being used for settlement—I was alluding chiefly to the Bay of Plenty and the Waipa Valley.

720. You named several places?—I could have extended my evidence further.

721. I was about to ask you whether you think it desirable to adhere to that evidence: it conveyed an impression certainly, to my mind, that the North Island is not a place desirable for settlement?—That is scarcely a consideration for me as a witness.

722. It might convey a wrong impression to persons not knowing your experience that it went in that direction?—The whole of the country I spoke of, from the sea up to Taupo, is only valuable to very wealthy persons, who can occupy in large pieces or tracts of land.

723. That is in the Bay of Plenty District?—Yes; right up to Taupo, except the oases which I mentioned, of course.

724. Are these oases of considerable extent?—No; I do not know any of considerable extent.

725. Do you not know some between Opotiki and Tauranga?—Yes; there are some on the coast there, but, comparing them, they are a long way apart. Even to the 40th parallel these exceptions are trifling.

726. Then, there are places there that can be used and made applicable to form flourishing settlements?—Yes.

727. About the country which it is proposed that the railway shall go through: do you know that country well or not?—I have been through it; but one acquires very little knowledge of a country by going through it along a road at one time: you must traverse a district many times and in many dirictions before you can be said to know it well. I have seen it often marked on maps.

728. Would you like your evidence to convey the impression that there is not plenty of land along that railway which is desirable for settlement, or where no settlement could take place with advantage?—There is good land in the Rangitoto country and up the Waipa Valley, but the extent of it is not very great. I should not like to enter into particulars. I have been over the Bay of Plenty so often that I know the whole of the land very well, both length-ways and cross-ways. But from what I hear and from what little I know of the land which you call the "King country," it is not what I should call desirable land for small settlements at present. I think it was a wrong name to give it (the King country).

729. I was merely giving it the name by which it is commonly known?—I think it is a very unfortunate name.

730. But you think that country not suited to small settlements?—I said "at present." I mean, of course, small settlements for farmers, that is, for yeomen. If you look at the great bulk of our provincial district, excluding the Ngatiporo country, the land must be first occupied by men who have got a lot of money to expend.

731. I do not want to go into the Bill, because you have given very full evidence about that; but I would ask you to state to the Committee whether you think this Bill is likely to advance settlement in the country?—I think not. I think that it will have very little operation, that is, in those parts of the country of which I was speaking yesterday. The rich lands of Wanganui may be operated upon by it if the Bill were altered a little; but I feel strongly that the land of the Provincial District of Auckland will not be dealt with by it.

732. Where are the rich lands of Whanganui of which you speak?—Along the line of railway I see such land as I see nowhere in Auckland.

733. Is it not all settled?—It may be; I do not know whether there is any left or not.

734. Then, you do not think that, under this Bill, the country along the railway-line will, in the ordinary course of things, come under the Native land law and be settled?—I think not.

735. Looking to the past acquisition of land, do you know of any case—is there any instance in your recollection—where the Natives themselves originated the parting with their land without European influence being brought to bear on them?—You mean under the old land-purchase system?

736. Under any system of purchase where the Natives themselves originated the proceedings which ultimately led to the purchase?—Yes; I can remember some cases under the Act of 1865. Some were sales to Government and some to Europeans.

737. Were there many such cases?—No; not many. They arose in this way: For a long time after the Act of 1865 came into force there were considerable relations between the two races; Maoris who had land to sell, and Europeans who had money to go into the Waikato country and purchase land. Some persons did not feel quite easy about what was happening in that way. Some others did not have any doubts, and purchased largely. But surveyors surveyed blocks of land in all directions, as a matter of speculation perhaps, or that they might have something to do, giving credit to the Natives for their bills. The surveys were the great difficulty in those days in bringing land before the Native Land Court, for the Native could only get the survey by applying to some European to lend him the money for that purpose. When the surveyors pressed for payment the Natives put their land into the market in particular blocks. The price was very low; the finest land in the markets was offered at the time for 2s. 6d. an acre. As a rule, however, the bringing the land under the operation of the statute originated with the Europenn.

738. Would not the cases you have just named, to show that it was sometimes otherwise, prove that it was through the influence of the surveyor they got it through?—I should scarcely say that is the correct view to take of it. It was not the purchaser who went to the Maori and asked him to sell the land; it was the Maoris who, having got their titles through the surveyors' work, went to the Europeans and said, "Will you buy my land?" But these cases were very rare.

739. In general, your experience would be that European influence was the incentive to the Natives to sell?—No doubt.

740. If, under this Bill, it proposes that the initiation of the whole proposal to sell shall originate with the Natives, do you think that any transactions under it will take place?—There are

so many things in this Act so entirely antagonistic to Maori train of thought and to their sense of national feeling, that I think in a short time the Bill will not operate.

741. *Mr. Hobbs.*] You have been asked respecting the difficulties affecting Native land which have arisen through Europeans dealing with the land after passing the Court. I want to ask you if you do not think that many troubles and complications have arisen through Europeans dealing with the land prior to its passing through the Court?—I reply "Yes" to that question.

742. Do you not think when Europeans have been negotiating for land, and have made advances upon it to certain reputed owners, they have been compelled to employ agents and all other means at their disposal for the purpose of getting those Natives to whom they advanced money into the Crown grant, and that such Natives have been represented as owners?—I believe that to be so, but I cannot say from my own experience that I have seen anything of the sort. In my time, when I was a Judge, the system of handing in lists, which seems now to exist, was not submitted to by me. The only case in which I did allow a list to be put in was that of Mokau. That was a recently conquered country, and I did not quite see what to do with it. But in respec t of ancestral lands I never accepted their lists. If the ancestor were once found it was easy to fin d who were the descendants. The very last case that came before me, that of Matamuku, they gave me a list, but, having ascertained the hapu to which the family belonged, and tracing the descendants downwards, it was an easy operation to arrive at the true representatives. I found that a very long list was reduced to twenty-eight or eighteen, I forget which number.

743. You say there were not many cases in your time, but are you not satisfied, in your own mind, that they have been increasing very much of late—these negotiations for land prior to its passing through the Court?—Yes.

744. A great deal of it is going on?—Yes.

745. Would you be good enough to define the time during which it existed: was it within the last three or four years that it began?—I could not do that, but I have very little doubt that it has existed a long time, even while I was Judge, and knew nothing about it. When I left the Court I found that I had to a certain extent been up in a balloon all the time; things were going on that I had not the slightest conception of; so that the process might have been in existence for some time.

746. Are you not satisfied that there are many cases of serious injustice arising through it?—I should say so; in fact, I know so,

747. Would you have any objection to state any case in your memory?—Yes; I can state a case in which the broad principle was decided, if I remember aright, by five Judges—by Judge Munro, certainly the ablest man we ever had by far, Judge Maning, Judge Rogan, myself, and I think Mr. Smith—I think there were five—we all decided that the great country extending from Kawhia across to Maungakawa, which originally belonged to a tribe called Ngatiraukawa had been taken from them and their title extinguished before the European Government came to the colony, and a boundary-line was laid down between them. William Thompson was on his deathbed; I was Chief Judge. He was recognized as the principal man by both sections, and he led them to Taranaki, as we know. Well, those people were decided to have lost their title to the whole of that country. But I am now confining my remarks to a small extent of it, namely, from Rangiawhia to Maungakawa. We decided that their families had been all destroyed at the battle of Tamatauwiwi, and those men who were not killed went away. We decided that they had lost all title to this land, and that the land which remained to the tribe was vested in those to whom the refugees said, "You remain food for Waikato." As we decided they had no title, we did not admit them into the grant. But afterwards others appeared, and the men we had admitted as owners said, "Let these men come in." I felt so clearly about it, that is, about the evil of establishing a precedent, that I said, "No; although you are owners and agree to admit them I will not put them in; if you want to give an interest, you get your titles, and give them some of the land from yourselves afterwards. But the Court will be no party to such a transaction as you wish to be done." In recent times, I believe, these men have been admitted, or some of them.

748. Was that land sold prior to passing the Court; sold to Europeans?—I think so; or rather it had been negotiated for.

749. That is, advances had been made upon it?—I believe so.

750. Do you think that pressure was brought to bear to get the title?—Pressure on whom?

751. Well, I should not exactly like to say, but it might be on the Assessor perhaps, or in some way on the Court, or through the Native experts and agents who might have used their influence from the fact that advances had been made?—I would not like to answer a question of that sort; no pressure was ever brought to bear on me.

752. We were speaking of this particular case: do I understand that you will not answer the question?—I think questions of that kind ought not to be asked.

753. My object in asking the question was to get your opinion, so that the Committee can form a clear judgment on what, to my mind, is one of the great causes of trouble, namely, making advances to Natives on their land prior to passing it through the Court?—I have no objection to answer questions about these advances, but I would ask you to refrain from putting questions to me about the Assessors.

754. Do you think there can be any scheme devised for the settlement of Native lands other than the present one: do you think that the plan of forming large syndicates or companies, the Natives handing over their lands to these companies—in some sense co-operative companies—to sell: do you think that would be advantageous?—It is a very difficult question to answer. I was requested by an English company, comprising high ecclesiastics and great men of all sorts, to undertake an agency for them, and to advise them; the conditions they made, the nature of the advice I was to give, were such that I refused to acquiesce. There were other

grounds of a simpler nature, but the company broke up. At the same time, I am not prepared to say that there was anything antagonistic to the Natives or the true principles of colonization in the existence of the New Zealand Company: they fell through difficulties about land purchases.

755. You are aware that there was a company formed on the East Coast, that is, a land company: do you think that has been a commercial success?—I am not prepared to say. I do not know, in fact, whether commercial success comes within the scope of this inquiry.

756. We are endeavouring to solve a difficulty, so that we may find a way, if we can, by which the Natives may dispose of their land to advantage: a great number of Natives do hand, or have handed, over their land to that company: do you know the circumstances of that company, or can you inform us whether the Natives, in handing over their land to such a company, are likely to be benefited?—I do not know anything about it. I know there is a company, but I do not know anything of its circumstances.

757. My object is to ascertain whether it is better to sell to individuals or to companies; or what would be the best plan. I wish to find out some way by which the Natives would be able to get a fair price for their land: that is the object I have in bringing this view of the matter before you, so that you may give us your opinion whether it would be a good plan for the Maori to hand over his land to a company to sell for him?—I presume you mean whether it would be a good thing for the interest of the Native?

758. That was my meaning: do you think so?—My answer to all questions of that sort would be this: I think that the Maori, having got the title to his land, should be absolutely free to do what he likes with it.

759. I want to ask you, during the time when you were Chief Judge, whether you were in the habit of sitting at the hearing of ordinary cases in the Court, and sitting again at the rehearing of these cases?—I do not remember any case in which I sat as a Court of Appeal. There may have been such a case under some pressure of the business of the Court: for the work was so great, and the men so few, that sometimes one was obliged to do things he did not like. Sittings of the Court, which we calculated to last a fortnight, would sometimes last three months. Under pressure of necessity I might have done what I never contemplated doing. I do not remember such a case. I do not say there was not such a case, but I do not remember it. I do not think there was. I do not think I would have done it if I could have helped it.

760. Are you aware that the great burden of many of the petitions which have been presented to Parliament from Natives, and brought before this Committee, this last year or two, have been in reference to rehearings? Now, it is evident there is some weakness in that respect at the present time: is there not?—I do not think that Parliament will ever get out of the difficulty without constituting the Supreme Court to be the authority for a rehearing, upon affidavit, in the usual way. Practically, when Mr. FitzGerald and myself put in the clause about rehearing, it was to provide for nothing but unforeseen difficulties—a swollen river, for instance, or a failure of proper notice: it was done to provide for the failure of the existing facilities for coming to the Court under unforeseen circumstances. It was never intended to provide a Court of Appeal from erroneous decisions. But it has nothing to do with it what our meaning was.

761. Do you think that the Supreme Court would be the best jurisdiction?—I see no difficulty in it, except the one of expense. But that difficulty could not be very great. I suppose that appeals would be more numerous than they used to be. Lawyers are now banished from the Court, and many points that would be settled have to remain over. There must be dissatisfaction, more or less, so long as this is the case. I think the Supreme Court would be the best appellate tribunal that you could find. Even as it is now, in many cases you see the Supreme Court resorted to, and the practice is becoming very general, even long after Europeans have got into possession, which is a much more serious thing.

762. Is it not a fact that, in the good old times, when Maning, Munro, Rogan, and yourself sat in the Court without any lawyers at all, you had not all the difficulty that is now found to surround these cases?—I do not remember any such time. One of the first cases we tried was the Orakei case. I think there were seven lawyers in that. The property at the time was valued at £50,000. I think we came to a right decision.

763. I have read an important decision of yours, in pamphlet form, which, I think, you published: there were few lawyers when that judgment was delivered?—Sometimes there were none at all present.

764. That was the rule, I think?—No, not as a rule: in Taranaki there were always lawyers in Auckland and Cambridge there used to be Mr. Wynn and others.

765. I was referring to Courts which were held in country districts—in the Kaipara and other places. I have attended some of these Courts, and I never saw a lawyer: they never thought of bringing in lawyers to conduct cases and work them up?—As to Kaipara, it was extremely simple; that was the easiest district in Auckland.

766. Then, you think that it is a good plan and an advantage to have lawyers attending the Court?—I think so, and the cheapest in the end. I take for granted, of course, that the Court would exercise its authority. It is disagreeable to have to make a reference of this sort; but I withdrew permission, on several occasions, from lawyers, and would not allow them to appear. That is a painful thing to do, but it has to be done sometimes. If you were to allow lawyers to appear in the Native Land Court as a right, the same as in the Supreme Court, that would be objectionable. The Court ought not only to have power to regulate its practice in this respect, but it should have large powers over costs, and those powers should be exercised. Here is a point at which I think the Commissioner should have power to intervene.

767. Have you not heard of cases in which lawyers have been for weeks and months attending the Court and receiving fees at so much per day for attending the Court?—Yes.

768. Is it not at all likely that, when there are so few lawyers that understand the Native

language, or who may be called Maori experts, they may keep their cases on hand and prolong the sittings of the Court to an indefinite period?—Yes; the Court ought to have power to license special men. More than that: you mention that lawyers who had been previously before the Court have been operating without being subject to any authority whatever. I have no particular lawyer in my mind when I say this. But the matter has received a good deal of attention. The question was fought out between Sir William Martin, Mr. Fox, and Mr. Stafford. The question was this: Can you in any way prevent a European from advising Natives? You cannot. You cannot do better than have able advice before a tribunal; that is, if the tribunal has force.

769. *Mr. Locke.*] Sir George Whitmore told us that up in the East Cape country the bulk of the land passed under the Act of 1873, and that in one block of six thousand acres, there were no less than one thousand four hundred names as owners: men, women, and children; tuatuas with lots of children put these in. Is there not some means of preventing such a state of things?—It is very easily prevented if the Court will take the trouble.

770. *Sir G. Grey.*] You said that you heard the Waitara case?—Yes.

771. Did you finish it?—We finished it, but we did not give any judgment. There were three of us—Judge Monro, Judge Rogan, and myself.

772. Did you ascertain whether William King had any right to the land?—Yes; he was the principal owner: his was a very curious title. There was a man, whose name I forget: he represented, or his successors represented, two or three tribes, and, in the curious way of transferring, it came out that the father belonged to the one tribe and a son and daughter might belong to another tribe. A European cannot umderstand it. However, this man, seven or eight generations back, had two daughters, whose names I do not remember. One, I now remember, was Te Teira—the elder. They were what we would call in England "co-heiresses." There was descent, and descent from each of these until we come to William King, two descents from Te Teira, so that, according to Maori custom in those days, the mana of the land came to William King. Whether there were two generations or one between, I am not certain.

773. I assume that you mean that power over the tribe and over the land vested in him?—He had the principal "say," to use a somewhat vulgar term.

774. It had been ovelooked in previous investigations?—If there ever was one. The thing is perfectly clear; there is no doubt whatever about it.

775. This has never been put on record, and I am anxious to have it put on record. I will therefore put it in this way, so that there may be no misapprehension: Was William King the real owner of the land?—He represented the owners: he was the principal man. There were other owners, of course, but he was the principal man.

776. *Hon. Mr. Ballance.*] You said, in reply to a question put to you by Mr. Ormond, that European influence was the principal incentive to Natives to sell their land?—He was referring to the past.

777. You went on to say that, as that incentive was wanting in this Bill, it was probable but that little settlement would take place under the Bill?—My answer was, apart from that, that the Bill was in effect so contrary to Maori ideas that it would not operate much.

778. What do you mean by European influence being an incentive to the sale of land?—In the old days they had to make the survey and had no money to do it with. If they had not the money they could do nothing if they did not get money from some European. That was the first step.

779. Then, do you say that it was the European advancing them money which induced them to part with their land?—It enabled them to get the survey made. I think there always has been, and probably there always will be, a strong desire on the part of the Natives to retain their lands as long as they can. I think, if there is no other influence brought to bear upon them, the desire for money to gratify their tastes for luxuriousness has great influence over them. If it were not for some such influence as that they would never part with their land at all.

780. Would there not be the same incentive under a Bill where private individuals were prevented from dealing with lands direct—namely, the desire to get money. Would it not be the same where private individuals were prevented from dealing with lands direct?—You mean if transactions were altogether stopped. Of course, whatever the desire was, then they could not gratify it.

781. You have said that the incentive to them to part with their land is to have the means to provide luxuries and the necessaries of life?—I think so.

782. Supposing they cannot get money by selling direct to Europeans, but that there is a prospect of getting money under the machinery of this Bill, would not that be an incentive to them?—No doubt we shall see the same state of things which grew up in 1860; that is to say, the Government anxious to get land and the Maori resolved not to part with any so long as he can possibly stick to it.

783. In your experience, is it the case that the Maori sticks to his land as long as he can or as much as he used to do?—No; I do not think so. In the old days there was a strong national feeling as to the results of parting with their land. When I attended the great Waikato meeting in 1857 there was not only the natural desire which they all have to keep their land, but there was also the feeling that the loss of their land meant the loss of their dignity as a people.

784. Do you think that that feeling is becoming weaker?—Yes; it is becoming weaker because they have lost all idea of being able to restrain the power of European colonization; they look on it as hopeless.

785. Then, in a word, you think there would be an incentive still if they were precluded from dealing with their lands by way of sale direct to private persons—the sale of the mana would provide these things which you refer to?—Of course it would be a struggle; there would be the pressure of necessity on one side, and on the other they have acquired habits which, through long

indulgence, will have more power over them. In the days I am speaking of, the less power they had of gratifying these desires the more powerful would be the struggle they were able to carry on against the Government; the question would be who gave way first.

786. Do you think the desire that exists now to gratify those habits and tastes will be a powerful incentive to the Maoris to dispose of their lands?—I presume that, after a struggle, they will have to give way; the Government could wait for them; they could not.

787. Are you not aware that the Natives are now very free in offering land to the Government for sale?—No; on the contrary, I have heard very bitter complaints of the effect of the Proclamations over their land.

788. Is it not the reason of these complaints that they wish to sell to private individuals?—I suppose that is really so; but the feeling arises from a cause which is common to all human nature. They are under pressure from Europeans for debts. They think they can get more money from private individuals than they can get from the Government. I presume that to be true. I know of cases where they feel it a hardship that if they can get an offer of £1,000 for their land they are not in a position to accept the offer and get the money.

FRIDAY, 4TH SEPTEMBER, 1885.

Mr. F. D. FENTON'S examination continued.

Mr. Fenton: I wish to correct a mistake in my evidence yesterday. I said in my evidence that there were two generations between William King and Tetaira. Looking over the pedigree-book I find that there was only one. In other respects my evidence was right. This pedigree-book relates to the Waitara Block; it was published in the Blue Book, 1867, August 23. There was only one generation from Tetaira.

Mr. Locke: Who was the eldest.

789. *Sir G. Grey.*] Mr. Fenton stated in his evidence yesterday that the Court had not given a decision in the Waitara case. I was then going to ask why a decision was not given, that is, if there was any particular reason for it. Was there any particular reason for it?—I do not know that there is any reason why I should not describe what passed. When the Crown officer appeared in Court and objected to Tetaira's title to the six-hundred-acre block I thought it a very singular proceeding, although I did not say anything. It occurred to me that possibly the Crown officer was acting without instructions. I wrote a letter to Mr. Domett, who was not in the Government, and asked him to be good enough to see the Government, and make them acquainted with what was being done. This, I should say, was a Compensation Court, not a Native Land Court. I adjourned the case (not the Court) for some days. It had progressed some length before I found out what was the real contest. After the expiration of some days a Minister came down to Waitara—a Minister I think it was—and the case came on on the day to which it had been adjourned. When called in Court there was no appearance. Of course I presumed from that that it was arranged out of Court. At any rate, we had no further functions.

790. *Mr. Locke.*] In reply to the Hon. Mr. Bryce you said, "At the time the money was paid"?—At the time the money was paid.

791. *Mr. Te Ao.*] I have not many questions to ask, because your ideas are the same as ours with respect to the land. You have said that it is your opinion the owners of the land should do what they liked with it?—Yes.

792. Did you make the statement out of consideration for the Natives or for any other reason?—I had no reason except that I thought it just, and not only just but expedient.

793. Do you think it would be a good thing for Europeans and Natives to devise a good Bill that would give property to the Natives?—Yes; I think it would be a good thing for any one to devise a good Bill.

794. Do you think it would be right for the Europeans to assist the Natives in drawing up a Bill for the prosperity of the Natives?—Yes; but I am not quite sure that I have got at your meaning: you mean, I suppose, that the Maoris should be allowed to frame their own Bill.

795. Have you seen the amendments to this Bill proposed by the Natives?—Yes.

796. What do think about them?—I understood that the mind of the Committee was that I should not consider those amendments: that the opinion I was to give only arose out of the amendments proposed by the Government.

797. I am asking about all of them?—Generally speaking, the amendments of Wahanui and Wi Pere run in the same train of thought that my mind goes: in those amendments they display their meaning, but in a somwhat inartistic manner. For instance, there seems to be an attempt in Wi Pere's and Wahanui's amendments to patch up the Board. I would abolish it altogether, and leave the land entirely to the management of the owners of it.

798. You made some allusion, did you not, to ten persons in the grant?—Yes.

799. Was that law drafted or suggested by yourself or by others?—The Act of 1865 was suggested by me; but the principle of representative men was in the Act of 1862. I beg to withdraw that phrase, "representative men:" the principle of "limited number" it should be. That Act was not mine.

800. Do you think that any benefit has resulted to the Natives through limiting the number to ten in the grant?—In practice I think the working of the limitation of number has been disadvantageous to the Natives.

801. Do you make no provision in that Act for outside owners?—The Act does not contemplate outside owners. If the Maoris had not objected to the expense of surveying the subdivisions there would be no case of any outside owners. I remember that after a time I became suspicious of what was being done. I remember very well seeing that the Court was being misled at the time; no more than ten used to appear in the grant; but I remember speaking to one of the principal

chiefs of Ngatihaua. I said to him, "Are you not an owner?" He replied "No." I then addressed an owner, and said to him "Are you not an owner?" He replied "No;" but these men complained afterwards, when the land was sold and they got no money.

802. Was it not the intention of the Court to constitute these ten people trustees to administer the land for the benefit of the whole tribe?—No; except in the cases I have already referred to. There were cases that came into the Native Land Court through the Compensation Court having been abandoned by the Crown. There a trusteeship was mentioned. Thus, the Matamata lands were handed over to ten persons in trust for the Ngatihaua. I would like to add that the Act made provision for cases where the tribe did not want to sell or to have their lands cut up. Clauses 42 to 45 were expressly made for that purpose. During the whole time I administered this Act (1865) there was no single application made to the Court under it for these purposes.

803. You have already stated that the honourable feeling shown by the old chiefs has passed away?—Yes.

804. Were the arrangements made by chief and people with Europeans agreed to; for instance, supposing that the chief wished to give a piece of land, or dispose of it in any other way to a European, would such arrangements be held binding?—Arrangements of that kind were observed in the most remarkable manner, even notwithstanding temptations thrown in the way—I might even say, sometimes, by Government officers.

805. Would not the Court set such arrangements aside at present?—Do you mean with reference to the pakeha?

806. I mean both Europeans and Maoris. What I ask is, whether, if the chiefs made a promise to give a piece of a land to a European, would that promise hold good: does it hold good in the eye of the law?—I think what you must mean is this: if a chief had given to a white man in those old days a piece of land, and that the land afterwards came before the Native Land Court—you wish to know whether the Native Land Court would set up that chief as an owner, regardless of the rest of the tribe. To this I answer that, so far as these transfers in the olden times affect the rights of other owners, the chiefs could not keep their promises.

807. I was speaking of blocks of land given by certain Natives to Europeans by gift from the Maoris: had not a Maori power to give his land to another: would that gift be confirmed by the Native Land Court?—If those persons who gave the land turned out to be the owners when the land was brought into the Native Land Court they could agree to carry out their promises if they thought fit.

808. Suppose a Maori bequeathed a piece of land, would that bequest have any effect?—I do not think these questions have anything to do with this Bill.

809. You mentioned a case where certain Natives whom you described wished to show their love to certain persons?—They were the refugees of the Kapiti people.

810. Was it right to object to these people showing their love in that way?—It was right to object to them appearing as owners if they were not owners. If the real owners wanted them to have the land, they could have transferred it to them after they themselves got the title. The business of the Court was to find who were the owners.

811. You spoke of the conquest of Taumatawiwi?—I mentioned Taumatawiwi as fixing a date.

812. Who were the people killed at Taumatawiwi?—Ngatimaru.

813. How did that defeat affect the Ngatirakau?—[*The Chairman:* These questions have nothing to do with this inquiry.]—The answers to these questions are to be found in the Aroaha case, written by Judge Maning.

814. I wanted to know whether Ngatirakau were defeated at Taumatawiwi?—That judgment says so.

815. *Mr. Grace.*] With reference to the last Part of this Act (Part IX.), would you tell the Committee whether you do not think that, in times past, the great blot on the Native land policy was that the Governor in Council and the Native Department had too much power?—I think so.

816. The whole tendency of the Bill is to take the Native affairs into the hands of the Government, to stop private enterprise, and resume pre-emptive right: do you think that, in the interest of the colony, private enterprise ought to be stopped?—I think, on the contrary, that a good policy would encourage private enterprise.

817. It is not generally known, I think, that the King country was really opened by private enterprise: would you be good enough to tell the Committee what you know about it?—The hostility—I do not mean "warlike hostility," but the feeling of jealousy between the tribes which divided the country included in the Alienation Act—was overcome by the intercourse of those people with Europeans, and negotiations for the purchase of their land.

818. Can you not tell the Committee more than that—of late years, since 1878?—I know that hapus have come from that country to Auckland; some of them came to me recently—I mean about two years ago, and shortly after I left the Native Land Court—and asked me to get their lands brought under title, so that they might deal with them. On two occasions I went to the Survey Office for authority to survey lands that are now included in that Act. The Assistant-Surveyor-General said that he was instructed not to allow any surveys. On a third occasion I went again. I asked him whether there was any law prohibiting these claimants employing their own surveyor for I did not know of any. That officer replied that he was not aware of any law, but if any surv,eyor did survey those lands his license would be taken away; the survey would then be worthless.

819. Do you think that the Maori *aukati*, had it been left to Government officers, and had not private agents dealt with these lands—do you think that *aukati* would be broken down even to the present time?—I think it would have broken down long ago from other causes as well as those. I will go further: if the Government—I mean several Governments—had not made annual visitations

to the King, and so maintained his dignity in the face of his people, it would have died out long ago.

820. Was it not owing to the capital spent by private people in and around the King country, the chiefs in the King country receiving the money, and the consequent mistrust, that broke up the King party?—It was not the Government that broke it up. I think the negotiations affected the question very little. I would not confine the breaking-up of that confederation to the operation of the money spent by the Europeans alone. No doubt it contributed. But I think the Maori found that he got tired; he longed for luxuries which he could not get, and there was a desire to return to European intercourse.

821. *Mr. Pratt (Parata).*] You stated that you believed in the Natives having control to deal with their lands—to sell or do as they liked with them?—Yes.

822. Do you not think if they got that power they would part with all their lands?—My answer was, "After sufficient reserves were marked off for themselves to be absolutely inalienable, not only to the Government, but to any person whatever."

823. You spoke of ten being trustees under the Act of 1865: do you not think it would cause a great deal of difficulty having just ten to have control over the block?—If you mean some difficulty, no doubt it would be so if we did not avail ourselves of the knowledge which we obtained under the Act of 1865. I think now it could be prevented by sufficient checks. I refer, of course, to the main difficulty.

824. Did not the Act give power to sell, and look with indifference upon the rest of the owners interested?—The Act recognized nobody outside the grantees. If people were left out of the grant it was by the arrangements of Maoris themselves; it was their own doing. They have learned wisdom now, and would not do the same.

825. Supposing there was a block of land of fifty names: do you not think, supposing that land to be subdivided, that the chiefs should get a greater proportion than the rest, according to Native custom?—I do, decidedly. I have long thought so. I have wished that to be done; but I found that these men maintained sufficient of their old feeling as to forego their mana to a great extent.

826. Do you think it should be carried out now?—I think it should if it could be done. I know I would try hard to do it.

827. *Mr. Wi Pere.*] Was this a Maori law—this law of ten in a grant?—It was an Act of Parliament.

828. You said it was the Maoris who fixed that there should be ten in a grant?—I never said so.

829. Then it was the Parliament that fixed that there should be ten in the grant?—I think you must mean the selection of ten, not merely ten in number.

830. If this Bill passes in its present shape, will trouble come upon the Maoris?—I think no trouble will come from the Bill, because, in my opinion, it will not work; it will maintain things in *statu quo*.

831. Then, what force is there in your statement that too much power is given into the hands of the Governor in Council: why did you say so?—Because I thought so.

832. Do you not think it was because the Government would get the whole administration of the money and everything?—You seem to be going in a circle now. I thought the Government had too much power under the Bill—too much administrative authority—that the whole principle and everything else was in their hands.

833. Do you apprehend that the result will be that the Government will get all the money and land, or that the Government will sell land unjustifiably?—I think that, under the operation of this Bill, nobody will acquire any land except the Government. But I think now I see more into your mind, and the question you put, than I did just now. I think that the operation of sections about roads and bridges will be found so oppressive that the Maoris will not bring their lands under the operations of those clauses.

834. Do you not think that these obnoxious clauses are met by the amendments which I propose?—To a large extent, but you have made a new Bill of it.

835. Notwithstanding that my amendments would constitute a new Bill, do you not think that the present Bill would be improved by the insertion of them?—I think your Bill is better than this Bill.

836. Do you not think that my amendments would bring prosperity to the Maoris and to the colony, and also to the Europeans?—That is a great question. I think the greatest chance of bringing prosperity to Europeans and Natives alike will be by giving the Maoris titles which Europeans would recognize, and then let the Maoris do with their lands as they like.

837. Does not the Crown grant uphold the authority of a man over his land?—Yes.

838. It gives a man absolute power to do what he likes with his land?—Yes.

839. Seeing that they have obtained Crown grants in the past, has that brought prosperity to the Maoris?—You know better than I do what prosperity they have had.

Mr. Wi Pere: If the Committee choose to examine me on that point I would tell you.

Mr. Fenton: I think the question is a futile one.

840. *Mr Wi Pere.*] Does not a grant recite that absolute power over the land is given to the grantee for ever and ever?—It does not do anything of the sort: grants are made to heirs and assigns, and all the benefits follow the grants, if they choose to sell or lease, as a matter of course.

841. What good will come from the plan that you propose for individualizing each man's land; what prosperity will result from it?—If they wish to get their titles inalienable for ever they cannot sell the land or get money for it; they can keep the land always; but you cannot, as I said yesterday, eat your pudding and have it too.

842. Do you not think that prosperity would come to the country supposing two or three hundred Maoris in a block were to select their own Committee to administer the land?—Yes.

843. Do you think that the Committee of owners should be associated with the Board?—No; not with the Board. The Commissioner alone in this Bill would be an admirable officer; but the Chairman of the Committee under the Act of 1883, being necessarily a foreigner to a large number of those whose land is operated upon, would be distasteful to them.

844. Then, it would, perhaps, be best to select persons out of the Committee to be associated with the Commissioner?—No; the Committee can manage their own business. The principal duty of this Commissioner would be to see that the money was not misappropriated.

845. Would it not be a good idea to have a Board to give effect to the decisions arrived at by the owners and the Land Committee?—No Committee could do just as they would do themselves.

846. Has not the Governor in Council power to carry out the wishes of the owners of the land under this Bill?—Yes.

847. Do you approve of that idea?—I approve of the Governor having power to give assistance to carry out the wishes of the people, but I do not approve of the Governor having the discretion to do the contrary.

848. But as far as assisting only?—In such case the interference of the Governor in Council would be unnecessary—pefectly superfluous—for in this hapu or that hapu—in every tribe—there would be some who wished to sell, some to lease, and some to do neither.

849. Should the Governor have power to carry out the wishes of the people?—I apprehend that anybody can carry out the wishes of another man without an Act of Parliament.

850. I am speaking of this Bill?—I do not understand what is in your mind. It does not require an Act of Parliament for one man, whether he is Governor or private individual, to do what another man wishes—that is, if it is lawful.

851. Supposing a tribe wished him to lend them some money, has the Governor power to do that, seeing there is no provision for it in this Act?—If the Governor had funds placed at his disposal for such purpose—but this is a point I am not clear upon—or if the Native Minister got a vote from Parliament of a sum to be placed at his disposal for hospitality. When I was Native Secretary I did it.

852. Did the custom of extending hospitality to the Natives exist formerly?—Yes; only since the time I speak of there has been a special vote. When I was Native Secretary there was no Responsible Government.

853. Do you think the Native Minister has power to extend hospitality to Natives living in Wellington?—If he has got the money he has power, but whether he has got the money I do not know.

854. Do you not think that provision ought to be put in the Bill to authorize the Governor to give it to the Maoris if they wished it: that it should be put in the Bill so that there should be no doubt about it?—I do not object to that.

845. *Mr. Hakuene.*] What is your opinion with regard to this Native Land Disposition Bill?—I have answered that question a great many times.

856. But I ask you shortly to say whether it is a good Bill or the reverse?—I do not think I ought to say in so many words, "It is a bad Bill." That would be putting me in a position which I ought not to occupy. I said it would not have have any great operation, that it would have little or none; but to say shortly that it is a bad Bill is putting me in a position that I do not wish to occupy.

857. If the result be as you say, that it will come to nothing, then, I ask, will any harm result to the Natives?—I suppose not, except that there will be twelve months wasted.

858. Is this the first Bill of the kind that has been brought forward?—Some might say it was the first of its kind; others might say that it follows on old lines. Some of the principles are old and some new.

859. I am speaking generally as to the principle of the Bill?—Taking it as a Bill, and looking at all the principles that are in it, it seems to me a new Bill, that is, speaking very generally.

860. Was there not a Native Sales Bill similar to this brought in formerly?—I do not remember one like it. There are principles in this Bill that have appeared in other Bills, but as a whole I do not remember anything like it.

861. Were those Bills submitted to this Committee to be discussed, or were they not private Bills?—As far as I remember, I remember no such inquiry as this since the Waikato Committee.

862. Seeing that you have had such great experience of Maori customs, what do you think is the greatest possession the Maoris have, that is, the possession they deem the most valuable?—Their women.

863. Is that their only possession?—Land and pigs. They used to say in the old days that women, land, and pigs were the causes of war.

864. You said yesterday that each man should be placed in a position to do what he liked with his own land?—Yes; I mean hapu or tribe. I have only met with one case of an individual holding land; that was a case at Waiheke, where a piece of land was given for adultery with a man's wife.

865. Is not that idea of yours, that each man should have power to deal with his own land, because you wish the Maoris to part with their land?—No.

866. Does not this idea of a Committee carry out the former customs of the Maoris?—Practically, if the Committee consists of the principal chiefs, it does.

867. *Mr. Pratt (Parata).*] Do you believe in Natives making wills and putting Europeans in as trustees?—I used to do, but I do not now.

Copy of Telegram from Mr. Fenton to the Chairman, Native Affairs Committee.

Mr. Bryce, questioning me about resumption of pre-emption, used an expression which I ought to have noticed. He said to this effect: Has not the Queen's representative, with the two

Houses of the Assembly, power, &c. I wish to state that the Governor, although acting in Her Majesty's behalf, is not the Queen's representative in that or apparently in any but a social sense. The position and powers of the Governor of a dependency are clearly defined by the Privy Council in "Hill *v.* Bigge," which is reported in Moore's "Privy Council Reports, vol. 12." I think—for I write from memory—Lord Brougham, delivering judgement of Privy Council reviewing Lord Mansfield's judgment in "Fabrigas *v.* Mostyn," a case from Minorca, said that a Governor had no intrinsic or original power, only powers derived from Royal commission or instructions, and the Parliament of the colony or the empire. An Act of Assembly may be reserved for the Queen's assent, or may be disallowed by Her Majesty. The Act of 1862 was reserved for Her Majesty's pleasure, and an Act directly restoring the pre-emption right would, I presume, be similarly reserved, or risk the fate of the Act of 1858, namely, disallowance.—F. D. FENTON. 5th September, 1885.

MONDAY, 7TH SEPTEMBER, 1885.

Mr. JAMES CARROLL recalled and examined.

868. *The Chairman.*] I am informed that you wish to make a statement supplementing the evidence you gave before this Committee on a previous occasion?—Yes; but as I am limited to this day for giving further evidence on this Bill I will shorten the proceedings by accepting the greater part of Mr. Fenton's evidence as concurring with my views.

869. Those views, you say, are your views, and you represent certain tribes of Maoris residing where?—In Hawke's Bay. In speaking on behalf of the Hawke's Bay people, I do not think this Bill as it stands is acceptable to them. Their objections are indicated in the amendments drawn up by me and proposed by Mr. Wi Pere. I read the Bill in the same way as Mr. Fenton does, so that there is no use of going over it again. The new matter which I wish to speak about is this: A great deal of the evidence which has been given has been more in relation to the proceedings of the Native Land Court, and the good or evil that has arisen in consequence of the proceedings of that institution, than the Bill before the Committee. I think myself that the Native Land Court should have been the first matter dealt with; because that is the first evil. The land has to go through the Native Land Court before it arrives in a position to be disposed of, and the better disposal of Native land will depend mainly on how it goes through the Court. In a great many cases more than one tribe or hapu get into a block of land. These divisions, as a rule, are at variance with each other, but through the judgment of the Court they are joined together as owners. Then, when the land comes to be disposed of, the owners dispose of it in different directions, and trouble ensues. There is no unity in such cases, and little chance there is of the trouble being ended without a subdivision, and that is difficult owing to the obstacles that are in the way. I believe the Court could, in a great measure, clear the way for the disposal of Native land if, on the original hearing, it paid strict attention to the boundaries dividing the claims of one tribe or hapu from another. I hold that the main solution of this Native question will be subdivision. First of all, tribal divisions; secondly, hapu divisions; and then you come to individualization. I think that every step in that direction would be a proper one. With regard to this Bill, it is a complicated form of the Act of 1867, that is to say, part of the Act of 1867—I refer to the 17th section. That Act was a good one for the Natives had the registered owners had any hold on the ten who were in the body of the certificate. It was a simple Act. The ten who were placed in the body of the certificate had power to lease, and the other owners were registered on the back of the certificate. If, as I have said, some provision had been devised by which the owners could have controlled the ten it would have worked very well. As it was, the effect of the Act was this: the ten leased the land, and when they received the money gave none of it to the registered owners. That will happen under this Bill unless some provision is made whereby all the owners can participate in the distribution or receipt of the money. I believe in the principle of Committees, because they will lessen the difficulty Europeans or those who are acquiring land will have in getting a secure title. The Committee will have the work of securing all the owners instead of the European. In fact, the Committee will be the middle party. But I say this: you must take every means to protect each and every owner in a block of land: private interests must be secure. On these grounds I do not believe in the majority ruling. If all the owners in a block of land will not agree to place their shares or interests under the operation of this Act, then call the Native Land Court in and have a subdivision. Then you will have all those who are agreeable by themselves, and those who are not agreeable by themselves: you separate the conflicting interests. If that is not done trouble will go on: there will be the usual complaints time after time that the law is oppressive; that they (the Natives) are being robbed, and so forth. I am inclined to think that the Committee, by itself, without the Board, would do as well. I would leave out the Board altogether; it will only make matters more complicated if you have a Board as well as a Committee. It will be more likely to satisfy the Native mind if a Committee, who would be owners of the land, were to have the whole management. Of course with each Committee I would always associate the Commissioner. With regard to resuming pre-emptive right I do not think that would ever do; there has been too great a change among the Natives from the time when pre-emptive right was relinquished down to the present. If pre-emptive right were resumed I am certain it would not facilitate the settlement of the country, because the Natives would hold back and not deal with the Government. The reason may be that when the Government last went in for the purchase of Native land they gave rise to many complaints as to the honesty of the manner in which they negotiated for these lands. I am now referring to the time when the Government went in for land-purchasing as against private individuals. Since then the Maoris have had no particular reason to place much confidence in Government land transactions. I recognize this fact, that the country must be settled as soon as possible, and in the best way possible; but in doing so the owners of the soil should be treated with all fairness. Now, the question comes, will this Bill as it stands bring about that end or help

to bring about that end? As it stands I do not think it will. I think it will retard the settlement that is going on at present. Of course I am speaking of the Bill as it is, because I firmly believe that it could be amended in such a way as to serve the purpose very well.

870. *Mr. Locke.*] You are in favour of the 17th clause of the Act of 1867: you know you can only lease for twenty-one years under that?—Yes.

871. Do you not know that a very large extent of good fat country is at this moment covered with briars, because there is no power to sell?—I do not admire the Act, but what I say is, that if power had been given under that Act to the registered owners, so that they could have some control over the ten, and the ten could sell as well as lease, it would be a very fair Act. I meant to say that before.

872. *Hon. Mr. Bryce.*] You said you believed in the principle of Committees as representing the owners?—Yes; as representing the owners.

873. I am putting these questions for the purpose of clearing up an apparent contradiction in your evidence, or what appears to me a contradiction. I now ask you whether representation does not preserve community of title as opposed to individualization?—It will, as long as all the owners are of one mind—if they can work together as one under a Committee. I do not suggest individualization, because there is no necessity.

874. I understood you to say that you approved of the ascertainment of title in this way: first, division of the boundaries of tribes, then subdivision of hapus, then individual title. I understood you to say that every step in that direction was a step gained?—Yes; because, as a rule, more than one hapu gets into the same block of land, or, perhaps, more than one tribe. They do not, as a rule, act well together, so that if you separate one from the other, or one hapu from the other, and give each a distinct certificate for their respective shares, there is much more chance of each distinct party being on an agreeable footing than where all the members of a tribe are placed together mixedly in one ownership. If they have differences, these differences will be hapu differences. If you will allow me to continue a little further I might make it clear to you. We will assume that the Court has acted in the second stage, that is to say, besides tribal, has made hapu, divisions. We come to the first division. The members of that hapu are of one mind, and desire to dispose of that land to a European, they form a Committee, and that Committee transfers the property. If they do not agree, then you come to individualization; or, without disagreement, if each member of the hapu should wish to cultivate and utilize his own share as an owner in severalty, he can apply to the Court to grant him an individual title.

875. I would like to ask you whether you do not think that the individualization in nearly all cases will be necessary: I mean, supposing the land is dealt with by a Committee, payment for it, either by way of rent or purchase, will have to be disbursed among the owners, not merely to the Committee, but among the owners. How will the individual share be ascertained: are they sure to agree?—No, except in rare cases. Under the existing law all owners are held to be equal until proved otherwise, and they are paid in that way, except in very palpable cases where there is no possibility of disputing one man's superior claim to all others.

876. Well, then, does it not come to this: there will have to be individualization in some way, whether under the Act, through the Committee, or otherwise?—Yes.

877. *Mr. Locke.*] Are you aware that any obstacle to the settlement of the country arises from lessees being unable to go to the Court and get their property—whatever they may have acquired—subdivided?—Yes; that has been a great difficulty.

878. A European cannot get a title to any portion of the property he has acquired by lease; he must trust entirely to the persons from whom he acquired the lease?—Yes.

879. *Mr. Hobbs.*] Do you think that a great deal of the trouble which has arisen in reference to Native land has been brought about by persons dealing with Natives for their land before passing through the Court, that is, before any title has been ascertained?—I think that was the root of all the evil.

880. *Hon. Mr. Bryce.*] Does that prevail to any extent at the present time?—No.

TUESDAY, 8TH SEPTEMBER, 1885.

Mr. J. E. FITZGERALD examined.

881. *The Chairman.*] Will you be good enough to state your name in full?—James Edward FitzGerald.

882. Will you be good enough to state your official position?—Controller and Auditor-General.

883. You were formerly Native Minister?—I was for a short time.

884. This Committee has now before it the Native Land Disposition Bill: have you seen or read that Bill?—I have read it, but not with sufficient care to give any opinion upon it.

885. You know the Native Land Act of 1865?—Yes; the Native Land Act of 1865 was drawn up by Mr. Fenton and myself.

886. The Committee would like to hear your opinions about the principles of the Native Land Disposition Bill.

887. *Sir G. Grey.*] I would ask Mr. FitzGerald what it was, in his belief, which principally led to the failure of the Act of 1865?—I think it was a misconception on the part of the Native Land Court of the meaning of clause 23—I think it was. That clause empowered the Native Land Court to give a certificate of title either to the tribe or to the individual owner of land; but it went on to say that not more than ten owners of land should be comprised in any certificate of title. The intention of the clause was, although it was not, perhaps, so clearly expressed as it should have been, that, unless ten Maoris could show their ownership to a particular piece of land, no title should issue at all except to the tribe. I remember very distinctly that in conversation with Mr.

Fenton, while preparing the Act, the question was discussed whether the principle of trustees should be introduced, that is, whether one Native or several Natives should be put in as trustees for the whole tribe or hapu. It was agreed that the principle of trustees should not be introduced. The consequence was that, by the interpretation by the Court, ten Natives were put into the certificate of title as owners of large quantities of land which were really owned by the whole tribe. I have heard that great injustice has been done by the land being disposed of by the ten nominal owners; and, the money for the land being received by these ten nominal owners, the rights of the body of Native owners, even of powerful chiefs, being altogether ignored. It is obvious there could be no interpretation of the clause which I am speaking of except either that the ten whose names were put in the grant were to be trustees, or that no grant should be made except to ten men who were the owners, and the only owners of the piece of land to which the grant referred.

888. I would ask Mr. FitzGerald if he could suggest any measure or provisions, which he thinks essentially necessary, which would render it possible to deal in a satisfactory manner with the purchase of Native lands?—I have been so long removed from all consideration of Native questions that I would speak with great reluctance and diffidence on the subject at all; but I may say that I think the first or one of the first objects to be attained should be to put an end to large tracts of Native lands falling into the hands of private individuals. I know no way of stopping what is called "land-sharking," or jobbing in Native land, except by putting an absolute limit to the quantity of land that any private individual may obtain from Natives, and absolutely confiscating to the Crown any land so obtained in excess of the quantity limited by law.

889. *Mr. Locke.*] Would not that tend to encourage dummyism: half a dozen persons could club together for the purpose?—I think there would be no difficulty in preventing that if there were an intention that it should be prevented.

890. *Hon. Mr. Bryce.*] You have described to us, Mr. FitzGerald, that clause 23, by which only ten persons could be put into the grant, and you have given us your interpretation of it: you said it was obvious that these ten persons were either trustees or the only owners of the land?—I think that was the intention of the clause.

891. Now, may I ask you, as a matter of opinion, whether you think there is a single piece of land in all New Zealand in which ten persons "are owners, and the only owners"?—Ten or less than ten, I think it is. I think the intention was to individualize the land so far as the number ten; that is, unless the Natives should agree that the piece of land should go to a certain ten persons no certificate was to issue.

892. *Sir G. Grey.*] You say ten or less than ten?—Ten or less than ten.

Hon. Mr. Bryce: I wanted to clear up that expression of yours respecting the number in the grant, but your last answer makes it quite clear.

893. *Mr. Ormond.*] You spoke just now of limiting the area which you would allow one individual to purchase: have you any definite idea as to the limit you would like to fix, or that you would recommend?—No; probably my opinions and the opinions of others would be guided on that question by whether it was desirable to place a limit to the extent of land held from any particular source by one person: on that there might be a great difference of opinion.

894. Do you know the interior of the country?—No.

894A. You know it to be rough: would it not be very difficult to apply any system to such land as it is compared with land that is really valuable and fit for profitable settlement?—Possibly; as also with regard to inaccessible mountains.

895. But does it not suggest to you very great difficulty in carrying out your proposal?—Perhaps; but not impossible. What I meant to express was this: that one way of putting a stop to the purchase of Native land by Europeans, purely for speculative purposes, and to make money out of such transactions, would be to reduce the area capable of being purchased to such a limit that it would not be worth the while of that class of persons to enter into them.

896. That gives a very different meaning from what you said before?—That is what I mean.

897. That gives a fuller meaning?—Yes.

898. In referring to the Act of 1865, did you mean to convey, in your opinion, that the Native Land Court had misinterpreted the spirit of the Act?—I think it entirely misapprehended that clause.

899. Are you aware of the point ever having been raised for the consideration of the Court, by protest or otherwise?—No, I am not; but I have frequently had conversations with the late Chief Judge on the subject in the course of the years that have passed since. I left office the year after that Act was passed. I have no hesitation in saying that had I remained in office the doubt as to the meaning of the clause would have been cleared up.

900. You said, I think, that the Chief Justice and yourself drew that Act?—It was brought down by Mr. Fenton from Auckland. He was not Chief Judge then. We were engaged on it for some time, and after many alterations it took its present form.

901. How soon after, do you remember, did Mr. Fenton become Chief Judge?—About a year after, I believe.

902. Why did he then, knowing the intention and the spirit of the Act, administer it differently: can you give us any explanation?—No; I cannot.

903. He would not have been amenable to instructions by the Government on the subject?—Certainly not; but the Act ought to have been altered the moment the misunderstanding as to its meaning was discovered. I may say that it is impossible to believe that it was the intention of Parliament to hand over to ten people land which belonged to five hundred.

904. *Mr. Hobbs.*] I understand you, Mr. FitzGerald, to say, that when you were discussing this Bill with Mr. Fenton it was agreed that the principle of "trusts" should not be introduced?—Yes.

905. Can you inform us why you came to the conclusion that it was advisable not to introduce the question of trust?—As well as I remember, Mr. Fenton thought that the law relating to trusts and trustees was of too complicated a nature to introduce into the Bill, and therefore it would be undesirable in a measure for the disposition of Native lands.

906. That, therefore, it was better to leave it an open question?—That, therefore, the certificate was to be given to the actual owners.

907. Was it not only what might be expected that the ten persons in the grant would dispose of the bulk of the land irrespective of the rights of others?—At all events I am informed that it is what was done in many cases.

908. Might I ask you whether you hold that view; do you think it desirable that trustees should not be introduced?—I think so.

909. *Mr. Grace.*] I wish to ask you, Mr. FitzGerald, whether you do not think the first object of a Native Land Bill should be to give the Maoris every facility to individualization of title (putting aside all sales and matters of that kind)—simply to provide the Maoris with the means to individualize their titles?—No, I do not think so. I see no more reason why a Maori hapu should not hold land in common than that the London companies should hold estates in Ulster. I hold that in the Acts that have been passed the object was not to interfere with the mode in which the Maoris wished to hold their land, but to establish just relations—to provide machinery—for carrying out arrangements by which they would be able to sell and dispose of their lands to Europeans with benefit to both races.

910. *Mr. Wi Pere.*] You stated, I understand, that there were two modes of procedure which you provided with Mr. Fenton: one was giving the land in block to not more than ten people; the second was the giving the land to individuals?—I only stated that it was the intention of the Act of 1885 to give the land to individuals not exceeding ten in number.

911. Do you say that that system should continue: the system that not more than ten persons should be put into any certificate, so that if there are one hundred owners of a block of land there should be ten grants signed?—I would rather not express an opinion as to the most desirable way of disposing of Native land. I am only trying to explain what has been the fault in the former way of disposing of it.

Sir G. Grey: It is quite clear that Mr. Wi Pere has misunderstood the evidence given by the witness.

912. *Mr. Wi Pere.*] Your idea was this: Suppose there were thirty owners, that the land should be cut up into three grants, signed with ten in each grant?—Or if they chose to agree to cut up the land among themselves so that not more than ten should take upon the certificate, it was for them to do it, but they must be actual owners.

913. You said something about individualizing each man's interest: do you think that system should be carried out now: do you think that a law should be brought in for individualizing the interests?—The whole question is how to transform the Maori into an English title. As a matter of course, if the Maoris wish to individualize the land, they ought always to be able to do so and to get Crown grants.

914. Supposing a law is passed enabling Natives to individualize titles, will not trouble come on the Natives in consequence?—If they think so they had better not do it.

915. Seeing that Parliament will not carry out the wishes of the Natives: if it passes an Act individualizing the titles of Natives, will not trouble come upon them in consequence?—I should think that Parliament never would pass an Act forcing them to individualize their titles.

916. Why was this Bill brought into the Native Affairs Committee, and why were not the amendments agreed to when they were brought forward?—I do not understand the question.

Mr. Ormond: Mr. FitzGerald does not know of the amendments which Mr. Wi Pere speaks of.

Mr. Hobbs: Mr. Wi Pere means that the Bill before the Committee is objectionable, and, if so, he asks why it should be allowed to pass.

Sir G. Grey: Let the Interpreter make Mr. Wi Pere understand that Mr. FitzGerald knows nothing about the amendments.

917. *Mr. Wi Pere.*] Then, do you think that Parliament would accept these amendments which we propose?—I am unable to say what Parliament would or would not do.

918. You said you did not think that Parliament would pass a Bill compelling Maoris to individualize their titles?—I do not think that Parliament would ever intentionally do anything that could be regarded as unjust to the Maoris.

919. Was it the Natives who asked that only ten should be placed in the grant?—That Act did not interfere with the titles of Maoris in the least. It was to affect the rights of Englishmen, not of Maoris. Parliament did not say how the Maoris should hold their lands among themselves; but when the land was to be sold to Englishmen, the rights of Englishmen being affected and not those of the Maori, Parliament, if the Maori wanted to sell, had a right to say on what conditions the Englishman should receive the land.

920. Did that law only apply to land that was being sold to Europeans?—It was not compulsory on any Maori to adopt the provisions of the Act; but, if they wanted to sell their land, then they must sell through the machinery provided by the Act.

921. Was notice given to the Natives at the time of passing the Act that the intention was to give ten persons the land of a hundred individuals?—I am not aware what was done. I left office at the end of that session. I do not know what was done except what I heard from others.

922. Do you not know that the Natives were deceived; that they were told by the Judges these ten men were to hold in the position of trustees?—I never heard that.

923. Do you think that the Maoris would be so foolish as to give the land of one hundred people absolutely to ten, had they known that the ten would have absolute power over it?—I should think not.

924. Then, do you not think that the Maoris were led to suppose that these ten persons were to occupy the position of trustees, and therefore that they were deceived?—I am not at all surprised at their thinking so. It is quite evident that, if these ten people were not the sole proprietors of the land, they were in equity trustees for the rest of the proprietors. I say "in equity," and I think it is a great question whether they were not so in law.

925. What do you think the cost per acre would be if each person's share were individualized: how many times would the land have to go through the Court?—I could not enter into that.

926. There are large tribes and small tribes, large hapus and subtribes. How many surveys would be required: how much would it all cost?—I should think a good deal.

927. Then, probably, it would cost a good deal, more than the land is worth?—Would the Interpreter tell Mr. Wi Pere that I said just now I saw no object in individualizing the land if the Maoris themselves did not wish it. There was nothing in the Act to compel them to do it.

928. *Mr. Te Ao.*] Seeing that you drew up this Act of 1865, how do you suppose that a hundred owners were to have their interests defined: how were they to get their titles?—There was power in the Act to give a title to the tribe.

929. Suppose there were a hundred owners to a block of land, how could they all get into one grant when the law said their should only be ten in the grant?—The hundred owners being part of a tribe, do you mean?

930. Supposing the hundred people formed the tribe?—Then they could get a certificate of title for the tribe in common.

931. But the Court would only allow ten to get into the grant; how therefore could the hundred get in?—There, that was the mistake. There were two kinds of certificate authorized by the Act: one was a certificate to the tribe, whether it contained one hundred, one thousand, or twenty thousand people; the other was a certificate given to individuals that might in number be one, two, three, up to ten. The first-mentioned certificate would be given in the name of the tribe, the other would be given in the names of individuals who owned the land.

932. What law are you referring to?—To the Act of 1865.

APPENDIX.

THE NATIVE LAND DISPOSITION BILL, 1885,

SHOWING the amendments respectively proposed by the Hon. J. BALLANCE, Mr. WI PERE, and Mr. TE AO (or WAHANUI).

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S (OR WAHANUI'S) AMENDMENTS.
A BILL INTITULED AN ACT to control Dealings with Land owned by Natives.			
BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—			
1. The Short Title of this Act is "The Native Land Disposition Act, 1885."			
PART I. PRELIMINARY.			
2. This Act shall not apply to land— Now the subject of a lease for an outstanding term, during the continuance of such term; Administrable by the Public Trustee under "The Native Reserves Act, 1882;" Set apart as reserves for Natives under "The West Coast Settlement (North Island) Act, 1880;" While subject to "The Thermal-Springs Districts Act, 1881;" Nor, save in Part VII., to land held by Natives under their custom or usage, the title whereto has not been investigated by the Native Land Court.			
Section *one hundred and twenty-one* of "The Railways Authorization Act, 1881," shall have effect as if this Act had not been passed.	Section one hundred and twenty-one of "The ~~Railways Authorization~~ *Railways Construction and Land* Act, 1881" shall have effect as if this Act had not been passed.		
3. In this Act, if not inconsistent with the context,— "Board" means a Board of Management appointed under this Act: "Commissioner" means a Commissioner appointed under this Act: "Court" means the Native Land Court of New Zealand:			

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S (OR WAHANUI'S) AMENDMENTS.
"District" means a district constituted under this Act: "Judge" means Judge of the Court: "Land" means any parcel of land owned by Natives: "Local Committee" means Natives whose names may be respectively inscribed under this Act: "Native Committee" means a Committee under "The Native Committees Act, 1883:" "Native" means an aboriginal native of New Zealand, and includes half-castes and their descendants by Natives: "Owner" means any Native owner of land, save and except in cases where the land has been purchased from the Crown or from Europeans, and is held under Crown grant or conveyance to such owner individually, and includes persons registered under section seventeen of "The Native Land Act, 1867:" "Registration" means registration under any Act relating to registration of deeds or to land transfer: "Sealed" means sealed with the seal of a Board.	This paragraph to be struck out. "Owner" means any *adult* Native owner of land, ~~save and~~ except ~~in cases where the~~ land ~~has been~~ purchased from the Crown or from Europeans, and is held under Crown grant or conveyance to such owner individually, and includes persons registered under section seventeen of "The Native Land Act, 1867."		
4. Districts proclaimed under "The Native Committees Act, 1883," shall be districts under this Act.			
PART II. COMMISSIONER.			
5. The Governor may from time to time appoint such person or persons as he may think fit to be a Commissioner or Commissioners under this Act, and may from time to time, as he may think fit, remove such Commissioner or Commissioners.			
6. The Governor may also from time to time during the absence or illness of a Commissioner appoint a Deputy Commissioner, who shall, subject to the Governor's pleasure, have and exercise the powers vested in a Commissioner.			
7. In the event of more than one Commissioner being appointed the Governor may define the district or districts within which such Commissioner may exercise the powers vested in him under this Act.			
PART III. BOARDS OF MANAGEMENT.			
8. For each district there shall be a Board of Management, to be called "The Board of Management, District."		Amend clause 8, to read as follows:— For each block wherein the Native owners thereof are willing, there shall be a	Amend clause 8, to read as follows:— The Board shall be composed as follows: The Commissioner, the Chairman of

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S (OR WAHANUI'S) AMENDMENTS.
Each Board shall consist of the Commissioner for the time being, the Chairman of the Native Committee of the district, and another person, to be from time to time appointed by the Governor, who shall hold office during the Governor's pleasure.	Each Board shall consist of ~~the~~ *a* Commissioner ~~for the time being, the Chairman of the Native Committee of the district,~~ and ~~another person~~ *two Natives*, to be from time to time appointed by the Governor, who shall hold office during the Governor's pleasure, *and of a Native to be appointed by the majority of the members of each local Committee from among such members and their co-owners. But the Native to be so appointed shall be deemed to be and entitled to act as a member of the Board only when it may be engaged in or about business declared by the Commissioner to have relation to the land of such owners.*	Board of Management, to be called "The Board of Management of the Block in the District." Each Board shall consist of the Commissioner for the time being, the Chairman of the Local Committee, and a Native to be appointed by the owners of such block as may be under the administration of such Board.	the Committee, and the seven members of the Committee elected by the owners of the block of land. The functions of the said Board are to give effect to the wishes of the owners. If they act contrary to their direction, the owners of the land have power to veto their proceedings.
9. The names of the respective persons who, according to the provisions of this Act, will constitute the Board of Management for each district shall be severally notified by the Native Minister in the *Gazette* and in the *Kahiti*, and, on and from the publication of such notice in the *Gazette*, the Board of Management the subject of such notice shall assume the corporate capacity hereinafter provided for.	**9.** The names of the respective persons, *except the Native to be appointed by majority as aforesaid*, who, according to the provisions of this Act, will constitute the Board of Management for each district, shall be severally notified by the Native Minister in the "Gazette" and in the "Kahiti," and, on and from the publication of such notice in the "Gazette," the Board of Management the subject of such notice shall assume the corporate capacity hereinafter provided for.		
10. If immediately before the notification aforesaid, or at any time or times thereafter, the office of Chairman of the Native Committee for a district shall be or become vacant, the Native Minister may appoint a Native to be a member of the Board of which such Chairman would have been a member and in the place of such Chairman.	Clause 10 to be struck out.	**10.** If immediately before the notification aforesaid, or at any time or times thereafter, the office of Chairman of the Native Committee for a district shall be or become vacant, the Native ~~Minister may~~ *owners of the block being administered shall* appoint a Native to be a member of the Board of which such Chairman would have been a member and in the place of such Chairman.	**10.** If immediately before the notification aforesaid, or at any time or times thereafter, the office of Chairman of the Native Committee for a district shall be or become vacant, the Native ~~Minister~~ *owners of the land* may appoint a Native to be a member of the Board of which such Chairman would have been a member and in the place of such Chairman.

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S OR (WAHANUI'S) AMENDMENTS.
Such person shall continue to be such member until it shall be notified by the Native Minister in the *Gazette* and *Kahiti* that a Chairman of such Native Committee has been appointed, and, on such notice appearing in the *Gazette*, such elected Chairman shall become a member of such Board in the place of the person appointed as aforesaid.		Subsection to stand as printed.	Subsection to stand as printed.
A person may be appointed by the Native Minister as aforesaid, and with like effect, in the event of a Chairman of a Native Committee declining to act on a Board.		A person may be appointed by the Native ~~Minister~~ *owners* as aforesaid, and with like effect, in the event of a Chairman of a Native Committee declining to act on a Board.	A person may be appointed by the Native ~~Minister~~ *owners of the land* as aforesaid, and with like effect, in the event of a Chairman of a Native Committee declining to act on a Board.
11. No vacancy or irregularity in the constitution of a Board, so far as relates to the seat thereat hereby appropriated to a Chairman of a Native Committee, or person in his stead, shall affect the constitution of such Board, or the validity of any Act or procedure done by it or under its authority.	Clause 11 to be struck out.		
12. Each Board shall be a Corporation, and shall have a common seal.			
The Commissioner shall provide and have the custody of the common seal of each Board.			
Resolutions, procedure, and acts of the Board shall be determined by the votes of a majority of its members, of which majority the Commissioner shall be one.			
The Commissioner shall preside at all meetings of the Board as Chairman, and shall have a casting vote as well as an original one.		The Commissioner shall preside at all meetings of the Board as Chairman, ~~and shall have a casting vote as well as an original one.~~	The Commissioner shall preside at all meetings of the Board as Chairman, and shall have a casting vote ~~as well as an original one~~ *only*.
PART IV. LOCAL COMMITTEES.			
13. Adult owners of land, being more than seven in number, and desirous of having the same dealt with under this Act, shall elect seven of themselves to be a Local Committee.	**13.** ~~Adult~~ owners of land, being more than seven in number, and desirous of having the same dealt with under this Act, shall elect seven of themselves to be a Local Committee.		Add to clause 13,— The provisions of this Act shall not apply to the land or share of any person who has not reached the age of twenty-one. The whole tribe to whom such minors belong are to appoint either male or female trustees.
An election shall be by nomination in writing signed by a majority of such owners.			
Each such owner may nominate seven or any less number of owners, of whom he may be one.	Each ~~such~~ owner may nominate seven or any less number of owners, of whom he may be one.		
Nomination-papers shall be signed in the presence of and attested by a Justice of the Peace, Licensed Interpreter, or any European person engaged in the service of the Government.			
Nomination-papers shall be transmitted to the Commissioner.			

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S (OR WAHANUI'S) AMENDMENTS.
14. The Commissioner shall first satisfy himself that a majority of such owners are nominators, and shall then inscribe the names of the seven owners who have received the largest number of nominations in a book to be kept for the purpose, to be called the Local Committee Register.			
15. On such inscription being had, the persons whose names are inscribed shall thereon be the Local Committee under this Act in respect of such land.			
16. Where adult owners of land are less than eight in number, if a writing signed by a majority of such owners, and expressing a desire that such land shall be dealt with under this Act, be transmitted to the Commissioner, he shall, having satisfied himself that the writing is so signed, transcribe as aforesaid the names of such majority, who thereon shall be a Local Committee in respect of such land. This Committee may be less than seven in number.	**16.** Where ~~adult~~ owners of land are less than eight in number, if a writing signed by a majority of such owners, and expressing a desire that such land shall be dealt with under this Act, be transmitted to the Commissioner, he shall, having satisfied himself that the writing is so signed, ~~transcribe~~ *inscribe* as aforesaid the names of such majority, who thereon shall be a Local Committee in respect of such land. This Committee may be less than seven in number.		
17. At the first meeting of any Local Committee, such Committee shall elect a Chairman, whose name shall be forwarded to the Commissioner, and shall be inscribed by him in the Local Committee Register.			
18. A member of a Local Committee may resign by a writing signed by him, and transmitted by the Chairman of the Committee to the Commissioner.			
19. In the event of a vacancy in a Local Committee by reason of death or resignation of a member, another adult owner may be elected, and his name inscribed in the manner hereinbefore provided in the place of such member.	**19.** In the event of a vacancy in a Local Committee by reason of death or resignation of a member, another ~~adult~~ owner may be elected and his name inscribed in the manner hereinbefore provided in the place of such member.		
20. Until any such vacancy be so filled up, the Local Committee shall continue to be a Local Committee under this Act, notwithstanding its members be less than seven in number.			
21. The Governor may, upon receiving an application certified by the Commissioner to be signed by not less than two-thirds of the adult owners, dissolve any Local Committee. A notification of such dissolution shall be published in the *New Zealand Gazette* and *Kahiti*, and thereupon a fresh Local Committee shall be elected as aforesaid.	**21.** The Governor may, upon receiving an application certified by the Commissioner to be signed by not less than two-thirds of the ~~adult~~ owners, dissolve any Local Committee.		
22. A Local Committee shall cease to be such Committee When its duties in relation to the land in respect whereof they were nominated have been performed, or When four years have elapsed from	Add to clause 22,- - Owners desiring that their land shall not be dealt with by the Board may give notice of such desire in writing signed by such owner, and delivered to the Commissioner within thirty		

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S (OR WAHANUI'S) AMENDMENTS.
the time when their names were inscribed as aforesaid. In the event of a Local Committee ceasing to be such by effluxion of time, another Committee shall be elected as aforesaid in its place.	days after the inscription of the names of the Local Committee as aforesaid. Owners not giving such notice shall be deemed to have assented to their land being dealt with by the Board. If owners have all assented as aforesaid, the land may be forthwith disposed of in manner hereinafter provided in that behalf. If owners have not all so assented, the Commissioner shall forthwith furnish to the Chief Judge of the Court a list of the names of owners who shall have delivered notices as aforesaid, with a request that partition of the land may be had. Thereon it shall be a duty of the Court to proceed with the desired partition. The Court may in the first place partition to each owner desiring to hold in severalty such part of the land as it may deem just. The residue of the land shall be dealt with in the usual course of partition, but making separate award to owners named in the said list and to owners not so named, but in each case exclusive of owners to whom award shall have been made in severalty.		
23. A Local Committee may, by writing signed by a majority of its members, make its direction whether the land shall be sold or leased or partly sold and partly leased, and may therein include such suggestions as to details of the proposed disposition, or as to parts of land to be reserved from disposition, as it may think fit.	**23.** *As to land where all the owners have assented as aforesaid, or where all the owners have not so assented, then, as to such land as shall be partitioned as aforesaid by the Court to those not named in the list aforesaid, the* A Local Committee may, by writing signed by a majority of its members, make its direction whether the land shall be sold or leased or partly sold and partly leased, and may therein include such suggestions as to details of the proposed disposition, or as to parts of land to be reserved from disposition, as it may think fit.		
24. Such writing shall be transmitted to the Commissioner, who, if satisfied that it is signed as prescribed, shall enter a minute thereof in the book aforesaid.			
25. Owners may sell or lease to the Crown without and notwithstanding the appointment of a Local Committee. A Local Committee may sell or lease to the Crown. A conveyance or lease of land made to the Crown executed by the members of a Local Committee shall be good and effectual, and be entitled to registration.		Clause 25 to be struck out.	Clause 25 to be struck out and the following substituted:— **25.** Owners may sell or lease their land to the highest bidder, whether to the Crown or others.
26. In the event of the dissolution of a			

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Local Committee, or other termination of such Committee, all acts done and completed previous to such dissolution or termination by the Committee under this Act and in accordance with its provisions shall be effectual and binding.			
27. Nothing done under this Act shall be invalidated by reason of a minor having wrongfully assumed the powers and functions vested by this Act in an adult owner of land.		Clause 27 to be struck out.	Clause 27 to be struck out.
PART V. DUTIES, ETC., OF BOARDS.			
28. On the receipt by the Commissioner of a direction of a Local Committee it shall be submitted by him to the Board, whose first duty shall be to consider the best means of giving effect thereto in accordance with this Act and any regulations, rules, or orders made hereunder.		Add to clause 28,— Provided that the Commissioner shall first satisfy himself the Local Committee have received their directions from all the Native owners, and such directions from such owners shall be in writing.	Add to clause 28,— The Commissioner shall satisfy himself that the directions are in writing, and signed by the owners of the land. If the directions are not submitted in writing he shall not recognize the same.
29. The Board shall thereon prepare a "report" setting out the course in which they propose to give effect to the direction.			
30. A copy of such report shall be gazetted and also published in the *Kahiti*.			
31. A Board, being guided by such report, and by any regulations, rules, or orders made under this Act, and having regard to any such objections and suggestions, may proceed, in such manner as it may deem best, to make sale or lease of the land the subject thereof; and such Board is hereby empowered to lay off such roads, make such surveys, and generally to perform all acts, matters, and things which they may deem fit for the carrying into effect disposition of land under this Act.	**31.** A Board, being guided by such report, and by any regulations, rules, or orders made under this Act, ~~and having regard to any such objections and suggestions,~~ may proceed in such manner as it may deem best, to make sale or lease of the land the subject thereof; and such Board is hereby empowered to lay off such roads, make such surveys, and generally to perform all acts, matters, and things which they may deem fit for the carrying into effect disposition of land under this Act.		
32. A writing, sealed and signed by the Commissioner, and purporting to be a conveyance or lease or a contract for a conveyance or lease of land, shall be respectively deemed a good and valid conveyance, lease, or contract, and to have been made by all the owners of the land the subject thereof, and as if none of such owners were under any disability, and shall be entitled to registration.		Add to clause 32,— Excepting in cases where, although in a minority, one or more owners object to the administration of their interests by the Local Committee, or did not participate in the election thereof, then the said Commissioner shall, before proceeding further under this Act, move the Native Land Court in the usual manner, so that a subdivision of the interests of such dissentients may be affected.	Add to clause 32,— Should any person or persons, members of the tribe, hapu, or owner of the land object to the lease or sale of his or their interests, the said interests shall forthwith be cut out and excluded.
33. When a conveyance or lease of land is made under this Act the Board shall have the powers following:—			

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To sue for, recover, receive, and give receipts for any purchase-money: To distrain, sue for, recover, and give receipts for money to accrue as rent: To enforce contracts for the sale or lease of land, and compel payment of sums to become due in respect thereof: To determine any terminable contract respecting land: To resume possession of land on the right so to do accruing under any contract relating to land: To do such other acts and things as may be enjoined on them by regulations, rules, or orders under this Act. **34**. The Commissioner shall be the executive officer of the Board for all the purposes of this Act. **35**. Save as made under or authorized by this Act, every deed or writing hereafter signed and intended to affect title to land shall be illegal.			
36. Save as provided by this Act, no person shall by himself or his agent, purchase, or acquire, or contract, or agree to purchase or acquire from any owner any land or any estate or interest therein. Any person so doing shall be liable to imprisonment for not less than three or more than twelve months, or to a penalty of not less than twenty or more than five hundred pounds.		Add to first paragraph, clause 36,— which shall have been brought under the operation of this Act. Add to end of clause 36,— Provided that nothing in this Act shall affect any disposition of land from Native to Native.	Add to clause 36,— Nothing in this Act shall affect dispositions of land between Native and Native
PART VI. DISPOSITION OF MONEYS. **37**. All moneys accruing under the provisions of this Act from sales or rents of lands, or otherwise, in any district shall be paid to the Commissioner, who shall, day by day, or at such times as rules may prescribe, pay the same into such bank as the Governor directs, to the credit of an official account of the Commissioner therein, to be called the Native Land Fund Account. Such account shall be operated on only by cheque, signed by the Commissioner, or in such manner as rules may prescribe. **38**. All such moneys shall be deemed to be public moneys within the meaning of "The Public Revenues Act, 1878," and the Acts amending the same, and all the provisions of the said Acts in relation to public moneys and to all persons dealing			

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therewith shall apply to the moneys accruing under this Act and to all persons dealing with the same.			
39. The Commissioner shall keep full accounts of the receipts and payments of the Native Land Fund in such form as the Controller and Auditor directs, and shall show therein separately the receipts and payments in respect of each parcel of land dealt with under this Act, and shall, at the end of every month, send to the Audit Office a copy or abstract of such accounts in such form as the Controller and Auditor-General directs.			
40. Moneys received by the Board as purchase-money or rent in respect of each parcel of land shall be paid to the owners, after deducting therefrom— A sum equal to five pounds per centum upon all purchase-money or rent to be received under this Act, and which shall be paid to Her Majesty towards the costs not otherwise provided for of giving effect to this Act; The cost of surveying and laying off roads, and advertising, and the cost, or part of the cost, of making roads under this Act; The amount of any moneys certified by the Surveyor-General to be owing by the owners in respect of any surveys or plans of such land, either to the Surveyor-General or other surveyor, or certified by a Judge to be owing for Court fees. Such deductions may be made out of the first moneys so received, or by instalments, within seven years, out of moneys to accrue on any sale or lease made by the Board. The Commissioner shall pay all moneys so deducted into the Public Account to the credit of the Consolidated Fund.		**40.** Moneys received by the Board as purchase-money or rent in respect of each parcel of land shall be paid to the owners, ~~after deducting therefrom~~ *without any deductions whatsoever and without delay.* Subsections and remainder of clause to be struck out.	**40.** Moneys received by the Board as purchase-money or rent in respect of each parcel of land shall be paid to the owners, ~~after deducting therefrom~~— Subsections and remainder of clause to be struck out.
41. In order to facilitate the payment to owners of moneys to accrue to them under this Act, the Commissioner may, before making a payment, require from the owners a statement in writing of the relative share of each owner in the land; and such moneys shall be paid among such owners in like proportion as the owner's share in the land.		Clause 41 to be struck out.	Clause 41 to be struck out
42. If the owners do not agree in a statement, the question shall be referred by the Board to a Judge of the Native Land Court, who shall make his order as to the amount to be paid to each owner.		Clause 42 to be struck out.	Clause 42 to be struck out.

BILL AS BEFORE COMMITTEE.	HON. J. BALLANCE'S AMENDMENTS.	MR. WI PERE'S AMENDMENTS.	MR. TE AO'S (OR WAHANUI'S) AMENDMENTS.
Moneys accruing to owners under disability may be retained by the Commissioner, or be paid or applied to such persons, or in such manner as he may deem beneficial to such owner.			
43. The Commissioner shall send to the Audit, for record therein, a copy of every such agreement or order of the Court showing the relative share of each of the owners in any parcel of land.		Clause 43 to be struck out.	Clause 43 to be struck out.
44. All or any number of owners may by writing signed as hereinbefore required, in regard to nomination-papers, authorize one or more persons being owners of such land to receive any moneys to accrue to the owners so signing under this Act.		**44.** All ~~or any number of~~ *the* owners may by writing signed as hereinbefore required, in regard to nomination papers, authorize one or more persons being owners of such land to receive any moneys to accrue to the owners so signing under this Act.	**44.** All ~~or any number of~~ owners may by writing signed as hereinbefore required, in regard to nomination papers, authorize one or more persons, being owners of such land, to receive any moneys to accrue to the owners so signing under this Act.
45. The whole or any portion of the proceeds of any land dealt with under this Act, which may be payable to the owners, may, upon a request made to the Commissioner in writing by a majority of the adult owners of such land, be deposited with the Public Trustee, to be invested by him to the best advantage for the benefit of the owners, in such proportions as may be determined under clauses *forty-one* and *forty-two* of this Act, or may be expended in the purchase of an annuity for one or more of the said owners. The Commissioner may, at the request made in writing of any one or more of the owners, deal with his, her, or their share or shares of the proceeds of any land, in the manner foregoing, as may be desired by such owner.		**45.** The whole or any portion of the proceeds of any land dealt with under this Act, which may be payable to the owners, may, upon a request made to the Commissioner in writing by ~~a majority of the adult~~ *all the* owners of such land, be deposited with the Public Trustee, to be invested by him to the best advantage for the benefit of the owners ~~in such proportions as may be determined under clauses 41 and 42 of this Act, or may be expended in the purchase of an annuity for one or more of the said owners. The Commissioner may, at the request made in writing of any one or more of the owners, deal with his, her, or their share or shares of the proceeds of any land, in the manner foregoing, as may be desired by such owner.~~	**45.** The whole or any portion of the proceeds of any land dealt with under this Act, which may be payable to the owners, may, upon, a request made to the Commissioner in writing by ~~a majority of the adult~~ *all the* owners of such land, be deposited with the Public Trustee, to be invested by him to the best advantage for the benefit of the owners, in such proportions as may be determined under clauses forty-one and forty-two of this Act, or may be expended in the purchase of an annuity for one or more of the said owners. ~~The Commissioner may, at the request made in writing of any one or more of the owners, deal with his, her, or their share or shares of the proceeds of any land, in the manner foregoing, as may be desired by such owner.~~
46. Before the day of , one thousand eight hundred and eighty-six, the Commissioner shall furnish to the Minister of Native Affairs a report giving a full statement and account showing as to each parcel of land all dealings had therewith by the Board, and all moneys received and disposed of by the Commissioner under this Act in relation to such land. The Commissioner shall annually furnish a like report. A copy of such report shall be laid before each House of the General Assembly as soon as may be after its receipt by the Minister.			

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PART VII. REMEDIABLE. *(1.) Occupation.* Whereas, with the assent of Natives, occupation of lands was taken before the eighth day of September, one thousand eight hundred and eighty-three, and is still continued to the benefit of such Natives and of the colony at large, but, by reason of the title to such lands not having been determined, legal sanction has not been obtainable to such occupation for any term of years, though the Natives aforesaid are desirous of giving such sanction: And whereas it may be desirable in some cases that effect should be given to the terms upon which such occupation is had, anything in this Act or in law notwithstanding: Be it therefore enacted:— **47**. Any person claiming to have such occupation as aforesaid may, at any time within three months from the passing of this Act, deliver to the office of the Chief Judge of the Court a notice in writing alleging the fact of such occupation, and setting out— (*a.*) The situation, area, and character of the land occupied; (*b.*) The rent or consideration which has theretofore been paid for occupation, and the names of the Natives, tribe, or hapu to whom payment has been made; (*c.*) The term, if any, for which it was, on the first day of January, one thousand eight hundred and eighty-five, understood between the Natives and the occupier that occupation should continue; (*d.*) The amount and value of live stock on the land occupied on the first day of January, one thousand eight hundred and eighty-five; (*e.*) The nature and value of improvements effected on the land before the last-mentioned date. **48**. Such notice shall be accompanied by a statutory declaration verifying the truth of the statements therein. **49**. Upon the title to any land the subject of such notice coming before the Court for investigation it shall be a duty of a Judge of the Court, at the close of such investigation, to take cognizance of the allegations in such notice, and to inquire into the truth thereof, and also who are the Natives who have allowed or participated		The whole of Part VII. to be struck out.	Part VII. to be struck out.

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in the benefit of such occupation, and which of the owners of such land as found by the Court are identical with or representative of such Natives. An investigation shall be deemed to be closed when there is no application for rehearing within the prescribed time, or when a rehearing has been had. **50.** After such inquiry is completed, such Judge shall transmit to the Native Minister a report setting out the result of such inquiry, and recommending that the land so occupied as aforesaid should be not leased to the person so in occupation, or that it should be so leased for such period (not exceeding fourteen years) and on such terms and conditions as the Judge may deem to be in accordance with the terms of occupation, and to be warranted by the equitable considerations established on the inquiry aforesaid. **51.** Such report being submitted for the consideration of the Governor in Council, it shall be lawful for, but not incumbent on, the Governor to authorize a lease to be made in the terms of such report or otherwise as he may deem fit. **52.** On an engrossment in duplicate of a lease in the terms so authorized, and wherein the Board for the district wherein the land is situate shall be made the lessors, being transmitted by such occupier to the Native Minister, such Minister, having satisfied himself that such engrossments are in the terms so authorized, shall transmit the same to the Commissioner. **53.** The Commissioner shall thereupon sign one of such engrossments, and seal the same with the seal of the Board for the district within which the land is situate, and the occupier shall execute the other. **54.** The provisions hereinbefore contained in respect to leases made under this Act shall apply to leases made under this Part of this Act, save that moneys received for rent shall be paid without any of the deductions hereinbefore mentioned save for moneys certified as aforesaid as owing for survey charges or Court fees. *(2.) Unconcluded Transactions.* Whereas heretofore conveyances and leases of undivided shares of owners have been taken by Europeans with the intention of taking conveyance or lease from the residue of such owners, but which they may be estopped from doing by this Act:			

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Be it therefore enacted as follows:—			
55. Any person claiming to have heretofore had made to him any such conveyance or lease may at any time, within there months hereafter, give notice of such claim to the Chief Judge of the Court and to the Commissioner, and deposit with such Judge all documentary evidences of his claim, or copies thereof.			
56. If such Judge be satisfied that such conveyance or lease so claimed has been so made, he may accept from the claimant an application to have the parcel of land, part of which has been so conveyed or leased, dealt with under any Act now or hereafter to be in force in relation to the division of Native land, and such claim shall warrant proceedings for division of such land by the Court; and thereon the Court may make such order in favour of such claimant as it could now make in respect of an estate or term acquired by a person before the year one thousand eight hundred and eighty-two in land the subject of a Crown grant.			
Provided that such order shall not take effect until a minute of the assent thereto of the Governor in Council has been indorsed thereon.			
If such assent thereto be refused, the land the subject of such order shall revert back to the jurisdiction of the Court.			
57. Provided that no order as aforesaid shall be made in respect of any deed the validity or effect whereof is now the subject of proceedings in the Supreme Court, until the validity or effect of such deed has been determined by such Court in favour of the person claiming under it.			
58. Provided also that this Act shall not affect the jurisdiction of any Court in relation to the division of land.			
59. A Commissioner receiving such notice as aforesaid shall not deal with the land to which it relates until the matter of such claim has been dealt with under this Act.			
PART VIII. RESTRICTIONS.			
Whereas it is dsireable that the removal of restrictions on the alienability of land should be dealt with only after due and formal inquiry:			
Be it enacted:—			
60. The Chief Judge of the Native Land Court shall, by notification in the *New Zealand Gazette* and *Kahiti*, appoint a		Add to clause 60,— But no such inquiry shall take place unless all the owners are present or represented.	Add to clause 60,— Provided that no such inquiry shall take place unless the owners or their representatives be present.

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time and place when the propriety of such removal will be inquired into.			
61. At the time and place so notified, or at some other time and place to which the Chief Judge may order such inquiry to be adjourned, such inquiry shall be had before a Judge, or any two Commissioners who may be appointed by the Governor for the purpose; and such Judge or Commissioners shall forward to the Governor their report upon the application, with such recommendation as they may think fit, for the consideration of the Governor in Council.			
PART IX. MISCELLANEOUS.			
62. The Governor in Council may from time to time make such orders and general regulations as may be deemed fit for prescribing and regulating— (*a.*) The areas in, and the estate, term, or interest for, and the conditions upon, which land may be conveyed or leased under this Act; (*b.*) The reservations, conditions, and limitations to be made by or contained in any conveyance, lease, or contract made under this Act: also like orders or regulations to be special to any particular land, or to land in any prescribed district.	Clause 62 to be struck out, and the following substituted:— **62.** The Governor in Council may from time to time, by order or general regulations, declare what laws, rules, and regulations applicable under "The Land Act, 1877," to dispositions of land under that Act shall apply to dispositions under this Act, and such dispositions shall be made thereunder so far as consonant to the provisions hereof.	**62.** The ~~Governor in Council~~ *Board* may from time to time make such orders and general regulations as may be deemed fit for prescribing and regulating— Subsections and remainder of clause to stand as printed.	**62.** The ~~Governor in Council~~ *Board of the land under administration* may from time to time make such orders and general regulations as may be deemed fit for prescribing and regulating— Subsections and remainder of clause to stand as printed.
63. The Governor may make such other rules and regulations as he may think fit for the better enabling this Act to be given effect to, and for regulating the procedure of persons engaged under it. Such orders, rules, and regulations, when gazetted, shall have like effect as if the matter thereof had been enacted herein.		**63.** The ~~Governor~~ *Board* may make such other rules and regulations as he may think fit for the better enabling this Act to be given effect to, and for regulating the procedure of persons engaged under it. Remainder of clause to stand as printed.	**63.** The ~~Governor~~ *Board on behalf of the owners* may make such other rules and regulations as he may think fit for the better enabling this Act to be given effect to, and for regulating the procedure of persons engaged under it. Such orders, rules, and regulations, when gazetted, shall have like effect as if the matter thereof had been enacted herein. Add to clause 63,— The provisions of this Act not to apply to lands within the boundaries proclaimed under "The Native Land Alienation Act, 1884."
64. The Governor may from time to time, out of moneys appropriated by the General Assembly for the purchase of land, advance to a Board such moneys as he may deem necessary for use by the Board in executing its duties under this Act.			
65. Such salaries shall be paid to the several persons appointed or employed under this Act as shall be from time to time appropriated for the purpose by the General Assembly.			
66. "The Native Lands Frauds Prevention Act, 1881," shall not apply to any alienation under this Act.			
67. Land proposed to be laid off into a township shall be deemed to be land subject to the operation of "The Plans of Towns Regulation Act, 1875."			

BILL AS BEFORE COMMITTEE.

PART X.

REPEAL.

68. "The Native Land Alienation Restriction Act, 1884," is hereby repealed.

SIR G. GREY'S ADDITIONAL CLAUSES.

Whereas the Chief Judge of the Native Land Court has reported as follows on the Maungatautari land case: "But this much I am satisfied of, that the Assessor, shortly before the case and during its progress, did receive from a Mr. Moon pecuniary accommodation, and I do not imagine that the distinction between that and bribery can be worth considering, always assuming the transaction to have been done with a view of affecting the Assessor's judgment in the interest of any of the parties:"

It shall be lawful for the Governor in Council to direct that an inquiry shall be held, by such persons and in such manner as he may think fit, into the question whether or not the Assessor did or did not receive a bribe, or what was equivalent to a bribe, in the case alluded to; and if the decision shall be that the Assessor did receive such bribe, or what was equivalent thereto, then the parties who may consider themselves aggrieved shall be entitled to a rehearing of the case.

SCHEDULE.

A. (Section .)

FORM OF NOMINATION-PAPER.

"The Native Land Disposition Act, 1885."

As to all that block of land situate in the District, and known by the name of Block, we, the undersigned, being individually owners thereof, and being desirous of having such land dealt with under the provisions of the said Act, do hereby nominate in writing, as the members of the "Local Committee" in respect of such land, the persons following:—

1.
2.
3.
4.
5.
6.
7.

As witness our signatures—

Signatures of Witnesses: *Signatures of Owners:*

N.B.—This form is only to be used where the owners of a block are more than seven in number, exclusive of owners under twenty-one years of age.

This nomination-paper may be signed by any one or more of the owners of the block, whether male or female, but is not to be signed by owners who are under twenty-one years of age.

Each signature must be made in the presence of a witness, who must sign as such witness, and who must be a Justice of the Peace, a Licensed Interpreter, or a European in the employment of the Government.

A nomination-paper, when signed by one or more owners, may be posted to the Commissioner.

B. (Section .)

FORM TO BE SIGNED WHERE THE OWNERS OF THE BLOCK ARE LESS THAN EIGHT IN NUMBER.

"The Native Land Disposition Act, 1885."

We, the undersigned, being individually owners of all that block of land situate in the District, and known by the name of Block, do hereby express in writing our desire that such land shall be dealt with under the said Act.

As witness our signatures—

Signatures of Witnesses: *Signatures of Owners:*

N.B.—This form is only to be used where the owners of a block are less than eight in number, exclusive of owners under twenty-one years of age.

This paper may be signed by any one or more of the owners, whether male or female, but is not to be signed by owners who are under twenty-one years of age.

Each signature must be made in the presence of a witness, who must sign as such, and who must be a Justice of the Peace, a Licensed Interpreter, or a European in the employment of the Government.