

1985. No. Supposing such a Court as I mentioned before were created?—Yes, a special statutory tribunal with special jurisdiction. That is your question?

1986. Then, you say that, supposing this Court were created it would be a wise thing to devolve upon it the determination of cases which now ordinarily come before the Native Land Court—cases between Natives and Europeans?—On questions involving the construction of Native-land Acts?

1987. Yes?—Such questions as were before the Court of Appeal at its last sitting in the Paremata and Mangaohane cases, for instance. It was this sort of case I understood you to allude to originally, and my first answer was directed to that.

1988. Yes; but I have been asking you as to a special tribunal claiming jurisdiction in such cases. I now ask, Do you think it advisable that these cases should be relegated to that Court?—I think, under proper limitations such a Court could be made very useful. I think that cases like the Mangaohane case could be dealt with by a tribunal of that kind. But in that case, if what the plaintiff complains of is taken to be proved, the Native Land Court has simply neglected its duty. This allegation of neglect of duty I know is a very common fault which parties ascribe to the Native Land Court, and the misfortune for the Natives is the way in which it casts doubt on the Court rather than on the parties themselves. I should think that would be a case with which the proposed tribunal could deal. It could determine, first, whether there were irregularities or omissions; secondly, whether injustice was caused thereby; and, finally, could correct any injustice.

1989. Then, do you think that such a tribunal should have further powers than the mere powers of Judges, so as to settle any case as arbitrators would?—This would be constituting it a sort of Appeal Court from the Native Land Court?

1990. On those points?—On points like that.

1991. Well, in any proposed legislation, do you think it would be wise to give extended powers, like those of arbitrators, to finally decide, and to issue valid titles?—It is difficult to say. I should not like to say beforehand what powers this tribunal should have. I am not sufficiently conversant with the ways of the Native Land Court to know in what way to constitute a Court of Appeal to the Native Land Court.

1992. There are many cases irrespective of the mere work of the Native Land Court which would come before this tribunal?—No doubt many of the cases do not arise till the business of the Native Land Court is over. For instance, the Native Trustee sells. Well, the Native Land Court does not have anything to do with that at all. A thing may be done in an improper way, and no trace of it remain on the deeds. Such things as that may very properly be investigated by a tribunal such as you have mentioned. But I think that the Native Land Court could do it all itself if it were differently constituted. I do not see the necessity of having another Court if the Native Land Court had the necessary powers given it.

1993. *Mr. Mackay.*] And the status?—Yes, and the status. As the Native Land Court is constituted at present I do not think it would be submitted to.

1994. *Mr. Rees.*] No, it would not?—The Native Land Court Judges, in the first place, I think, should be more independent than they are for a thing like that. I do not mean to say that necessarily they should hold their offices during good behaviour, but they should have a statutory term of office, or perhaps causes of removal should be specified.

1995. So as not to be dependent on the party in power, whether it was likely to use its influence for good or bad?—Yes; they should be appointed for a number of years. The principal objection, I think, to the Native Land Court at present is that any Judge is removable here and there.

1996. And, whether the power to which you have referred be exercised or not, there is the power, at any rate?—Yes. If a suggestion comes from the Government the Native Land Court Judge cannot fail to feel that probably it would be better for him to comply with that suggestion. He may yield almost unconsciously to that feeling. There would be a tendency to comply with it rather than to refuse to comply with it. The same thing applies to a case in which there has been a Government purchase. The Government purchases, we will say, a number of shares in a block of Native land. The rest of the owners do not sell, and the Government wishes to get the land individualised so as to secure a portion of the land corresponding to the shares which it has acquired. The Judge would not be human if he did not give some favour to the Government, and so give a share to every Native who had sold, notwithstanding that perhaps those who sold, as very often would be the case, were those of the smallest consideration—men who felt the smallest amount of responsibility and exercised the smallest amount of ownership. The Native Land Court Judge would not be human if he did not give way to his feeling that it would be better to allot something to all these people.

1997. Your opinion, then, is decided, that, in respect of any special tribunal to be constituted for the purposes of deciding upon these cases, the names of the Judges should not be left to any Government to put in during the recess, but that those names should be inserted in the statute, and that it should specify the term for which they were appointed to office?—Yes, and their salary should also be fixed.

1998. And the powers they were to exercise?—Of course that would be a *sine qua non*.

1999. *Mr. F. H. D. Bell* said this morning he thought there should be a Court of three—one to be a lawyer, to preside, so that he might instruct the other two technically; one to be a layman of position, who would bring to bear on his duties the common-sense of an ordinary layman; and the third to be a member of the Maori race. Do you think such a tribunal would be satisfactory to the European public?—I cannot say. There is a general feeling, I suspect, among the public that they would rather have lawyers left out. These are people who do not know all the manifold uses of lawyers. I think a great many people would like to see lawyers left out of everything. What the general public think about it I do not know, and I do not know that what the general public thinks is really of very great moment. What we want to know is not what the general public thinks, but what would be most useful. The public are not always the best judges in a matter so highly technical as the Native-land laws.