

1354. You filled it in because he asked you?—Yes. He desired that date, and he was the only person concerned.

1355. You notice he says, "The Clerk adjourned the case," which is incorrect. You know that?—I have not noticed this document.

1356. It is a letter. It says, "The Clerk of the Court attended and adjourned the case till Monday." You know that was incorrect. Now, there is only one point about the rehearing. I think you were examined on this in your evidence in chief. Suppose a person who had not applied for a rehearing appeared in Court and claimed to be entitled to the land, would you hear him?—Who had not got an order?

1357. Who had not got an order, and had not lodged a claim to be made?—No. I said that two or three times. That is where you differ from me in law.

*Hon. Sir R. Stout* : Well, I think so. Then I have nothing more to ask you.

1358. *Hon. Mr. Bryce*.] There is one point on which I wish to ask you. It is a point of great importance, I think, and I should like to have your opinion upon it, if you have no objection. The point is this: It has been contended, I understand, by Sir Robert Stout that if the Court makes an order in respect to a certain number of the claimants, knowing that there are other claimants outside, that that order must necessarily be invalid. That is the point I should like your opinion upon. If the Court, knowing that there are a number of people who claim in respect of the restricted number, that that order must necessarily be invalid?—I think the Act of 1873 is simple—that no voluntary arrangement can be made by persons unless those who are excluded have consented to their own exclusion?—Yes, clearly.

1359. How would you get their consent—what sort of consent? What certificate of consent would satisfy you; because they are not in the Court always?—I will tell you my practice, which is better than an abstract opinion. My practice was to have the people present; because you cannot trust Native letters. They write them and forge them—not in our notion of forgery; because a Maori often writes and signs a name to a letter simply because he thinks the person whose name he signs would approve of it. I could never trust a Maori letter. I never have done, I think—in recent days, at any rate. If the case the honourable member puts were my own case, and I was Judge, and there was a voluntary arrangement such as I have stated proposed to me, I should have the parties present and explain to them what was proposed to be done, and ask them whether they agreed or not to it. This is what I used to do under the Act of 1865, where there were only ten to enter. But, of course, I do not say that I am infallible—I begin to think I am very fallible indeed. But, as a rule, I always had the people present, and said "We cannot put in twenty: will you divide the land into two parcels, or will some of you stand out?" and I always had them there.

*Hon. Sir R. Stout* : I wish to explain that I understood this voluntary arrangement could be made; but I said this: "That you should not exclude people except they voluntarily agree to their exclusion."

1360. *Hon. Mr. Bryce*.] Then, suppose this next arose: that a statement was made to the Judge that other claimants to the block existed, and when he was about to get the names of these other claimants there stepped up a paramount chief saying that he, as the chief, was the owner of the land, and the owner of the people, but that nevertheless the title was ordered to issue in respect to the restricted number, excluding those others of whom the Court was aware. By this knowledge would that order be valid or invalid?—It would be invalid, I think.

1361. Well, that is conclusive?—That is so. I do not think it would be made in compliance with the law.

1362. Now I will go back to the Act of 1865, which prevented title issuing to more than ten people, I think?—Yes.

1363. Is it not a fact that, as a rule, the Court was perfectly well aware that there were more than ten people claimants to each particular block which was ordered to issue to ten?—It often was the case; but I might mislead you if I answer in that general way.

1364. Answer as fully as you like. I attach great importance to the information?—I should say that there are two answers to that question. One answer would apply to conquered territory, or territory recently acquired by force of arms: for instance, the Ngatihaua land in Waikato, which was only obtained possession of in 1831, and which had never been apportioned amongst the Natives. This class of land required a distinct treatment from ancestral lands—i.e., where the ownership of land descends from one ancestor to the surviving descendants, excluding outsiders. Conquered territory unpartitioned belongs to the tribe altogether.

1365. Suppose we take ancestral lands, and confine your answer to them?—Whenever they come into Court, and we find there are twenty owners, under the Act of 1865 the Court tells the Natives, "We can only put ten into each of your grants, and you must run a survey-line. You must divide your land into two." The Natives then say, "We won't do that; it will cost a lot of money. Ten of us will stand on one side." And ten of them would be put in the grant. I believed in Natives in those days, Mr. Bryce, much more than I do now; otherwise I should not have assented to any such arrangement. The ten who got the land sold it, and spent the money, and did not apportion it properly; and we found that that would not do. Then, after we became aware of the thoroughly-decayed character of the Natives, we did not allow any arrangements of that sort, having discovered that the Natives would deceive and cheat each other, which I did not think in 1865.

1366. As a matter of fact, you often ordered a title to issue in respect to ten owners, although you knew there were other owners for the same piece of land?—Yes. Afterwards, when we found out they used to deceive the Court in this way—

1367. Yes, but I merely want to get at your practice in the first cases?—I am coming to it. I will mention the case of a block of land in the Upper Waikato country. The people gave me ten names. I knew the men in Court personally, and that there were others in Court who had an