have been constant to make people see that the evils arising from former bad Native-land laws could be cured by workable Validation Acts, and therefore need not be endured by the community. I have preached this doctrine almost incessantly from the Bench, and also I have preached on that other cognate cause of unending litigation and paralysing precariousness of tenure—the absence from Native Land Court titles of the element of security. I have harped upon the fact that, although the orders of the Native Land Courts are by law made absolutely "final and conclusive," they are nevertheless treated by even the smallest judicial officers—Land Transfer Registrars—as settling nothing, and giving no title worth a straw. The doctrines of "judgment recovered," that great branch of jurisprudence, deemed so important in the Mother-country, are ignored in this country in their application to Native Land Court decisions, notwithstanding that statute after statute has declared them "final and conclusive." These facts lie at the root of validation legislation. These uncertainties and insecurities forced men into making illegal purchases. They were compelled to make them in obedience to the highest of natural laws—the law of self-preservation. Men who held under dubious Native Land Court titles (and all such titles were dubious), or who held under Maori leases of doubtful legality, were forced all over the country to enter the field in company with speculators and their agents, whose purchases, though illegal, ripened into indefeasible Land Transfer titles. The holders of doubtful Maori leases, or of titles defective by reason of technicalities which Native Land Court decisions were vainly supposed to have surmounted, thus found themselves ousted from their holdings if they abstained from entering into competition in purchasing, and it was not in human nature to expect that men so situated should sit still while others bought over their heads the fruits of their industry and capital. The day when the first illegal purchase was allowed to pass through the Land Transfer office inaugurated the scramble of illegal purchases which necessitates these validations.

The first statute in the nature of a Validation Act was the Poututu Jurisdiction Act, drawn by myself. Under that Act a complicated litigation that for years had defied settlement has been settled in every branch, with all its equities and cross equities, the machinery for which was provided in that Act. That statute was quickly followed by the Act of 1889, under which Act Mr. Justice Edwards sat. But the validating sections of that Act are repealed by the present Act of 1892, and unfortunately the substituted provisions, as pointed out by Mr. Rees, do not include in words the same class of cases. I cannot deny the force of Mr. Rees's argument from inference, that, inasmuch as the repealed section 27 was to have been carried out by a Judge with Supreme Court status, salary, and protection, whereas the provisions of this statute are committed to untrained and unprotected Judges, the Legislature could not have intended to intrust duties that ought only to be performed by a highly trained Judge to men who, to the timidity engendered by the want of legal training, add the fear of incurring the hostility of powerful suitors with fortunes at stake. I quite admit the impropriety of allowing Judges, selected for their skill in Maori language rather than for any other qualification, to be taken as guides through the difficult channels of English law, and that, too, without any appeal from them to those who are the skilled pilots in that law. But all that argument, however forcible, is really beside the question of the intention of the Legislature when that question is viewed from the only proper stand-point, and, besides, the argument goes too far, for if it avails to exclude Mr. Tiffen's case it ought equally to avail to exclude all other equally important cases. If untrained unprotected laymen, unfit to grapple with legal questions, are to be presumed not to have been intrusted with cases of the Tiffen class, how can it be admitted that they are intrusted with other classes of cases of equal magnitude and importance, and with complications not involved in Tiffen's class of case. If Mr. Rees's class of argument avails for anything, it shuts up the whole statute, except as to the merest trivialities, and then arises the question—What was the purpose for which the Legislature passed the Act? The really strong argument made by Mr. Rees is that the Legislature, having repealed the enactment whose words exactly met Mr. Tiffen's case, has substituted for it an enactment none of whose words will meet it; and if this were an ordinary statute giving rights to parties, that argument I admit ought to be fatal to my view. But the strength of my view lies in the fact of the peculiar nature of this statute, and that peculiarity taken in conjunction with the parliamentary history of its predecessors shows that the Legislature has all along intended progressive not retrogressive legislation, and I say that the English canons of construction of statutes do not forbid such view.

Those canons of construction are for the most part settled. It is well settled that if a matter be within the mischief intended to be remedied by the Legislature, even though there be no express words applicable to it, it should be held to be within the statute; and, on the other hand, it is equally well settled that if a matter be not within the mischief to be remedied it should be held to be outside their purview of the statute even though its words distinctly apply to it. I rely on these canons of construction as showing that the mere fact that there are no words in this present Validation Act covering Mr. Tiffen's case is not at all conclusive as to the intentions of the Legislature to exclude such cases from the benefits of validation. We have to look to other things as the words to enable us to judge of the intention of a statute.

I hold that this statute is so unique in its nature that it ought to receive the widest construction, for the following reasons: It appoints the Native Land Court Judges merely as the agents of the Legislature to inquire and report to both Houses of Parliament their opinion upon the cases presented to them. This agency for Parliament is the head and front of the whole statute. The Court cannot confer upon the applicant who comes before it any right or status whatever. It simply certifies that his transactions with the Natives are invalid: that they have been inquired into and found honest and straightforward, and recommends that they should be made valid by a Validating Act. This Act of 1892 is not in itself a Validating Act; it is only an "inquiring and reporting" statute. The 17th section expressly declares that the certificate given by the Native Land Court "shall be of no effect and shall remain in the office of the Court, and shall not be delivered to any person for any purpose whatever, or be capable of registration under any Act until