1131. *Mr. Mackay.*] It was the malfeasance of such trustees that led to the passing of the Native Equitable Owners Act?—Yes.

1132. *Mr. Rees.*] It was owing to the fact that under the Act of 1865 so many tribal lands were disposed of by the ten people in the certificates that it became necessary to fix the names of the other owners on the back of the certificate. That led to the Act of 1867?—Yes.

1133. Then, as these people spent the money arising from the leasing of the lands, just as the ten who had previously been on the face of the certificates had spent the proceeds of their sales of the land, the Act of 1873 was passed in order that the signature of every Native shown on the face of the memorial should be acquired before the dealing was valid. That was practically impossible in the case of large numbers of owners, owing to the number of children who were included?—It was impossible because the Act of 1873 is peremptory in stating that the name of every owner on the face of the memorial shall sign before the transaction is complete. A great many of the owners died and their successors have signed. It is now maintained by the best legal authority that that is invalid, because it is not carrying out the provisions of the statute. It was possible to have got all the owners to sign immediately the land passed the Court, but it was impossible afterwards.

1134. *Mr. Mackay.*] There is a point in the Act of 1873 with reference to the setting-apart and making reserves for the Natives—that every man, woman, and child in a hapu should have 50 acres. Has not that led to the number of names being very much added to, and, in fact, to spurious names being put in?—I have seen children put in before they were born, and given dual names so as to suit either male or female.

1135. *Mr. Rees.*] I would call your attention to the 23rd section of the Native Land Act of 1865: "At such sitting of the Court the Court shall ascertain by such evidence as it shall think fit the right, title, estate, or interest of the applicant and all other claimants to or in the land respecting which notice shall have been given as aforesaid, and the Court shall order a certificate of title to be made and issued, which certificate shall specify the names of the persons or of the tribe who, according to Native custom, own or are interested in the land, describing the nature of such estate or interest, and describing the land comprised in such certificate, or the Court may, in its discretion, refuse to order a certificate to issue to the claimant or any other person. Provided always that no certificate shall be ordered to more than ten persons. Provided further that if the piece of land adjudicated upon shall not exceed 5,000 acres such certificate may not be made in favour of a tribe by name." Now, then, you say that, though the object in limiting the number of persons to be put in the certificate to ten was that these might act as trustees for all the owners, yet it was found to practically mean the taking-away of the land from all the others?—Yes; it was practically giving the ten the freehold.

1136. It gave, then, to ten, or less than ten, an absolute freehold, free of any trust or anything else?—Yes.

1137. Then, under the 17th section of the Act of 1867?—The Judge was empowered to minute on the back of the order the names of the *cestui que trust*, other than the ten, who were found to be interested.

1138. Under this Act, too, the ten could not sell or mortgage; but they could lease for twenty-one years?—Yes.

1139. Then it was found that, just as these ten grantees under the Act of 1865 used to get the purchase-money, so under the Act of 1867 the ten used to get the lease-money?—Yes.

1140. Then we come to the Act of 1873?—The Natives under that Act were allowed, under memorial of ownership, to deal with their lands in the same way as that prescribed in the Act of 1867, the memorial of ownership in the Act of 1873 taking the place of the certificate of title in the former Acts, and that memorial has upon its face the name of every owner—man, woman, and child—found by the Court to be such owner, and with the provision that every individual must assent to any transaction.

1141. That, practically, was an impossibility, was it not?—In the majority of cases it was an impossibility.

1142. Then, since that time there have been continuous alterations in the law?—Yes; and they have placed the legal profession in such a position that very few will attempt to advise with regard to a Native title, or will guarantee anything.

1143. And, beyond that, has not that state of things produced in the Supreme Court and the Court of Appeal such conflicting decisions as to render it actually impossible to say what the law really is?—Yes.

1144. *Mr. Mackay.*] What would you suggest to remove this state of confusion and complication?—I would first of all propose that the present Acts should be swept away, and that a new Act, not cut about or mutilated by members of Parliament, should be prepared by people who know what legislation is required from experience and practice.

1145. *Mr. Rees.*] I think the information Mr. Mackay wishes to elicit from you is what you would suggest to take the place of the present Native laws?

1146. *Mr. Mackay.*] Yes?—I should repeal all the Acts at present in force, and I should give the Judges of the Native Land Court power to decide between the various contesting parties, and to award the land as they considered the lessees or purchasers entitled in equity and fairness. There is a Native Assessor representing the Native part of the Court, and nearly every dispute could be settled before the Native Land Court. If the Judge has the power to decide the ownership of the land between the Maoris, he ought to have the same power in cases between Natives and European purchasers. If so many Natives had signed the deed, the Court should award that the European or the Maori who might be the purchaser should have the land of those Natives who had sold ceded to them.

1147 Supposing, of course, that it was a fair and legal transaction?—Yes. Of course, the Court would have power to make inquiry whether it was a *bonâ fide* transaction or not, without being hampered by rules like those of the Supreme Court.