

Native-land laws passed?—I think the laws are thoroughly incomprehensible. It was understood when a new Native-land law or Bill was brought into force it was intended to repeal those that were incomprehensible, but it appears that every new Act creates an immense amount of confusion,—that none but experienced men can arrive at an understanding. I think it is not only my opinion, but, from my own experience with various Judges, the Courts themselves never seem to comprehend the different Acts they have to work under. Quite a diversity of practice will be found in different Courts, as well as diversity of opinion among the Judges. If the attention of the Court or Judges is called to what has occurred on the same point in a previous Court they will say they are not guided by other Judges but by their own experience. There is no uniformity of practice in the Native Land Court.

125. No uniformity in the decisions—you mean in the procedure?—I mean as to the decisions of the Court and the interpretation of the Acts under which the Court is working.

126. There are no precedents which guide the Court; they do not feel themselves bound by the decisions of other Courts?—That is my experience, derived from many Courts and before a great many Judges.

127. Are you aware at all of the existence of cases in which lands have been fairly and equitably obtained by Europeans, but, owing to technical defects which exist, the titles are held to be invalidated?—Yes; I know of a good many cases.

128. I presume you are aware also, Colonel Porter, of cases where direct breaches of the law of fraud are alleged—not merely technical disputes?—There are a great many cases where the European has apparently conformed to the law and its technicalities, but, through the non-action of the Natives themselves, the Natives are liable to be defrauded. The merits of the cases are in dispute, and there are matters that require really thorough investigation before the transactions are confirmed absolutely.

129. Then, you can speak positively of two classes of cases—one where there is no dispute as to merits, where the defects are technical, and another class where the merits are in dispute?—Yes. That has lately come under my knowledge. I have formerly heard, although I did not think it was the case, that there were many cases where the merits were in dispute; but since I have been attached to the Commission I have seen cases where Natives have been very considerably wronged. These cases should be investigated, and I believe that there are a number which are still held back which require investigation.

130. Then, your opinion of any law for validating these titles would be for cases where the transactions in themselves were right but technically wrong?—That is my firm conviction. I formerly thought these transactions were only technically wrong; but I am firmly convinced that there are a number of cases which require a thorough investigation before they are validated.

131. Now, in the working of the Native Land Court, are you aware that the Natives are drawn considerable distances from their homes in order to attend the sittings of the Court?—I am aware that the present system of the Judges working throughout the Island, making Natives travel from one part of the country to another, is very unsatisfactory. The work is neglected. Natives are afraid to go to the Court; the expenses are so great. The Court now being itinerant, there is not half the work done by the Native Land Court that there used to be a few years ago, when there were fewer Judges. If I may express an opinion: I heard Mr. Carroll say something about the country being divided into districts, with a staff to do the work, and that the Court should sit in the centre of the district where the work was the greatest. The Court should sit, for instance, not necessarily at Waiapu, but in the centre of a sub-tribal district, according to the areas of land to be dealt with. In that way the Court should sit in a sub-tribal district.

132. Would that insure economy among the Natives?—Yes; and it would expedite the work. As it is at present, a Court is called, a number of claims are gazetted. Interests may become mixed up. No one knows what cases are coming on. Adjournments are asked for, and cases are put off.

133. What is the result of all that?—The Court proceeds slowly in its work. The Natives get tired. The time comes round when it is necessary for the Natives to attend to their other work. The cases are withdrawn from the Court. The Court goes away after it has done very little business. If places for investigation were in centres occupied by sub-tribes, when the business in one place was settled the Court could then remove to the residence of another sub-tribe, and so on. The work then would be complete and final, and carried out with satisfaction. I am aware that at present the Court is eminently unsatisfactory.

134. Wi Pere, one of the witnesses, said that the delays were often occasioned by the demand for fees—that injustice often arises—Natives sometimes excluded from Court. What is your knowledge of that?—I think that the system of paying fees down at the time of hearing of the Court is very hard. I often have felt ashamed to hear how the Natives have to pay down their money—£1 a day. They generally have to gather or borrow the money. It is to the interest of those who get the title to pay the fees. When the Natives know that they have gained their cases they will go and collect money from those whose claims are admitted with them. Of course, the imposition of fees is a check against frivolous cases being brought forward; but the present system of imposing fees is bad. I do not say that the fees should not be levied; they should not, however, be collected at the time of the hearing of the case.

135. In regard to the subdivision—the individualisation of Native land which has come into question recently—can you say when it began? Do you remember?—I think about 1878.

136. Was there anything such as individualisation among the men, women, and children in the olden times?—No.

137. I suppose the divisions then would be among tribes and hapus?—Yes, the tribes, sub-tribes, and families.

138. The lowest entity would be a family?—Yes. And then the family's interest would not be always defined. They simply held that portion with the hapu; they had their defined boundaries