

207. Would not the Minister be responsible where serious questions were involved?—I think where there was a serious question the Minister would take action if necessary to do so.

208. But the law does not give him the power?—I do not think so.

209. Then the safety of the country rests on the Chief Judge?—No, the safety of the country rests with the Government, who can decide whether a Court shall sit at all in a particular place. That question was argued in Parliament, and the House was very undecided whether that power should not be exercised only upon an assurance that there was a danger of war. Parliament was so jealous of any interference by the Government with the Native Land Court.

210. There is only one point then in which Government can interfere with the Chief Judge?—Yes, it can order that there shall be no sitting of the Court.

211. It appears the telegram from Mr. Fenton to Mr. Wilson was sent a month before the passing of the Act, from which it would appear that the Chief Judge had a knowledge of what the Act was to effect—that it would do away with Mr. Wilson. Was any arrangement made with the Chief Judge to that effect?—I cannot say there was any arrangement.

212. Had you any knowledge to that effect?—I knew the Act would cancel all commissions.

213. Did Mr. Wilson know it?—He was not informed by the Government what it was proposed to do in Parliament.

214. Do you know anything about the circumstances under which Mr. Wilson was originally appointed—was it upon Mr. Fenton's recommendation?—I do not know at all.

215. My impression is he was appointed without consulting the Chief Judge. It was three or four years ago when he was Commissioner in the Poverty Bay District, and there was an official complaint against Judge Rogan there.—I do not know at all.

THURSDAY, 13TH JULY, 1882.

Judge FENTON examined.

216. *The Chairman.*—You are Chief Judge of the Native Land Court?—Yes.

217. What are your functions as Chief Judge with respect to the other Judges?—As comprised, I think, in the general definition by the statute, that I am to administer the Act.

218. Do you appoint them to districts?—In the sense in which you, I think, use the word, I do not, because there are no districts. You will find that the Act of 1873 begins by a recognition of districts, and the Act to a certain extent is framed on the idea that in each of these districts a Judge is to be stationed with the necessary department, but long before you get to the end of the Act that idea is abandoned, and the Act proceeds to the end on the assumption that there is to be a sort of copyhold Court. There were never any districts to which Judges were appointed, and in that sense I say that there were no districts.

219. Then are we to understand that when a Court is wanted in any particular district you instruct a Judge to proceed there?—That is the law. I have the rules framed under the Act of 1880. Clause 6 reads thus:—

“6. The Chief Judge shall then transmit the claims to be heard at the sittings, with the counter claims (if any), surveys, plans, and other documents relating thereto to a Judge (with a copy of the notice as aforesaid), whose duty it shall then be to obtain the attendance of an Assessor, and, with him, attend the Court so fixed, and hear and determine matters coming before it.”

220. Then it rests with the Chief Judge to fix the time of sitting of the Court?—Yes.

221. Can that be overridden by the Ministers?—No, not lawfully.

222. Then in what case can the Minister override the action of the Chief Judge in the administration of this Act?—In no matter whatever that I am aware of, except in matters of finance.

223. Cannot he stop the sitting of a Court?—No; he can stop the hearing of a particular case, I think. I will read clause 38 of the Act of 1880.

“38. It shall be lawful for the Governor, before the commencement or at any stage of any case or proceeding under this Act, by notice in writing or by telegram to the Chief Judge or the presiding Judge, to declare that such case or proceeding shall not be tried or proceeded with, and upon the receipt of such notice the jurisdiction of the Court in respect of such case or proceeding shall cease and determine.

“Any such notice may be revoked by the Governor in writing, and upon such revocation the jurisdiction of the Court shall revive.”

224. In the Act of 1873 was there no power?—No power, I believe, to stop the Court.

225. The law in that respect was the same in the Act of 1873 as in the Act of 1880?—I believe so. That clause was one of my framing. The reason was this: very early—in 1866 I think—I had a Court at Maketu. A case came on for trial from an island opposite, called Matiti. It had been a matter of great anxiety to the Government for a great many years—it was one of very great difficulty indeed. The Ministry of the day—Dr. Pollen was one, I think, and it was with him I spoke—said, “You had better not sit there; do not try Matiti; there will be a disturbance.” I said, “I should be very glad not to sit. Write me an official letter saying you think the peace of the colony will be jeopardized if I do. I must decline to take a verbal communication in such an important matter.” There was some correspondence, and finally it was arranged that he should go down to Maketu. He went, and the Court then sat, and everything went off peaceably. After that there was more correspondence, and I told the Government they ought to have power to interfere in cases where they thought the peace of the colony would be jeopardized by my proceedings, and power to interfere was obtained, I think, in Mr. James Richmond's time. Here is section 20 of the Act of 1873, the Act which preceded the Act of 1880:—

“20. It shall be lawful for the Governor from time to time, before the commencement of or at any stage of any case or proceeding, by notice to the Chief Judge or the presiding Judge, signed by himself or by a Minister, or transmitted by telegraph, to declare that such case or proceeding shall not be tried or proceeded with, and thereupon the jurisdiction of the Court in such matter shall cease