

such a tribunal would command the confidence of the public and of all those who are interested in titles which are at present in dispute. The members of this Commission are more competent than myself to say whether it would be satisfactory to the Maoris. I may say that I have no means of judging that, but I should think it would. I do not know. I can speak with confidence on one side, because I have represented a great many in these cases.

1918. Do you think that the decisions of that tribunal should be subject to appeal, or should be final?—They should be final.

1919. Complete in themselves?—I see no room for appeal. The questions to be determined would be questions for a jury, not for a Court. They would be questions of fact, of fair dealing, of justice, and, of course, questions free from legal technicalities. Such questions are not subject to appeal in any Court that I know of. Nothing more can be done than a new trial, and the new trial could only be before experts of the same kind. No tribunal you could devise should be a second jury for the purpose for which the first tribunal acted.

1920. Do you think they should be clothed with powers somewhat more extensive than the Judges of Courts usually have—such powers, for example, as arbitrators would have for the purpose of arbitrating between parties, and deciding as to all questions which might arise?—I think an example of that is afforded by a question in which you were concerned, which arose before the Commission of 1889, where all the parties were anxious to come to a settlement, but the Court had no power to award it.

1921. You refer to the Whangara case?—Yes. The Commission ought to have power of directing what ought to be done, and agreed to by the parties, and of validating any agreement which it was satisfied had been mutually arrived at.

1922. Then, going still further, do you think that such a tribunal should have power not merely to decide, but to give titles?—Oh, yes! I do not quite understand the thing otherwise. If the function of the tribunal was only to report, it would be of no advantage whatever.

1923. I mean, instead of merely giving a final and binding decision between the parties, do you think it should have administrative power to carry that decision into effect by partitioning the land and giving a title. Take the Whangara case by way of illustration. It should be enabled to give each party a distinct portion of the land, which could be made on the register?—If partition had previously taken place, yes; but if the partition had not previously taken place, I do not think the tribunal would have time to deal with the question of partition except by mutual agreement, the power to confirm which they would have under the section you have just asked me about. But with regard to the power of completing by awarding a partition, I should say the tribunal would find a great deal of difficulty in dealing with it unless there had been previous partition. I think, of course, they should have the power to validate a previous partition made on the faith of the document if they validated the document; but the tribunal might be sitting to deal with a block of very large extent, and the limits of human life must again be taken into consideration. The object is to get the present difficulty as to title disposed of with as much speed as possible. I do not see any objection to the tribunal having the power; but if I were a member of the Commission I would not use it.

1924. It would not be compulsory?—There is no possible objection to the power, because I am certain that it would not be used except where the tribunal were satisfied that they could give effect to some agreement.

1925. And with economy of time and money?—They should have surveyors at their disposal, of course.

*Mr. Mackay:* They should have all the machinery necessary for settling a partition.

1926. *Mr. Rees:* In respect of that portion of the reference to the Commission as to the erection of a tribunal for the settlement of past or existing disputes, is there any suggestion which you think should be made to the Commission?—I consider that the names of the members of the tribunal should be submitted to Parliament.

1927. That they should not be left to be merely appointed?—No; the names should be submitted to Parliament, and the appointment should not be made during the recess. I only say that in consequence of past experience.

1928. I think, myself, it would be a wise suggestion. I may say that I asked that question in order to elicit anything further you might have in mind. As regards the future disposition of Native lands, what do you consider to have been the main cause of all these troubles, complications, and disputes under the different Acts, and especially under the Act of 1873?—The main cause since the Act of 1873 has been the provision of the Act which did not recognise the gradual acquisition as amounting to an individual conveyance.

1929. That is to say, that on an individual selling his share in an undivided title there was no partition made in respect of it, and this caused confusion?—So far as I know, that is the whole difficulty. Of course there has been the further difficulty of want of Courts to partition and divide; but the machinery really required by the Act of 1873 was so enormous that it broke down at once, the contemplated advantages being always that it would lead to the partitionment of blocks in all parts of the country.

1930. And that these partitions would come in by tens of thousands?—You asked me what I considered had caused the difficulty. There is another root of the difficulty, and that is that it was never contemplated, as I think, under the Act of 1873 that such a huge number of names would be put in the certificates to any block. At all events, this is another of the more serious difficulties: that the Native Land Court, having a large block before it, and finding a vast number of persons interested, instead of dividing the block into certain areas and putting so many people in each, preferred to put all the people into the one large block.

1931. Of course you know there is an immense number of names in respect of some of these blocks?—Yes.

1932. *Mr. Carroll:* Even if they defined the interest at the time it would be something?—That would have been of very little use.