Mr. Martin Chapman examined.

1951. *Mr. Rees.*] You are a barrister and solicitor practising in Wellington?—I am.

1952. How long have you been in practice in Wellington?—Since 1875.

1953. In the practice of your profession during that time have you had brought under your notice the law in relation to the alienation of Native lands?—I have never been in direct contact to any extent with the Natives themselves, and I have never been inside the Native Land Court; but I think I may say that I have had a great deal of practice in respect of the Native-land law.

1954. In the Supreme Court and Court of Appeal?—Yes, mostly in the Court of Appeal. Conveyancing also, of course.

1955. Are you aware of the existence of cases in which, through the complex nature of the Native-land law, and the interpretation of that law by the Supreme Court and Court of Appeal, there are titles imperilled by reason of formal technicalities and omissions?—I should think there are many.

1956. Are you aware also that there are other cases in respect of which there are disputes—contentious matter arising from questions of title between Natives and Europeans?—I should say so, undoubtedly, just as there are among Europeans. You cannot have conveyancing without having questions of law arising.

1957. Now, as regards these two classes of cases which you have stated that you know to exist—that is, defective titles arising from mere matters of non-feasance—simple omissions—and cases where serious disputes may arise—can you suggest any difference of plan for the settlement of these two classes of cases?—I should not like to make any suggestion. I have thought of a great many things from time to time, but I have never gone into the matter with the studied application that I would give to it if I were asked, for instance, to frame a Bill.

1958. Speaking generally in relation to titles in respect of which there were mere matters of omission, no question as to the merits or any contentious matter whatever, but which the peculiarities of various statutes comprehended in the present law impeached or invalidated, do you think a law should be passed to validate such titles?—All, without exception, do you mean?

1959. No; mere omissions: all technical omissions, but not cases which involve questions as to the merits, or in which contentious matter has arisen?—There is always a difficulty in saying what amounts to an error involving merits and what does not, because every technicality imposed by the Legislature is presumed to meet some merits. Every technicality is supposed to be essential, and, though it may not appear so in ninety-nine cases out of a hundred, yet in the hundredth case, the merest technicality may prevent a fraud.

1960. Then, do you think it would be wise to submit even cases of technicality to the judgment of some tribunal to be appointed?—I should prefer that to a sweeping enactment curing all omissions.

1961. *Mr. Carroll.*] It would be the safest course?—Yes; that no omitted compliance with a technicality should be condoned without the prior recommendation of some competent and unbiassed person.

1962. *Mr. Rees.*] As regards those cases where there is contentious matter between Natives and Europeans in relation to titles, having regard to the complexity of the Native-land laws, do you think it would be advisable that a special tribunal should be created to deal finally with those cases?—That is a subject I have never given much thought to. My own idea has hitherto been that the Native Land Court, if differently constituted from what it is now, ought to be able to deal with such cases; and if the power is to be given to any tribunal I should think that a differently-constituted Native Land Court ought to be that tribunal. By "differently-constituted" I mean the Court should consist of lawyers, or persons with a technical education, and independent of the Government for the time being.

1963. I may tell you that Mr. F. H. D. Bell, in the course of his examination this morning, stated his opinion that the *personnel* of such tribunal should be appointed by statute, and not by the Government?—That is my meaning, when I say they should be independent of the Government for the time being. I may say that I did not know that that was Mr. Bell's expression of opinion.

1964. He stated it distinctly this morning. Their names should be included in the statute, and should not be filled in by the Government during the recess?—I agree with that.

1965. Of course your object would be to secure a Court absolutely independent of any political influence?—Yes. I do not wish for an instant to suggest that anything of this kind has ever been done, but I see nothing in the present constitution of the Court to prevent the Government from virtually taking away a particular case from the Judge who is hearing it, and setting another Judge to hear it, and, if necessary, it could remove that Judge. Supposing a Government was in power that desired to interfere with the Native Land Court in this way, the means are ready to its hand. I do not imagine it ever has been done or that it ever will be in the future, but it is possible, and that very possibility might, particularly in cases where the Government is interested, influence the mind of the Judge, and particularly an untrained Judge.

1966. Respecting those cases where disputes exist between Maoris and Europeans, whether cases of fraud, actual or constructive, or illegality, or any other question that might arise, do you think such a tribunal should have power finally to decide all such questions?—I have not thought of that, but I am inclined to think it would be as well that it should; subject, however, to this: that it should not go against the law of the land except such portions of that law as were directly specified. The particular points on which such a tribunal could ignore the law should be carefully specified in the statute; otherwise we might find such a tribunal overriding the common law and the statute law applicable generally to Her Majesty's subjects; and I consider that would be a great misfortune. But, subject to that, I think, with an appeal against proceedings in that way, a plan could be devised.

1967. That would be a species of prohibition?—Well, prohibition would do; but, subject to that, I think the decision should be final.