

a confirmation order under the above section 13, which the Registrar of the Auckland Registration District refused to register. The time having expired within which Mr. Tizard could apply to the Validation Court, he is now left without a legal remedy. With respect to the proposal to repeal section 13, the Chief Judge of the Native Land Court states that the clause is necessary in order to enable the Court to deal finally with cases which come before it, but it is only meant to apply to cases where the law has been duly complied with, and is not intended to enable the Court to confirm transactions made before the Act of 1894, which were at that period contrary to the then-existing law, or invalid by reason thereof.

The Committee recommends that the clause should be amended so as to affirm this reading of its scope and application.

Provision should be made to enable Mr. Tizard and others who have relied in error upon section 13, to transfer such application to the Validation Court, which should then have power to hear and decide such cases as if application had been made to the Validation Court.

Provision should also be made to protect Native interests which may be injuriously affected and for which there is no present safeguard or remedy.

Section 3 proposes to repeal section 23 of "The Native Land Laws Amendment Act, 1896," with the object of protecting certain Natives who are said to be injuriously affected by the passing of that section in the Act of 1896.

The typical case brought before the Committee on this point was one in which the Natives are owners of interests in the Kawakawa, Matakītiki, and Te Kōpi Blocks, in the Wairarapa District, the titles to which were determined by the Native Land Court in 1870. Ten names only were placed in two of the titles and a less number in the third, and the grants were issued to the grantees without restrictions. These blocks were leased in 1870 to Mr. Charles Pharazyn for twenty-one years, at a rental of about £36 per annum. In 1889 he negotiated for leases to be granted to him over the whole estate, but they were only obtained for about 11,000 acres, the remainder of the blocks being leased to Messrs. Te Ama (otherwise Iraia te Whaiti) and Sinclair. During 1889, 1890 to 1893, Mr. Pharazyn advanced money to the Native owners of the land leased to him, and obtained from them agreements to mortgage these lands, the total amount of advances being about £5,000. The agreements provided that twelve months' notice was to be given before the Natives were to be called upon to execute a mortgage. The notice was given, and expired in March, 1894. In 1893 it was found that, as the interests of the rival lessees overlapped, it was impossible to work the land under two separate ownerships. The matter in dispute was submitted to the Supreme Court without avail, which forced parties to come to a compromise, and Mr. Pharazyn sold his interest in his homestead freehold, his stock of sheep, cattle, and horses, his lease of 11,000 acres, his agreement to mortgage, and good-will, for £18,000, and obtained a mortgage over the whole; and, in addition, a security over 2,000 acres of land in those blocks owned by Te Ama and his brother, and all leasehold and other rights they possessed in the land. Mr. Pharazyn was bound by the terms of his agreement with Te Ama and Sinclair to obtain valid mortgages, and this accounts for the notices sent to the Natives by Mr. Pharazyn's solicitor, Mr. Izard, dated 7th October, 1897, calling on them to sign deeds of mortgage. In 1893 a mortgage of £1,600 was executed, and under the power given by "The Native Land Act, 1896," mortgages to about the value of £1,187 have been executed this year, leaving a balance of about £2,200 to be further secured. The Natives concerned are no doubt placed in a difficult position. The rents they receive from their land are not sufficient to pay the present interest on the money they have borrowed, and sooner or later their lands will, unless a remedy be found, have to be sold to pay their indebtedness. Attempts have been made, through the agency of Mr. Heke, to avert this possibility by creating a co-operative company of Native owners to work the land, and out of the profits to gradually release it from its liability. The attempts, however, failed, owing to the state of the law. The Natives then appealed to the Government, and the result is the Bill now before the Committee.

The Committee is satisfied that Mr. Pharazyn obtained his leases and agreements to mortgage in accordance with the law. The 4th section of "The Native Land Act, 1888," provides that, subject to the Native Lands Frauds Prevention Act, the Native owners could deal with their lands as they thought fit.

"The Native Land Court Act, 1894," absolutely forbids any private dealings with Native land, but contains a saving clause of a wide character, which did not, however, provide for agreements to mortgage.

The Committee is of opinion that the passing of section 3 of the Bill will not in itself beneficially affect the Natives, because it appears that in any case Mr. Pharazyn could probably obtain in the Supreme Court a charging-order on the land of the Natives who are indebted to him under the agreements to mortgage. Apart from the question of *ex post facto* legislation, the object aimed at—namely, the preservation of the lands for the Natives and their descendants—can be achieved in a simpler and more effective manner.

The lands concerned are good security for the money owing, at a rate of interest not exceeding $4\frac{1}{2}$ per cent. per annum, and will provide a small sinking fund (which will increase materially on the termination of the present lease) sufficient to gradually pay off the mortgage. The Committee recommends the Government to obtain legislation to enable the Public Trustee, or some other officer appointed by the Government, to accept a trust of the land, and to borrow or advance money on the security of the land to pay off the claims thereon.

This course will be in the interests of all concerned, and will avoid the necessity of passing clause 3 of the Bill.

The Committee therefore recommends that the Bill be referred to the Government with a view of effect being given to this report.

14th December, 1897.

R. OLIVER, Chairman.