1902.

NEW ZEALAND.

THE EAST COAST NATIVE TRUST LANDS BILL COMMITTEE:

REPORT, TOGETHER WITH MINUTES OF EVIDENCE.

(MR. MASSEY, CHAIRMAN.)

Report brought up on the 27th August, 1902, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

FRIDAY, THE 22ND DAY OF AUGUST, 1902.

Ordered, "That a Select Committee be appointed, consisting of eight members, three to be a quorum, to whom shall be referred the East Coast Native Trust Lands Bill; the Committee to consist of Mr. A. L. D. Fraser, Mr. W. Fraser, Mr. McNab, Mr. Massey, Mr. Millar, Mr. Pirani, Sir W. R. Russell, and the mover."—(Hon. Sir J. G. WARD.)

Ordered, "That the East Coast Native Trust Lands Bill be referred to the Select Committee appointed to consider the same."—(Hon. Sir J. G. WARD.)

REPORT.

THE above Committee, to whom was referred the East Coast Native Trust Lands Bill, have the honour to report that they have carefully considered the said Bill, and have taken evidence thereon, and recommend that the Bill be allowed to proceed, with the amendments shown in the copy attached hereto.

W. F. MASSEY, Chairman.

27th August, 1902.

MINUTES OF EVIDENCE.

TUESDAY, 26TH AUGUST, 1902.

FREDERICK DE CARTERET MALET examined. (No. 1.)

1. *The Chairman.*] Will you give your full name to the Committee?—Frederick de Carteret Malet, residing in Christchurch.

2. What is your business?—I have no business; I call myself a farmer. I am Chairman of the Bank of New Zealand.

3. Have you read the Bill which is now being considered by the Committee?—No, sir.

4. Do you feel inclined to make a statement regarding it to the Committee?—Well, I can only say this for the information of the Committee: that the Bank of New Zealand was approached by the representatives of the trustees, and we were asked to suggest that action should be taken in the direction of this Bill to preserve the lands for the Natives, and the bank considered the matter and acquiesced in the suggestion that a Bill should be introduced with the object of postponing the sale for some time. We originally thought of a year, and we subsequently consented to the suggestion from the trustees that it should be two years, and the Bill was drawn up on those lines, and an agreement was drawn up and executed by the bank. The bank was anxious to afford every facility for bringing the matter to a settlement. It has been standing now, I think, for something like twenty-two years. I think it is about twenty-two years since the first advance was made to the trustees. It is a long and involved history. As far as the bank is concerned, it has no purpose to serve at all. The position as it stands to-day is that we have judgment against these lands. We have an order of the Supreme Court for the sale of the lands on Friday next, and unless some superior power to the order of the Court intervenes the sale proceeds on Friday. The bank has no desire to force the position in any way whatever. It would be very pleased if a Bill of this nature were passed in order to put an end to litigation and proceedings in the Courts which have been taking place for some years past. The bank has no purpose to serve at all except to bring this

matter to a settlement. It affects the administration of the bank in this way: our balance-sheet shows that out of £250,000 of unliquidated assets which the bank holds now these lands represent £138,000 as on the 31st March, so it will be readily seen that the bank is anxious to arrive at some final settlement of this matter in order to enable it to proceed with the liquidation of these assets. The bank would be pleased to see this Bill passed for the reasons I have given. As far as the bank is concerned it is a plain, straightforward matter of business, without any reservation or anything of that nature on the part of the bank. I can state that authoritatively on the part of the bank. The bank in consenting to this Bill is consenting to a Bill which it thinks will be in the interests of all parties. It affords the Natives two years within which to redeem their securities, and the bank will be pleased to see that. The bank will be able to go on with their proper functions of realising their unliquidated assets. The legal aspect Mr. Bell will put far more ably before the Committee than I can. I am approaching it merely from the business aspect of the question. I am explaining merely the bank's principle and *bonâ fide* position in the matter.

5. *Mr. Millar.*] Does not section 4 absolutely settle the time for all time, Mr. Malet? That is to say, there can be no law proceedings thereafter under any conditions?—That is so, sir.

6. Well, of course, that is a very great advantage to the bank to have, is it not?—We are anxious to see the Bill passed in order to put an end to litigation.

7. It seems to me that clause 9 will not only give you an absolute mortgage over the land, but also lands to be included in the mortgage—additional security?—I do not understand that. We are not seeking any additional security. We are resting entirely on the security we have already. We want nothing more than we have got. All we want to do is to get rid of what we have got.

8. It appears to me that the Validation Court has increased the number of securities to which the conditions of this Act shall apply.

9. *Hon. Sir J. G. Ward.*] There has been a great deal of litigation in connection with the securities?—Yes; there has been nothing but litigation. The bank has received not a penny of principal or interest since its money was invested.

10. Do you know what the amount of indebtedness was two years ago?—I cannot say exactly with regard to two years ago. It originally started at £58,000.

11. Could you give the Committee any idea as to what the increased amount of indebtedness is owing to the delays and litigation, and so on?—Well, it has gone up from £58,000, when the first mortgage was taken, to £138,000.

12. With the same security?—Yes.

13. The bank would not object if power were given under section 9 of the Bill to pay it off; the bank would be very pleased to get paid off?—Yes; our sole desire is to liquidate this debt.

14. The bank is now ordered by the Supreme Court to sell this land, which order takes effect on the 29th of this month: their own position is defined by the Supreme Court?—Yes; that is, an order for sale.

15. So if they choose to realise upon their securities they can do so?—Yes.

16. Would you expect, if you put these lands up for sale, it would cover the amount that the bank is indebted at present, with the market as it is at present?—In regard to that matter, I do not know the locality at all.

17. At all events, you consider this is the safer way for the bank to follow?—Yes; it is the only way I see to end the matter.

18. That is why the bank has readily consented to the Bill, which was promoted by the trustees, and we readily assented to the course suggested as the only outcome of the difficulty?—It is the best outcome of the whole proceeding.

19. *Mr. A. L. D. Fraser.*] There was some little question as to the validity of the title of all the properties as held by you, was there not?—Well, I have given little attention to that matter. I think if you would not mind getting that information from Mr. Bell he could give it to you. I have only approached the matter from a purely business standpoint, and the titles I know little or nothing about. Since I have been on the board of the bank we have been pressing this matter forward in liquidating our assets.

20. If there is anything in that direction as indicated by my question this Bill will validate it, I take it?—Yes.

21. The bank's object is, no doubt, to give the Natives an opportunity of saving something as soon as possible?—Yes.

22. Now, it means that if this Bill is passed they can sell, mortgage, or lease portions of it; in fact, it means cutting up the land to a great extent in order to liquidate the bank's debt?—Yes.

23. Now, do they think that that can be done in under two years? I am accepting your statement that the bank's wish is that something should be done for the Natives?—The Bill emanated from the trustees, but it has the full concurrence of the bank. They believe that it is in the interests of all parties that the settlement should be made in this direction. We had hoped the matter would have been readjusted in one year, but we agreed to two years, and I take it that the trustees in asking for an extension of another year see their way to conduct their business by relieving the bank's situation.

24. The question I wish to put is: Recognising the complicated position of these lands, would it be possible to realise upon them in two years?—A proportion of them. There are portions which are, so to speak, "going concerns"; but as regards the main security I am speaking with so little knowledge myself that I hestitate to express an opinion.

25. Can you tell the Committee what is the amount of judgment you have received from the Supreme Court?—Well, I was dealing with the detail. Mr. Bell, who had the whole of the titles before him, will probably be able to give you that. I look at it from what stands to the debit on the 30th March—£138,000.

26. With this Bill on the statute-book you have a very much better security than you have at the present moment?—We must rest on what we have got. What we want to provide against is to prevent any further litigation coming on.

27. With this Bill on the statute-book would it not improve the bank's security? I am only seeking information on the matter?—Well, Mr. Bell will be able to give you a better opinion than I can.

28. *Sir W. R. Russell.*] Why does the bank agree?—They hope to get no further litigation in the matter. They hope to stop litigation. That is the sole object of the bank.

29. Then, why do they not proceed straight away?—Well, they will proceed on Friday with the sale, but there may be action taken after that. It seems to me that the resources of the Court are boundless in this matter.

30. Can you give us any idea why the Bill has not come down before?—No, sir. I was approached on Saturday. I spent my Sunday with Mr. Bell, trying to give effect to the wishes of the trustees, and ever since that the question has been in my mind. We sent for Mr. De Lautour from Gisborne. We have done everything to expedite the passage of the Bill.

31. You said that the original debt was £58,000, and that it has now risen to £138,000: is that principal and interest?—Yes.

32. The advance was £58,000; and the balance—?—Represents improvements, interest, and working-expenses. By the bank papers I see that £58,000 was the principal sum named in the first mortgage, and it has grown to £138,000.

33. The impression was conveyed that it had grown £80,000?—I know very little of the growth of this—I am merely giving the figures years back and now.

34. *The Chairman.*] As Mr. Bell is also present, I think we had better take his evidence next.

Mr. F. H. D. Bell examined. . (No. 2.)

35. *The Chairman.*] You are a solicitor in Wellington?—Yes; and I am counsel for the bank in this matter. The bank holds no mortgage over any of the properties dealt with in this Bill which is not under the Land Transfer Act. The bank's title as mortgagee is, therefore, unquestionable, and no attack has so far ever been made upon that title, and any such attack must fail, because the mortgages are, as I have said, under the Land Transfer Act. What has been attacked is the bank's power of sale, and that has been dealt with in an action recently tried in the Supreme Court, which I will refer to later. I have the decree here, but before going into that question it is, perhaps, better for me to explain briefly to the Committee the position of the bank's securities. As Mr. Malet has said, the amount due to the bank is £138,000, or thereabouts. This is secured upon certain properties under the Land Transfer Act, which are liable for the whole debt. In the year 1895 the Validation Court at Gisborne, upon application made to it, considered that certain other blocks were also within the bank's security, and ought to be mortgaged to the bank in relief of the Native owners of the Native lands included in the principal security. The lands included in the principal security were absolutely mortgaged, because the Natives who mortgaged these lands happened, by misfortune, to be the owners of lands under the Land Transfer Act. Other Natives whose lands were not under that Act escaped the liability, because their mortgages were open to question, and the Native owners of the lands in the principal security were by that accident solely liable for a burden which ought in equity to be borne by others. The Validation Court therefore ordered the trustees on behalf of the Native owners of the other blocks to execute mortgages, limited in amount, in aid of the principal security. These mortgages are, in the Bill, called the specific securities. I take, for instance, Paramata. That block was mortgaged in 1895, with a limit of £14,000 principal, in aid of the general security. It was provided that the bank should manage Paramata, and get what profit it could from it, applying that profit in reduction of interest, and, as to any surplus, of principal; so letting Paramata work out its own £14,000 in its own way. The result, however, of the bank managing a number of specific securities together with its principal security was to create an involved account; for instance, sheep were taken from one of the principal securities to tread down the fern on Paramata, and subsequently taken back to the block in the principal security. One question is how much of the profit derived in the year for these sheep should be credited to Paramata, and how much to the principal security. So in the case of several other specific securities, each of which is worth more than the limited amount for which it is liable in aid of the principal security, and as to each of which complicated questions of account have arisen. When the bank in the present year notified its intention of selling under its power of sale the trustees brought an action insisting that the bank should not sell until a complete ascertainment had been arrived at of the amount due upon each specific security, as the Natives interested in each specific security claimed to be entitled to redeem. The Judge of the Supreme Court, at the trial at Gisborne, last sittings, held that a full account must be taken, beginning with the amount ascertained in the year 1895, and proper credits made to each specific security; but he also held that the sales should not be delayed until that account was completed, but that the Natives should be entitled to redeem any specific security upon bringing into Court the amount claimed by the bank as being due against that security. The Court originally fixed the 12th day of June as the day for the sale; but, in consequence of questions as to notices and other matters relating to Native lands, the Court postponed the date until the 29th August, 1902, at which date the properties stand to be sold under the decree of the Court. No moneys whatever have been paid in by the Natives concerned in any block to stop the sale. I am now able to answer the very pertinent question put by the Hon. Sir William Russell—viz., "What interest has the bank in permitting its sale to be delayed by this legislation?" When the bank was approached by the trustees some short time ago and asked to postpone its sale I acted for the bank, and pointed out that our titles were, in our opinion, unassailable, and that the time of sale was fixed by a decree of the Supreme Court, but that we should have to

buy in a considerable part of the properties sold, and should be subject to the litigation which has already cost us so much, though we have been uniformly successful in defending it. And, further, that the bank was liable to a very difficult and complicated account which was being taken by the Registrar of the Supreme Court at Gisborne, and that the only conditions on which the bank would agree to postpone were, first, that all future and further litigation should be barred by statute, and, secondly, that the account should be taken by some proper person or persons to be authorised in that behalf by legislation. To those conditions the trustees submitted, and I then, with the president of the bank, laid the matter before the Government. The bank does not require any legislation to validate its title. It recognises, however, that it is in the interest of the Natives that further time should be granted to them to redeem, and the bank is willing to grant that further time upon condition that litigation shall be stopped, and that the account be taken by some independent persons in such a manner as shall appear to be just and equitable. I may have left matters unexplained, and, if so, I hope I may be questioned upon any point upon which the Committee may desire elucidation.

36. *Hon. Sir J. G. Ward.*] You had an interview with me on behalf of the bank in the first instance, Mr. Bell, over this Bill?—Of course, I do not know, Sir Joseph, whether the first interview was that which took place between Mr. Malet and myself on the one part, and with you on the other. Was that the first interview?

37. *Hon. Sir J. G. Ward* (to Mr. Malet).] That was the first interview, Mr. Malet?—Yes.

Mr. Bell.] Mr. Mallet and myself were there, and there was no other person.

38. *Hon. Sir J. G. Ward* (to Mr. Bell).] An outline of this Bill and the agreement were produced on that occasion—this Bill, as a matter of fact, and the proposed agreement?—No; there was a memorandum from myself to you setting out the facts. The Bill was not drafted until after you had said you would advise Parliament to pass such a measure if we would give two years. I then consulted the bank, and then drafted the measure.

39. What about the second interview?—That was the second interview. At the first interview there was only before you a memorandum of mine.

40. The outline of the proposals contained in this Bill were conveyed to me by Mr. Malet and yourself at the first interview?—Yes. There was a written memorandum also.

41. With the one difference that there you suggested twelve months?—"Six months," I said; and there are one or two clauses in this Bill that we did not mention.

42. At all events the proposals for legislation upon the lines in this Bill, with some variations, were submitted upon that occasion?—Yes.

43. Did it appear to me that this was being done at the instigation of the trustees or on behalf of the bank?—Certainly it was made clear to you in the memorandum. It was not at the instigation of the trustees. It was made clear to you in the memorandum that the trustees desired it, and that it was in the interests of the Natives and at the Natives' requests that the bank was suggesting terms upon which they could postpone the sale.

44. I was not told it was on behalf of the trustees?—I did not represent or purport to speak on behalf of the trustees.

45. I did not understand that this was being done at the instigation of the trustees. The representations made to me were from the bank, who indicated that it was of importance to them in order to end litigation, as well as to preserve broadly the specific securities. It would render a gross injustice to the Natives, if they were bound under the ordinary law of the Supreme Court, if legislation were introduced?—Oh, that is correct, sir. If anything that I have said suggests that I was authorised on behalf of the trustees to see Sir Joseph Ward, of course, I was not. I never had any communication with the trustees. The trustees had approached the bank. I was asked to represent the bank. I represented the matter from the bank's point of view. I had no right or charge on behalf of the trustees.

46. There may be a wrong inference from the statement that you made, and that is, as adviser to the bank, you were opposed to the postponement of the order of the Court of the 29th instant?—I would not have agreed to postpone it originally for two years. I understood what you said, Sir Joseph Ward, was that you would not advise Parliament that it was in the interest of the Natives to have a postponement unless a term sufficient to enable the Natives to redeem were given them.

47. That was at the second interview?—The second interview. It was a question of the Native persons who were supposed to have an interest in these lands against whom the bank was going to buy in the whole of the property. That is what I remember.

48. Do you recollect one portion of the interview which very materially guided me? I cannot help stating that at the first interview I was not myself very favourable to the introduction of legislation. I want to ask you if you recollect, at the second interview, stating to me that, though the bank's position was healthy as far as the securities went, and that they could, under the order of the Court, realise upon those securities, there would be nothing short of a scandal for the Natives who were under the specific securities to lose their lands in order to make up a portion of the *in globo* assets?—I said so. Unless there was a reason of that kind in the public interest I never supposed that you would be moved to introduce the legislation. I never had an idea that I could get you to legislate in favour of the bank. Not only on that occasion, but on every occasion, I put it that if these Natives wanted time to redeem they ought to have some reasonable time to redeem.

49. Are you of the opinion now, Mr. Bell, that, in the absence of legislation, if the power that the bank has were exercised it would be nothing short of a scandal to the Natives who owned these specific securities to have them realised upon for the purposes of making up the whole of the securities?—I think that if any reasonable means can be provided for protecting the mortgagee it is scandalous that these securities should be purchased by the bank at a forced sale, and the admitted

equity of redemption pass away from the Natives without a further chance being given to the Natives.

50. *Mr. A. L. D. Fraser.*] The business for the accountant does not go beyond 1895?—No; because of the decree of the Supreme Court.

51. That is in the agreement, of course?—Yes.

52. The total amount is £52,522 that they have to inquire into?—Yes; it really does not mean that to us; a very small part is in dispute.

53. The amount of the bank's indebtedness is £52,525?—Roughly, that is the increase beyond the term named in 1895.

54. And the trustees dispute some of that?—Some items. The greater part is not disputed at all.

55. Some items are?—The question of whether Paramata ought not to have been credited with large sums which it received.

56. There is only a small amount involved?—Yes.

57. In section 3 what do those words, in line 34, "or otherwise" mean? Does that mean the bank can in two years sell without any notice whatever?—No, it may sell; if it sells under the conduct of the Registrar of the Supreme Court it can buy itself. It will not sell under the conduct of the Registrar of the Supreme Court anything which it knows it is able to find a purchaser for.

58. The sale could not be done by private arrangement through the bank and private owners. It must be sale by auction?—Yes, it must be sold by auction, because it is Native land.

59. You say it can be sold under an order of the Registrar of the Supreme Court or otherwise, and "otherwise" means by auction?—No, it means under the conduct of the Registrar, but the bank can only sell by public auction.

60. *Sir W. R. Russell.*] They can deal privately?—Not with Native land. The only provision in the Act with regard to Native land is that the bank may itself buy at the auction.

61. *Mr. A. L. D. Fraser.*] Did I understand you to say that you drafted this Bill, Mr. Bell?—Yes; I drafted the greater part of it.

62. Under whose suggestion or instructions did you put in the Bill, Mr. Carroll and Mr. Wi Pere to be relieved of their positions and the Maori Council to be put in their place?—That was not my drafting, but I may say that I think it is desirable that Mr. Carroll and Mr. Wi Pere should be relieved of the trusteeship and somebody else appointed. We feel that it has been a failure so far with them, and they must feel it themselves.

63. In clause 10, "All lands now held by the trustees, either by themselves or with other trustees, in trust for Native beneficiaries, and whether comprised in the securities hereinbefore referred to or not, shall immediately upon the passing of this Act and by virtue hereof be vested in the Council," &c. They have managed it for a number of years?—They have managed some of the properties.

64. And the Receiver?—I may be quite wrong. I thought they had made a mess of it.

65. That is a matter of opinion. That is not your drafting at all, I understand, Mr. Bell?—No.

66. Would you kindly explain section 10, this part especially—perhaps you will kindly explain to the Committee professionally what this means: "The title of the Council shall be indefeasible, save as is herein provided," and so on. What has that got to do with the bank—anything?—Nothing; but I am not the draftsman. I suggest that you ask Mr. Rees.

67. Has that anything to do, either directly or indirectly, with the bank's securities?—Except by the last words of it. They were buying the land out from the Natives and getting Europeans on it, and we doubted whether we could not be taxed on the basis of European land. The proviso is my drafting, "Provided that for all purposes of any Act relating to taxation the bank shall continue to be liable only as if the equity of redemption of the lands mortgaged had continued to be vested in the trustees."

68. That proviso has little or nothing to do with the greater part of the drafting?—That is so.

69. *Mr. McNab.*] I understood you to say that if the sale went on it would practically mean that the bank would have to buy the property?—It would not have to buy the specific securities. There would be plenty of bidders for the specific securities, but at a very great undervalue. With regard to the specific securities, the public know exactly the sum which the bank claims, because that sum is filed in the Supreme Court. They know, therefore, the price. We know there will be for many of the specific securities purchasers at that reserve price. There will not be very great competition, but there will be a sale.

70. What value of the land do you anticipate the bank will have to buy and sell if the sale comes on?—It will offer the whole of the lands comprised in the principal security, say, to the value of £100,000 odd.

71. So that, if we do not pass this Bill, it will mean lands coming into the ownership of the bank to the extent of about £100,000?—Yes; and the other lands will pass away from the Natives at a very gross undervalue.

72. If the provisions in the Bill are given effect to by Parliament the necessity for the bank acquiring the ownership of an estate of about £100,000 will not be necessary?—Not for two years; and, I think, in all probability a large part of that will be redeemed in that time, as well as the specific securities. There is no danger of the specific securities passing into the possession of the bank.

73. The danger of the specific securities is the sacrifice?—Yes.

74. In regard to the others, the bank accounts lodged command £100,000 of real estate?—Which it would prefer to have instead of mortgage.

75. And which, if it fell into their hands, would fall into their hands at a figure largely under its real value to the real owners?—I am not sure, sir, about that in regard to the principal

security. The principal security is fairly swamped. I do not know that it is absolutely swamped, but, of course, the difference of £100,000 is against the principal security. The Natives, Mr. Rees, and everybody concerned in the equity of redemption think it is worth a very large sum more.

76. *Mr. W. Fraser.*] The terms were used that if this property were sold it would mean a scandal. Did you mean a scandal as far as the bank was concerned?—Oh, no; the bank must exercise its functions. It has got a duty to perform to its shareholders. The public scandal would be if Parliament might have intervened to preserve these lands to the Natives and refused to do it. Of course it is not a scandal on the part of the bank. The bank has not only power to do it, but is bound to do it. The bank has no right to consider the Natives in the matter at all.

77. *Hon. Sir J. G. Ward* (to Mr. Malet).] At the first interview with me, Mr. Malet, when the request was made for the Government to consider the request for legislation, I understood those representations were made on behalf of the bank: was I right or wrong?—You were quite right. I saw you on behalf of the bank, as I thought it would be idle to go into the question of the Bill, and for the bank to go into this matter, unless we were going to have the support of the Government. I knew that the time was pressing, and that a private measure would be useless, and, acting in the interests of the bank, who desired to see this liquidated, I was empowered by my colleagues to take charge of the whole matter and do what I could, and to give any facility I could for preventing this sale going on provided the increased interests were protected. I conferred with Mr. Bell on the subject, and we both came; and I came in no other capacity except as chairman of directors of the Bank of New Zealand.

78. The request was not made on behalf of the trustees?—No; I saw nothing of the trustees at all until afterwards. I saw the possibility of our having to go on with this sale, and I thought I would use what influence the bank had to bring about its objects to be stated in the Bill.

79. Do you recollect whether I expressed an opinion that the time was too short to enable the Natives to do anything?—I think I understood something of that, and I left the room. I came to the conclusion that you were not favourable, and I thought that I had rather wasted our time on the matter.

80. It was upon the point in the Bill with regard to the time of the sale?—Purely.

81. At the second interview?—I was not at the second interview.

82. *Hon. Sir J. G. Ward* (to Mr. Bell).] At the second interview I expressed myself favourable to the Government taking up legislation in this matter, providing the time was made two years in the Bill?—That is so. But there was a part of the first interview which took place without my presence. I was only there to explain the legal aspect of the question, and part of the first interview took place without my being present.

Mr. Malet: I may say that why the bank has taken this active interest in the Bill is to conserve the rights of the Natives. And then the question may be asked, Why were they so anxious about the rights of the Natives? As we are charged with the administration of the bank, we do not want it to be said against the bank that they have forced this sale, and thereby create a sort of bad odour against the bank. The bank is probably only doing its duty. It would be looked upon that the bank was probably forcing the sale, and the rights of the bank could not be made known, so to speak; and that would be quite apart from our desire to let the Natives get back their own if we could get our money. We were quite sure the bank should not be forced into the position of having to force the sale of those large portions of land. The smaller blocks would probably be sacrificed more or less, and we desired to keep the bank out of the difficulty of being in an injurious position. We are only trying to liquidate the asset, which has lasted for twenty-two years.

83. *Hon. Sir J. G. Ward.*] I understand you to say you are of opinion that legislation should be put through to settle the matter?—I am most strongly of the opinion that this is the best solution of the difficulty, though the bank has to wait two years more. Still, two years more or less will not make any difference, as we have now waited for twenty-two years.

84. *Sir W. R. Russell.*] Are we not extending the powers of the Validation Act in this Bill?

Mr. Bell: Not to this extent. The same powers which they exercised in 1895, and which have been before the Supreme Court since and affirmed, are the powers which they are by this Bill directed to continue to exercise if they consider fit.

85. Are not the powers of the Validation Court to take new work ceased altogether?—No.

Mr. A. L. D. Fraser: You cannot apply for a validation of property under the Act now.

86. *Sir W. R. Russell.*] Under clause 9 it looks to me as though we were extending the power of the Validation Court Act?—I am not clear. If you ask me whether they could now exercise the power, I think it is very probable the power has lapsed. But the Bill does not create a power which the Court did not have previously.

87. *Hon. J. Carroll.*] There are certain blocks there that are not in the mortgage, but subject to the decrees of the Court, and the Validation Court has still power?—Oh, yes; with regard to any blocks now before the Court, you are not extending even the time.

Hon. James Carroll examined. (No. 3.)

Hon. Mr. Carroll: I think I need say nothing at all about the origination of this measure, Mr. Chairman, or go into the history of this trust estate, in the effort to show who is or is not to blame; but I recognise on behalf of the Natives that we are face to face with an unfortunate position, and I think those representing the bank will view it also in that light. The Natives, through their representatives, are extremely desirous that something should be done in a practical way—confirmed by legislation—to bring these matters to an end, and the line upon which this settlement is based and is outlined by the Bill is one that has commended itself to the trustees as being businesslike and which they expect will be productive of good results. It would be a great relief to the Natives to have this Bill passed, and I am sure it would also be a relief to the bank.

The object of the Act is, by clause 3, to postpone the bank's power of sale for two years, at which time its power to sell will be absolute. That is the settlement between the two parties. At present, of course, they can sell the land on Friday, but they will be open to litigation the end of which is not easily discernible. Then, another thing the Bill does, by clauses 4, 5, 6, and 10, is to make the titles indefeasible beyond all question, and it proposes to put an end to all present or future litigation, so that confidence may be established between borrower and lender. Now, at this point I may explain that the difficulty the trustees or the Natives have been in all along was in redeeming any of these blocks owing to the atmosphere of doubt surrounding the legality of the titles. They could not prevail upon or induce any lending body to lend them the money upon the security which they had to offer, because the titles were considered insecure. It was not a negotiable security—a security that any lending body could lend on—and we found that fully demonstrated everywhere and every time we applied as trustees to raise the necessary funds to relieve these blocks. Whether rightly or not, from a legal point of view, I do not know, but there was always a cloud over these titles which prevented us satisfactorily and successfully obtaining money to pay off the debt. Well, declaring by Act that these titles shall be made indefeasible not only suits the bank, but suits the Natives equally well.

88. *The Chairman.*] When you say "we," you mean the trustees?—I mean the Natives; they can put a solid security before any money-lending institution. Then it relieves the present trustees from the trust. That is a desirable thing, because, although I endeavoured to be relieved of these trust responsibilities for years, it was a question how it could be done—where the power was to do it. The trustees were always in this position: they were trustees responsible to the Natives that the lands were being administered in their interest, and yet at the same time they had no voice whatever in the management. The bank were in possession and managing, and according to the decree of the Court the bank were declared to be mortgagees in possession and had to account for everything (which they had failed to do). This Act is also a relief to the bank in this respect. We make no claim whatever in our agreement against the Bank as to their position as mortgagees in possession. The Validation Court is preserved—or, rather, is directed—here to determine the rights of the Natives between themselves and to decide what lands ought equitably to contribute by way of strengthening the present securities. This touches now on the question raised by Mr. Fraser and referred to by Sir W. Russell, as to the continuance of the Validation Court. I may make it clear if I explain the position of the different blocks involved in this case. First of all there are the original blocks held under the Land Transfer Acts by the trustees, subject to the whole amount of the indebtedness due to the bank. They were known as the "completed blocks." Then by arrangements afterwards, as explained by Mr. Bell, when those matters were discussed before the Validation Court it was decided that other blocks which, owing simply to their legal position at the time, were not included in the mortgage should be added. That is to say, they were brought in to help bear a part of the general liability by having specific sums allocated upon them by the Validation Court. These were held by the above trustees under the decrees of the Validation Court, subject to alteration and other Acts as might be determined by that Court. Then there were other lands brought under the Validation Court voluntarily by the Natives which the bank had nothing to do with, and upon which the Validation Court made decrees. These lands are also held in trust by Wi Pere and myself and other trustees. These are the blocks referred to in this Act that the Natives can bring in as additional security. The Validation Court kept its power of administration in its decrees, and everything required to be done in regard to these blocks must first be submitted to the Validation Court and be approved of by that Court. So the reference here to other lands and to the Validation Court is obvious and unavoidable. The Validation Court in this Act was not introduced with a view to extending its power or enabling it to deal with new matters. It is only asked to deal with matters within its jurisdiction at the present time. If the Maoris agreed, in order to facilitate matters, in raising money to pay off Paramata and these other blocks, they can pledge these lands as collateral security, subject to the consent of the Validation Court, in order to satisfy any lending institution they appealed to. These lands are subject to the decrees of the Validation Court now, and they are subject to trusts all more or less in affinity with the general trust. I quite agree with Mr. Bell that these special blocks can be relieved, Paramata and Mangahera especially. We have been powerless, as I have said before, to raise any money in the past to pay off the indebtedness on these special blocks, and without any Act such as is proposed we should always be in the same position. With this Act, and two years in which to do it in, I believe the Natives can better their position, and make safe one or two of the more valuable blocks in the series of blocks that are now subject to mortgage. From a public point of view it is very necessary that this Act should pass, because it will unloosen the meshes in which they have been tied up, and cause them to be thrown open. Portions will have to be cut up and sold, portions will have to be leased, and possibly other portions worked. This Bill will be to the benefit of the Natives. It will be in the interests of the bank, because of the improved chances of its getting its money, and the fact of the titles being made indefeasible and all future litigation stopped. This must put them in a much better position than that which they now hold. It will be certainly in the interests of the trustees, who will be relieved of this trust and the responsibility attaching thereto. And last, but not least, it will be a great boon to that part of the colony, because of the impetus it will give to settlement.

89. *Sir W. R. Russell.*] Does this Act relieve the trustees of any responsibility for any errors of omission or commission?—It relieves them entirely, though I do not think they were liable.

90. Trustees ordinarily are, are they not?—Ordinarily, yes.

91. And do you know whether this Bill does relieve them or not?—Yes; it relieves them of the very onerous position they have been placed in.

92. Ordinarily, I think, the trustee merely administers an estate, and the ward has an action against him if anything goes wrong?—Yes.

93. Does this Bill relieve the trustees?—It relieves them, so far as I know, of the trust.

94. And you do not know whether that relief of the trust relieves them of all responsibility up to that?—Whatever responsibility was theirs this relieves them.

95. Is there not a paragraph in clause 3 affecting this? Does not that alter the power of the Native Land Act? I see under this clause, that under certain conditions, the bank may take possession of the land after exposing it to auction?—No; that has been explained by Mr. Bell in answer to another question. "The bank shall not without the consent of the Council sell or cause to be sold any of the lands comprised in the securities before the thirty-first day of August, one thousand nine hundred and four; but on and after that date the bank may without such consent sell the whole or any of the lands comprised in the security whereof it is then mortgagee, either under the conduct of the Registrar of the Supreme Court or otherwise, and the bank shall not be required to give any of the notices required in respect of Native lands before a sale by the mortgagee thereof; and nothing in any Act relating to Native land shall prevent the bank from becoming the purchaser of any of such lands sold under the conduct of the Registrar of the Supreme Court; and it shall not be necessary for the bank to wait until the said thirty-first day of August, one thousand nine hundred and four, before giving notice by advertisement and otherwise of its intention to sell all or any of such lands on or after that date." That is an agreement arrived at between the two parties to obviate the necessity of giving notices.

96. Are you able to speak upon the question of putting the administration of these lands into the hands of the Native Council?—Yes.

97. Supposing I myself, for instance, had a strong objection to handing over the land to the Native Council, what is the move to prevent competent business-men from administering the lands instead of the Native Council?—I think the Native Council would be a competent body.

98. Do you think the Native Council is a good body to administer an estate in the condition in which this one is?—I think it is possible that they will administer it all right.

99. If you were dealing with a large complicated estate of your own would you hand it over to the Maori Council or into the hands of good business-men? Which do you think would result in the greatest realisation of an estate?—Well, perhaps, a good business-man who was fitted and used his own judgment and discretion would be the best man, but, from a public point of view, I think it is more satisfactory to have a statutory body responsible for the management than a private individual, considering all the complications. Of course, the management of the estate itself can be put in the hands of a capable man, but the authoritative power will be with the Council.

100. I think this Bill places the power absolutely in the Maori Council?—Yes; they will be responsible, but a manager will be appointed.

101. Then, do I understand that the control of these lands will be primarily in the hands of the Maori Council, who will delegate their powers, but that the bank will be the real controlling body?—The bank will keep its control over the estate to a certain extent until it is paid off. These lands will rest in the Maori Council. The Maori Council at any time, with the bank, can arrange in regard to the realisation of the lands, the proceeds, of course, going to the bank in reduction of the debt. The management of the stock and of the land itself can be arranged with the bank for the period of the two years.

102. The administration of the estate will be in the form of the Maori Council?—Yes.

103. Do you think that is the best form of administration?—I think so, under the circumstances.

104. Putting "under the circumstances" aside, do you think that any four Natives who are likely to be appointed to the Maori Council would be better trustees, so to speak, than the two trustees who have had the estates for some years past?—Yes, taking other things into consideration.

105. You have a very humble opinion, then, of the trustees themselves?—The two trustees who have been the trustees in the past never had the management of those lands. They were merely the nominal trustees, and any bad results that have obtained as the outcome of that administration cannot be settled on the trustees, but with those who were actually engaged on the management. The Maori Council now will have this advantage over the present trustees: they will have the titles vested in them, and they will be directly responsible for any failure or success of management. The trustees never held that position.

106. Then, do you think the Government should not be induced to alter the provisions of the Bill and allow this estate to be wound up by competent business-men?—Well, there is nothing to prevent that from being done, but I do not think it would be right. I think if you want to retain the confidence of those immediately interested—the Native owners—I think they should be allowed a voice in it.

107. Mr. Malet, in giving evidence, spoke of the original sum secured being £58,000?—In 1892 it was about that.

108. Will there be no accounts procurable for the Committee to see how that debt has increased?—No; but we have come to an agreement to have these accounts gone into and settled by competent accountants.

109. I should like to get an idea of the interest and law expenses: is that obtainable?—That was the point of difference between the bank and ourselves. We say we could never get any accounts.

110. Did the bank ever supply you with accounts—with interest-charges every year?—No.

111. Or do you know how much was paid in litigation?—No; that was the trouble all along. There was no way in which the trustees could arrive at a knowledge of the accounts. The accounts in a general sort of way were sometimes submitted to the trustees, and sometimes to the Validation Court Judge, but there was no regular treatment of those accounts at all.

112. Have the trustees no power to examine the accounts?—We had a Receiver, but the bank ignored the Receiver, and would have nothing to do with him.

113. Then practically the trustees do not know what the true position is?—That is so. We are quite prepared to have these accounts threshed out by expert men.

114. Now, can you tell us why the members of the Committee should be in the unfortunate position of having a Bill of great importance brought down to them at so late a date and just prior to the foreclosure of the bank?—Well, unfortunately, the trustees and bank people had not met before.

115. Do you not see the danger of getting a body of gentlemen who did not know anything about the subject to give a decision right off as to the best thing to do without their having time to read the Bill?—That is so.

116. Would there be no means of postponing the question so that we should have time to thoroughly investigate it?—I do not think so, this session, unless you postpone the sale.

117. Why do not the trustees and the bank come to a voluntary arrangement?—Well, that is what I have always endeavoured to bring about. I have always been anxious for a settlement, and have tried at various times to have this settled instead of having it frittered away in the law-courts, and everybody having a "cut in."

118. *Mr. A. L. D. Fraser.*] To get at the actual position, Mr. Carroll: the original debt to the bank was larger than it is at present; the money owing to the bank was larger originally than it is at the present time—£160,000?—That was beyond my time.

119. Can you give the information? It is just as well to have all the information we can. And some of the properties were sold, and that is how the amount was reduced to the £58,000 mentioned by Mr. Malet?—Yes.

120. *The Chairman.*] What date was the £58,000 owing?—1892.

121. Is that when your trusteeship commenced?—Yes.

122. That is the original indebtedness referred to by Mr. Malet in his evidence?—About £68,000 with the stock mortgage. I may say that, as a result of that arrangement, which led to my appointment as trustee, the lands of the whole estate were being sold at that time by the Assets Company. It was a forced sale, and the Natives asked me to intervene, which I did, with the result that the bank desisted from selling the balance of the properties on that date. They suspended the sale about 2 o'clock. We got together and discussed the whole position; then they agreed, in order to save any legal trouble, that the balance of the lands should be handed over to Wi Pere and myself as trustees for the Natives, they taking a mortgage over the unsold lands for the balance. I have no interest whatever in the estate, and had none at that time. The Natives pressed me to take up the position, so to satisfy them I became trustee, and I have not been able to get out of the position since.

123. You stated, Mr. Carroll, that the Receiver appointed some six or seven years ago has been absolutely ignored by the bank, and his services have been absolutely wasted?—Yes.

124. And he has been kept employed for six or seven years, having nothing to do?—Oh, he has other lands to deal with as well.

125. Has he anything to do with the trust lands?—Not these, but other trust lands.

126. I am dealing entirely with the trust lands under discussion by the Committee. He has been engaged all these years, having nothing to do, at a salary of £500 a year?—Which he has never got. He was made Receiver by the Validation Court. He has been acting in that capacity, but without any recognition from the bank.

127. He has been practically doing nothing these six or seven years?—He has been carrying out his duties as imposed upon him by the Validation Court; but he has not been recognised in any way by the bank.

128. You and Mr. Wi Pere were appointed in 1892?—Yes.

129. And owing to your hands being tied your efforts have not been very successful?—That is so.

130. Well, under the powers of this Act, do you think that your efforts will be more successful in the future?—We have no powers under this Bill.

131. Under the powers that this Bill proposes to give to some body or person, do you think that their efforts will be successful?—If you mean, will any success result from the new order of things, I certainly think so.

132. Under this Bill you would be allowed to deal with the estate if you were still trustees?—Yes.

133. You said that you thought that this Maori Council would manage better than you and Mr. Wi Pere?—Well, I believe that they would be the best body under the circumstances.

134. Through Mr. Wi Pere and Mr. Carroll the Council formed for the East Coast is as follows: The Native Council consists of Messrs. Gill (who has been purchasing land for some time for the Government), Joyce (an ex-publican of Gisborne), Townley (Mayor of Gisborne), Ihi Potai, Epamaia Whanga, and Peni Hehi?—Yes.

135. And you tell the Committee, Mr. Carroll, knowing those men, that they are capable of managing a difficult estate like this?—Yes. Peni Hehi is now managing a large estate on the East Coast very successfully, and working it on co-operative lines.

136. You are aware that if this Bill passes, handing the estate over to the Council, that they have the full powers that they have under the Act of 1900 and its amendments?—Yes.

137. And you are aware, also, that the first power given to them in any estate put into their hands is to realise and get money to pay for the administration—that is, to pay themselves under section 43 of the Act of 1900?—We are not discussing the Act of 1900.

138. If it is handed over to the Council the jurisdiction of the Council is bound by the Act of 1900 and its amendments of 1901?—Very well.

139. So that they would have the full powers that they have in these two Acts?—Yes.

140. And with these powers you are of opinion that they would be a competent body to negotiate with the bank for a settlement?—Under all the circumstances they are the body I would say that these lands should be vested in.

141. In preference to the suggestion of Sir William Russell that competent business-men should be placed in charge there?—Yes.

142. You are aware, also, with this Bill becoming law as it is now, that the lands are handed over to the Council: they become for ever the property of the Council?—Subject to all rights and equities of the mortgagees.

143. Subject to the whole rights of the mortgagees?—With all the rights and equities preserved—the existing rights and equities preserved.

144. You propose to ask the Validation Court to take in a number of other lands, possibly, as security—lands in the Registrar's District at Gisborne: you propose to do that?—Yes, subject to the approval of the Validation Court.

145. That is, the Council would ask the Validation Court to do it. This is for the Maoris and two Europeans?—The owners themselves can apply to the Validation Court and ask its authority and approval to any proposal which might be in aid of the other lands.

146. If the Validation Court agree to that, they all go into the hands of this Council?—Yes.

147. *The Chairman.*] And become part of the security too?—Oh, no. The bank has nothing to do with that. The Natives in their efforts to relieve some of those blocks may require additional security. The owners of those blocks think it should be left to the Validation Court to approve or otherwise. The owners should be able to go to the Court and say "We want additional security to enable us to raise money to pay the bank off." If the Validation Court approved of that it would give its consent.

148. Where is the power in the Validation of Titles Act from 1892 upwards to the present for the Court to inquire into matters of this kind? Is there any power to interfere if other lands should be included in the security? Is not this the Amendment Act of the Validation Titles Act?—The power is preserved in the Validation Court decrees.

149. Are you certain of this?—Well, take Mungapoiki. That was brought before the Validation Court, and the Validation Court appointed trustees to administer that land, but at the same time kept its right of vetoing any act of administration that it would not approve of. We would have to come back to the Validation Court at any time and ask for special powers if we wanted to do anything further.

150. You speak about other trustees holding other lands?—Wi Pere and myself and other Natives and Jackson are trustees in other lands.

151. I suppose the trustees in those other blocks are as unsatisfactory as in this?—No, very successful.

152. Then why the necessity to hand it over to the Council?—Because the Council is a statutory body, and is representing all the East Coast Natives and the Natives and lands, and the object is to work all those lands together.

153. Then you are prepared to take it from trustees who have administered it as a competent body and hand it over to a body who may possibly be an incompetent body?—Well, for the broader purposes I have every confidence in the body—the Native Council.

154. *Mr. W. Fraser.*] At whose request is the Council substituted in the Bill for the trustees, was it the request of the beneficiaries or the request of the bank?—The bank and the trustees, on behalf of the beneficiaries, have discussed the position, and it was taken that the Council would be a satisfactory body.

155. Then, it is really at the beneficiaries' request that the word "Council" is put in?—Yes, the trustees and beneficiaries together.

156. When you say you think it would be better that a statutory body like that should be left to control the liquidation of this matter, you say so because it has been so asked by the beneficiaries?—That is so.

157. If Parliament were to interfere and inquire into this, would not Parliament be assuming a certain responsibility if anything went wrong?—It is now the proposition to do so in order to meet the views of the Natives.

158. How was the opinion of the beneficiaries obtained?—Well, the trustees are in constant communication with all the principal owners.

159. Then, it is your opinion, if the word "Council" be left in the Bill, it will meet with the wishes and desires of the beneficiaries?—I think so. Of course, I told them it was understood that the present trustees should go out. I do not think it right for myself to be in, considering my position. They wish us to remain in. I told them I had strong reasons for going out of the trust. Of course, they were public reasons.

160. Is this the first time that the bank has consented to an extension of time?—No.

161. On what other occasion?—I cannot tell you exactly.

162. Was it in 1895?—Yes.

163. What extension was given then?—Three or four years. I know the bank has met our wishes before.

164. No result having accrued to the bank, is it not natural that the bank now, in giving a further extension, should require finality?—That is essential, otherwise there is no use of carrying out what we propose now. Finality is the great essential in all these things—in litigation and everything else.

165. You referred to the fact of this Bill making the titles better both for the bank and for the trustees?—Yes.

166. Is it not a fact that the title the bank holds is an absolute title, and was decreed by the Courts?—I do not question that; but you cannot satisfy the public mind that it is so—that we found out. Whenever we attempted to raise money to pay off the mortgage the question was always made, "Oh, what are your titles?"

167. Is it not a fact, in section 4, where the title of the bank is dealt with, there is not the question there of giving the title to the bank, but simply the question of preventing annoying

litigation going on?—That is so, and, in addition to that, the bank is relieved from any responsibility as mortgagees. That is a big item for consideration, so far as the bank is concerned.

168. The title that the bank held, was it not a better title than the one the trustees had to offer to any lender in the past?—By virtue of its mortgage. The power of sale it had through its mortgage may have given it that extra advantage, but nevertheless there was an unsatisfactory odour about all those titles.

169. I think you admitted that to be the case—that you found that defect in your title to be a stumbling-block in all other mortgaging of the property or selling it in order to redeem it?—Yes.

170. And the object of the Bill now is to remove that doubt—to enable you to give a clear title to any one who either lends money to you, or who wishes to buy it?—That is so.

171. *Mr. A. L. D. Fraser.*] Can you say approximately the number of beneficiaries there are in all those blocks?—No, but there are a great number.

172. Would a thousand be an exaggeration; or five hundred?—There would be a thousand.

173. You would say that there are a thousand beneficiaries?—Yes.

174. Under the Act of 1901, it must be at the request of the majority of the owners that the land is handed over to the Council. You and Wi Pere propose to do it without consulting the majority of them?—We are trustees; we are acting on their behalf.

175. You do not consult them at all?—We must.

176. Do you consult a majority of them?—We always have done so.

177. Have you consulted the majority?—I do not suppose we have. Those matters are matters of public notoriety.

178. *Hon. Sir J. G. Ward.*] Regarding the validity of the titles to the bank. The bank's title is beyond all question. It is under the Land Transfer Act. If the mortgage were paid off, and the land reverted to the Natives, would the title then remain as valid as it is now with this Bill?—They would not be able to borrow to relieve them.

179. They could not borrow anything because they are Maoris?—No.

180. Then, the proposal to ask Parliament, under this Bill, to render the security valid beyond all question is to get over that difficulty?—That is so.

181. Upon the question of the Maori Councils. As the question has been introduced into this matter it is unavoidable to ask questions. You have been pretty well all through the North Island in connection with Maori Councils for months past: what has been your experience of the Natives being disposed to place their lands in the hands of the Maori Councils?—The majority of them are so disposed.

182. Then, by this Bill, excepting the actual land which the trustees now represent in other blocks, is it a compulsory force to come under the Maori Council's administration?—No.

183. *Mr. A. L. D. Fraser.*] Is it not a fact that there have been numerous objections sent in, signed by hundreds of Natives, protesting against the Maori Councils? Is it not a fact that they are in the possession of the Government at the present time?—There may be one or two; but, even then, I have satisfied myself by personal contact with the Natives all round the colony that the majority are in favour of the Council.

184. You are satisfied that that is so?—Yes.

185. *Mr. W. Fraser.*] Mr. A. L. D. Fraser said that the title of properties could not be vested in the Council except with the consent of the majority of the Native owners, according to the Act of 1891. Well, if we pass this Bill with the word "Council" only in it, and that consent is not obtained, what is the position?—That does not affect the bank at all, except the Natives who want relief on these blocks. If the Validation Court gives them permission, or approves of it, it is only then it can be done.

186. Who would be the governing body if the Council has not got the control—if the trustees are divested of the power, and the Council cannot get it?—The present power is in the hands of the trustees. They have been duly appointed in regard to these outside blocks. The trustees can go to the Validation Court and submit proposals for these outside blocks. It may be that the trustees remain in. Everything will be subject to the approval of the Validation Court.

187. *Mr. A. L. D. Fraser.*] The trustees, without consulting the owners, can hand these lands over to the Council?—They represent the owners.

188. *Sir W. R. Russell.*] Would it not be advisable that the residue of the lands should be vested upon the Natives by individual title in settlement of all claims?—Yes.

189. Would it not have been advisable to have done something in that respect in introducing the Bill?—That can be done, and, I think, will be done in the event of those lands being relieved, the bank paid off, and everything carried out as desired.

190. Then, the titles will be individualised?—Yes, if it is to the advantage of the beneficiaries.

191. Then, do I understand that the residue of the estate after realisation—if there is any—will be vested in individual Natives or hapus?—Yes, that must follow.

192. Although you make no provision for that here. I am looking at the character of the lands—Paramata, Mangaheia, and those blocks. If those blocks are saved, or any portions of them, they are of that character that individualisation would be the best thing. Would not the individualisation be at variance with the Maori Councils Act?—No, not necessarily, because one of the chief principles in the Maori Councils Act is to individualise for papakaingas. So, if there is any residue in this estate—any residue saved at all—well, one can presume it will be permanently saved.

193. Would you consider the question as to the necessity or desirableness of including a clause in the Bill to provide for individualisation?—It might overload the Bill with matter foreign to it at present.

194. Is there any provision whatever in the Maori Lands Administration Act of 1890 and the amendment of 1891 for the Council ever returning the lands to the Natives?—I think there is. Whatever is done with those lands handed in to the Council they will be subject to conditions and provisions not at all contained in the Maori Councils Act. For instance, the power to sell is not in the Maori Councils Act.

Mr. W. L. REES examined. (No. 4.)

195. *The Chairman.*] What is your full name, Mr. Rees?—W. L. Rees, solicitor, Gisborne. I will first speak as to the money part of the question, as to the securities of the bank.

196. *Sir W. R. Russell.*] How do you come to be here?—I appear as solicitor to the trust estate. The debt fixed in 1892, when Messrs. Carroll and Wi Pere became trustees, was ascertained to be the sum of £58,000 odd. They purchased the sheep and the stock on the property at a sum of about £10,000. That was £68,000 before securities were given. The bank has found all the money for completing the whole of what is called the specific securities and the other assets now vested in the trust, an area of about 170,000 acres. The bank has also spent about £12,000 or £15,000 on improvements, and has defrayed the cost of long and expensive litigation in the Validation Court. I mention these facts to show that, although the main costs have been very heavy, the greater part of the amount—the difference between the £68,000 and the £138,000—has, beyond unpaid interest, been expended in a legitimate manner for the benefit of the estate, and the trust estate altogether is now much stronger and worth much more money than it was in 1892. The estate consists of three classes of titles—one comprised of the properties taken over in 1892 by Messrs. Carroll and Wi Pere, which forms the general security; another comprising the validated titles over which the bank holds specific securities in aid of the general debt; and the third comprised of estates which have been vested in Messrs. Carroll and Wi Pere by the Validation Court, with other trustees, but over which the bank has no determined claim. It is over this last part of the estate owned by the same Natives whose other lands are pledged to the bank that the right is asked in this Bill that these Natives may be permitted to increase the amount of borrowing so as to be able to pay off the bank and get money at a cheaper rate. The terms of management—alluding now to the questions put by Sir William Russell and Messrs. Fraser and Carroll—by the Councils: the 11th section of the Act provides distinctly for that. "The terms and conditions of management, and of selling, leasing, mortgaging, improving, or otherwise dealing with the said lands, and of all properties by this Act vested or hereafter to be vested in the Maori Council, shall be agreed upon between the trustees or beneficiaries and the Council by deed; but, so far as relates to securities and lands vested in the trustees, either alone or with others, by decrees of the Validation Court, they shall have no force or effect until approved of by the Validation Court at Gisborne by order under the seal of the Court and signed by the Judge thereof: Provided that the bank shall retain the control and management of any lands, stock, and properties heretofore controlled and managed by the bank." So that when the lands become vested in the Maori Council it becomes a method of management. The method of mortgaging is reduced to writing, and that has to be approved, after a full discussion in the Validation Court, by the Judge of the Court, and it becomes, in fact, a decree of the Court. The necessity for the Maori Council is devised inasmuch as being a corporate body—incorporated by statute—they become the trustees in lieu of all individuals; and I need hardly say, sir, to business-men that a corporate body incorporated by statute, with full powers, acting under a direction of the Court, have a far greater likelihood of being able to borrow money upon favourable terms, and to have their titles accepted, than two individuals have. Moreover, the titles become indefeasible both in the bank and in the corporate body. Every Government lending Department has been applied to by the trustees. Almost every large financial institution in Wellington has been applied to. The Public Trust Office and the Life Insurance Department have been applied to. I applied on behalf of the trustees myself. If not every one, nearly every one was applied to. The Public Trustee, in fact, did at one time consent to take the estates over. Nearly every financial institution, also, in Wellington; and always with the same result—the fear of the titles, that they might not be indefeasible. The trustees have spent many hundreds of pounds in surveys, valuations, applications with different financial institutions, and every one has fallen through—they have always failed upon that point. The Act, as has been stated, gives finality. If the Maoris cannot redeem the whole or any portion of the lands within two years they must be sold. Then the bank sells without any fear of obstruction. If they can redeem then they redeem with the complete title in themselves—the Maoris. In 1897 the Native Affairs Committee reported that some steps ought to immediately be taken. Nothing was done. Then five years expire, and the costs and law expenses and compound interest have of necessity been the result. The Act ends all litigation and puts a stop to it, and makes the titles indefeasible, so that persons will lend, and buy, and lease with the positive certainty that their titles cannot be disturbed. As regards the particular securities, it is beyond doubt, I submit, that they can be redeemed within the two years if the titles are made indefeasible. They can be redeemed by either the trustees, or, if the Maori Council succeeds the trustees, by them; because there is a considerable margin of value in those specific blocks—every one of them—and the Maoris, knowing that, have other land that they have already expressed their willingness to bring in to increase the security of the lenders who may lend the money necessary to pay the bank in regard to these blocks. A considerable number of these estates are susceptible of being cut up for settlement at once, and Europeans are clamouring and asking that they should be so cut up; but with this question of title hanging over and the bank's mortgages the trustees could never do anything. Under this Bill they have the power to cut up those lands, and two or three of the estates are already surveyed and cut up. Nothing can be done without them. Paramata is an estate of 7,000 acres, which is at Cook's Cove. That is cut up, and possibly 2,000 acres of that are being sold to pay the debt of the whole block. That is one of the specific securities. Mangaheia No. 2, which is close to that, is just 6,000 acres, and there, I believe, 1,500 acres would pay the debt. Then, the Natives owning the large securities are large owners in all the other blocks scattered round. If they saw that this was made safe for the two years, and that the trustees or the Council had the power to cut up and deal with the lands, they would voluntarily bring in other large blocks which have already been dealt with in the Validation Court so as to increase the foundation for borrowing. Thus they could get cheap money to pay the bank off and throw open the lands for settlement. Out of over 300,000 acres at the

present time not more than 70,000 acres are being used. The trustees' hands are tied. The trustees are applying continually, but we can do nothing.

197. Why not?—Because we have to get, first of all, the consent of the Validation Court, then, when it is mortgaged, the consent of the mortgagees. It is a most difficult position, and the Validation Court has not seen its way to do anything for some considerable time past. Then, in relation to these blocks which seem to cause some alarm—the 9th clause. In relation to some of those blocks that are not under mortgage the trustees and the bank had agreed that certain amounts should be fixed upon these blocks, £2,000 for Mangapoike, £1,500 on Tahora, and some other amounts on other blocks; but we could not get the consent of the Validation Court Judge to this being done, although certain of those lands were indebted to the Bank of New Zealand Estates Company, and for titles and for improvements made. It has been a disappointment for all parties concerned. This Bill after becoming law will end it, and there can be no great danger of anything being done, inasmuch as everything is reduced to writing before the Maori Council can act with any land, and that writing must be agreed to and indorsed as a decree of the Validation Court. If in this Bill we introduce a clause, as Sir William Russell suggested, that land should be individualised immediately after the bank was paid, I am certain the Bill would not pass. That would be opposed by Parliament in both Houses. What we want to do is to stave off the present evil and give time on behalf of the Maoris and on behalf of the trustees. I have attempted to meet Mr. Bell and Mr. De Lautour on behalf of the bank, and we have endeavoured to give fair grounds for coming to the House for legislation. The bank will be met sufficiently and the Maoris will be met sufficiently, and, if it is necessary for the Legislature to make any such condition of individualisation, that can be done next year by an alteration in the Native-land laws, which could include it. All that is in the Bill as it now stands has been the subject of great consideration. I have had to give and take with the bank, the trustees, and the Natives. I do not want to be pushed to bringing all the powers of the Supreme Court, the Appeal Court, and the Privy Council. I am certain if the thing is done now the bank can be paid with the indefeasible titles. We have never had the indefeasible title, and this Bill gives it. It is fair to the public; it will throw open very great areas of land, principally in our district, to the satisfaction of everybody and to the district itself. Settle the question as to whether the money can be sufficiently invested, and whether the lands can be sufficiently improved. And now we ask that this Bill may be passed, so that the titles may be made sure, that the time may be given, and the money raised; then the bank gets its money, and the Natives get their estates, subject, of course, to the payment of interest and sinking fund and the money which they will have to provide. I may state that a very great financial company sent its agent—the bank paid £100 and the estate paid £100—and all went off on the question of this title. Otherwise we could have had the money to pay the bank right out at the beginning of this year.

198. When did you first suggest to the trustees that they should get legislation to bear on this question—that they should introduce this Bill?—For the past seven years. I saw Mr. Malet and Mr. Embling about three weeks ago; then I suggested that something should be done, and asked them to think it over. The next I heard was that Mr. Malet and Mr. Embling had seen Sir Joseph Ward. And then I came down, and I thought that if the bank would work with us we could get legislation.

199. Do you not see the impropriety of bringing down a Bill such as this and not giving the Committee an opportunity of going into it?—It is not impropriety, but a question of time.

200. Why not take time by the forelock?—We should have had to get a dozen more writs. One writ was used—the existing action—which still exists. That was issued in February, and came to trial, when the bank was ordered to give an account of the specific blocks.

201. Why has earlier notice not been given of a Bill of this description?—It should have been given, but it is only within the last fortnight or three weeks that we have come to any conclusion to act together; but, as you are aware, the matter has been petitioned about and spoken of in Governor's Speeches for a long time. If this be done now it saves the property.

202. If you, as solicitor to the trustees, wanted legislation, why was it not brought down sooner?—We had not the assent of the bank sooner, and to go in by ourselves and attempt to stop the bank without the bank's approval would not have been considered.

203. When did you first approach the bank with regard to this legislation?—I think about three weeks ago. I had spoken, I think, before about it.

204. How long ago?—About three weeks ago.

205. *Mr. A. L. D. Fraser.*] Is it correct to interpret this Bill, that on the passing of it the trustees' (Messrs. Carroll and Wi Pere) occupation is gone as trustees?—Yes; it ceases.

206. What does this mean, in section 11: "The terms and conditions of management, and of selling, leasing, mortgaging, improving, or otherwise dealing with the said lands, and of all properties by this Act vested or hereafter to be vested in the Maori Council, shall be agreed upon between the trustees or beneficiaries and the Council by deed; but, so far as relates to securities and lands vested in the trustees, either alone or with others, by decrees of the Validation Court, they shall have no force or effect until approved of by the Validation Court at Gisborne by order under the seal of the Court and signed by the Judge thereof." You have placed the sale in the hands of the Council and the trustees: who are they?—Messrs. Carroll and Wi Pere, for the purposes of that section.

207. You said that if this Act passes their functions will cease?—They have the power to frame a deed, subject to the Validation Court. Their title as trustees ceases.

208. Then, you say that the terms and conditions of management, and of selling, leasing, mortgaging, and improving, have to be by deed between Messrs. Carroll and Wi Pere on the one part and the Council on the other?—Yes.

209. What is the necessity for the Council then: why should the trustees not continue?—Because the object is to put the title of the properties in the hands of a corporate body constituted by statute.

210. That is the only reason?—That is the main reason.

211. That the Council, when this Act is passed, has no power whatever to administer laws as may be enacted, or improve lands, or transact any dealings, without the consent of Messrs. Wi Pere and Carroll?—Messrs. Carroll and Wi Pere are compelled to bring the deed before the Validation Court.

212. Read down to "Council by deed" in section 11. You quoted this by saying that the Council had very little power. Am I correct in suggesting that you drew section 11?—Yes.

213. In the question of "selling, leasing, mortgaging, improving, or otherwise dealing with the said lands, and of all properties by this Act vested or hereafter to be vested in the Maori Council, shall be agreed upon between the trustees or beneficiaries and Council by deed," who are the trustees?—The trustees are the persons holding the land.

214. Messrs. Carroll and Wi Pere?—In some instances, or any other persons that come in the last part of the 10th section.

215. Take Messrs. Carroll and Wi Pere. Why the necessity? Why not leave these lands with them? They have to acquiesce in every transaction?—No. They have to create a deed between themselves and the Council which deed shall show the terms of management and so on, and which deed shall be submitted to the Validation Court.

216. Take your first part of section 11?—Allow me to state this: The section does this with the trustees or the beneficiaries. Where the majority of the beneficiaries would convey, they have to agree upon a deed of trust with the management; but where it is part of the bank securities—that is, where the lands are vested in the trustees through the Validation Court—there they must bring the validation before the trustees.

217. Before any selling, leasing, mortgaging, and improving of lands and properties can be done it has to be reduced to writing as between the trustees and the beneficiaries and the Council on the one part?—Yes.

218. And the trustees in some instances are Messrs. Carroll and Wi Pere?—Yes.

Mr. A. L. D. Fraser: In the Bill as originally drawn by Mr. Bell the trustees ran right through it.

219. *The Chairman.*] The trustees in the Bill are Messrs. Carroll and Wi Pere?—Yes.

220. And you have suggested that there are other trustees?—Yes. I do not want to hold those lands. There are other trustees in addition to Messrs. Carroll and Wi Pere.

221. Do you not think the Bill wants some amendment in the direction as suggested by Mr. Fraser?

222. *Sir W. R. Russell.*] Under clause 10 the whole thing passes from them?—Yes; but they have to make a deed for the management, which has to be validated by the Court. Read section 10: "All lands now held by the trustees, either by themselves or with other trustees, in trust for Native beneficiaries, and whether comprised in the securities hereinbefore referred to or not, shall immediately upon the passing of this Act and by virtue hereof be vested in the Council for an estate of fee-simple in possession, subject to the mortgages, securities, claims, and trusts affecting the same, and the title of the Council shall be indefeasible save as is herein provided; and all lands within the district formerly known as the Registrar's District of Gisborne, as the same was constituted under 'The Native Land Court Act, 1886,' held in trust for Natives, may be transferred to the Council by deed signed by a majority of the trustees holding such lands or beneficiaries respectively, to be held by the Council on the same trusts and liabilities as exist concerning the same at the time of such transfers; and upon such deeds or transfers being executed the title of the Council thereto shall be indefeasible, subject as aforesaid: Provided that, for all purposes of any Act relating to taxation, the bank shall continue to be liable only as if the equity of redemption of the lands mortgaged had continued to be vested in the trustees."

223. Surely that needs the attention of the trustees?—Yes; it is intended to do so by the trustees.

224. Where do the trustees come in?—They come in by section 11. You must read the two sections together. Or the words could be put in "subject to the deeds hereinafter mentioned," if there is any doubt about it.

225. *Mr. McNab.*] It seems to me that in section 10, in addition to the trusts and liabilities, there should be added also the trusts or liabilities which are comprised in the general condition of selling, leasing, mortgaging, and improving which is spoken of in section 11?—Yes, that would clearly cover it. Those words could be put in there.

226. It is the intention that that should be so?—Yes; not to pass this land away without any conditions, and that the conditions must come before the Validation Court.

227. Under section 11 the terms and conditions that have been referred to as having been consented to by Messrs. Carroll and Wi Pere are the general powers, the general terms and conditions which impose a trust upon the District Councils, and do not limit to specific acts of mortgaging or specific acts of selling or improving?—That is so; only general terms.

228. *Mr. A. L. D. Fraser.*] Why trustees or beneficiaries?—Because in some instances the trustees may be anxious to hand their lands over to the Council when there are so very many beneficiaries that it would take them a long time to get their consent; in others there would be no beneficiaries; and it would be wiser to get the consent of the beneficiaries under the Act.

229. Of course, there are no such trustees affected by this land?—Why are there trustees left out—"trustees or beneficiaries." Leave out "trustees" and put "beneficiaries" in there. I would suggest that "the trustees" be struck out, and "the majority of the beneficiaries" be put in.

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