Tribe, then settled at Cambridge—the Ngatikoroki, the Ngatiruru, and their subordinate hapus known to the Europeans under the one great name of the Ngatihaua, William Thompson's tribe. This trusteeship is said to have arisen there. All that land about Cambridge was not ancestral land. It was territory conquered and occupied by Ngatimaru, who were in their turn driven out by the Ngatimaniapoto, the Ngatihaua, and others. That conquest was completed in 1831, at the great battle of Taumatawiwi. Soon afterwards the conquerors entered into possession of all these conquests made in 1831, and occupied, planted, and retained absolute possession of the land until the Court sat in 1866. We found them there then in the same state. The land had not been divided in any form. It was simply treated as a conquest made by these people where the individuals could go as they liked. Some of the people, with the tacit consent of the tribe, had taken and occupied defined portions. Thus William Thompson and his friends had taken possession of Matamata, and others had likewise pitched upon certain land, and these pieces were recognised by the tribe because, although there was no formal partition amongst themselves, a few of these people had partitioned pieces for themselves which were tacitly assented to by the rest. Of these cases I am not now speaking. I am speaking of the bulk of the territory as it was in 1831, and when we went up there. It had not been divided. Was there not some provision limiting the number for the certificates to ten people?

618. Yes. Well, we were in this position: that there were, say, four hundred owners, and we were limited to ten names for a tract of country covering I do not know how many acres—ten miles, at any rate. We explained our difficulty to them, and they said, "You must cut it up," and they proceeded themselves to do so, ten names being selected for this piece, ten names for that, ten names for a third division, and so on right throughout. The land was then surveyed, and titles were issued. Then this ten sold their lot, that ten sold theirs, another ten sold theirs, and a fourth ten did not sell, and then these people who had sold and assumed their proceeds jumped down upon the land of those who had not sold, saying, "It is tribal land; you are trustees, and we are entitled equally with yourselves to occupy it." That claim met with a certain amount of sympathy with people in Wellington; and, in fact, it was the origin, to a large extent, of this doctrine of trusteeship which was then set up, and which was absolutely wrong, as I contend, as applied to newly-conquered and unapportioned land. When you set up the trustee doctrine you must discriminate between territory that is ancestral and territory that has been acquired recently by conquest, and never divided.

619. In relation to ancestral land, we might take for instance, I suppose, the case of the Heretaunga Block, about which so much litigation has taken place?—At the Bay of Islands?

620. No, at Hastings, Hawke's Bay, in respect of which there has been so much litigation between William Russell, Tanner, and others. That large block of 18,000 acres was vested in ten, and yet there were hundreds of owners?—Yes, I should think so.

621. Then the owners behind the ten complained that the names of these had merely been put in for all of them, and yet the ten had sold all that land except the Karamu Reserve, and thus dealt with the proceeds?—Yes.

622. Now, do you remember the Act of 1867 being passed? The Act of 1867 differed, you will remember, from the Act of 1865, because although it places, by the 17th section, the ten names upon the face of the certificate, yet on the back of the certificate all the names of the remainder who had proved a title were indorsed. Can you state why the law was altered so as to require the names of all the remaining owners over and above the ten to be placed on the back of the certificate?—I cannot tell you. It was Mr. James Richmond's Act, drawn up with Judge Prendergast's assistance.

623. Then, we should be likely to get information on that point from Judge Prendergast?—That is very unlikely. He simply, I suppose, put in legal form what Mr. James Richmond told him he wanted.

624. Do you think it was deemed necessary to place the names of all the people interested on the back of the certificate because it was found that the ten persons whose names had hitherto been used in each of a number of cases were appropriating the land for themselves?—No doubt. I thought at the time what a very bad remedy it was. The true remedy was to compel the tribe to subdivide. Supposing the number still limited to ten, to subdivide amongst themselves until each ten of the tribe had got his share. That was the true remedy, instead of indorsing these names on the certificate, which, to my knowledge, was productive of very great confusion afterwards. The objection to the scheme of subdivision was the expense of the survey, which of course was a real objection; but you cannot subdivide millions of acres without hardship and difficulty in some cases. The true remedy, however, would have been the refusing to do anything until they had marked off for each ten men their own share.

625. Then, coming to the Act of 1873: Do you know anything about the drafting and the intention of that Act?—Yes, I know a great deal about its drafting and about the intention of it. The intention was to do celestial justice, which I always believe to be impossible in this wicked world. The Act was Mr. Clarke's, and it was said at the time to be the work of Mr. Justice Richmond, but he told me himself he had nothing to do with it. I think we may put it down to Mr. Clarke largely, and the draftsman, of course, was Mr. Curnin, a very able man. The first part never had and never could have any operation; and the latter part, you will see, Mr. Rees, as a lawyer, is a mixture of plans, the leading idea being the establishing of something like a copyhold tenure, and then that gets mixed with other ideas until, practically, it was a very confusing and injurious Act, I think—too complicated altogether.

626. That provided, however, for the subdivision of the lands, and allowed no sales or leases to be made without the concurrence of all the owners in a block of land?—Yes. So far the principle of that was good, but the saying that "all" must consent was too much. I think that no one recusant should have power to lock up land.