

the position of District Officers; and the duties imposed upon them by the Act were never carried out as laid down by the Act. The District Officers became, very shortly, simply officers for reference as to whether surveys could be safely carried on in their districts.

1437. *Hon. Mr. Bryce.*] Supposing that clause had been carried out, from whom would the District Officers have received their orders—from the Native Department or the Native Land Court?—I should think that the District Officers, in relation to their duties under this Act, would be under the Court itself. Many of the duties, of course, are prescribed by the Act itself, and, so far, are directed by the Act.

1438. I put it to you this way: Certain things had to be done by the Chief Judge, as administrative officer, which were in no sense acts of the Court?—Quite so.

1439. Would not instructions to District Officers, as has been suggested to you, be rather administrative instructions than instructions of the Court?—I see the distinction you draw, which would have qualified my previous answer. By "the Court" you understand the Court in its judicial capacity.

1440. Yes. What do you mean? Do you mean the Court in its judicial capacity?—I was regarding the Court in its judicial and administrative capacity combined.

1441. *Mr. Bell.*] Well, now, the gentlemen appointed to be Judges, with the exception of Mr. Fenton, were, we have already been informed, not lawyers until the appointment of Mr. Brookfield and Mr. O'Brien. Can you tell me—not precisely, but nearly—when these gentlemen were appointed—Mr. Brookfield and Mr. O'Brien?—Mr. Brookfield was appointed in 1881, and Mr. O'Brien was appointed earlier, but not, I think, until after 1880. Yes—Mr. O'Brien was appointed on the 18th October, 1880.

1442. I want to know if you have, among the records of your office, a formal statement by the Judges of the Native Land Court to the Minister on the difficulties of carrying out the Act of 1873?—Yes. The Judges, in forwarding the first rules prepared under the Act, sent a very long memorandum to the Government.

1443. Would you put it in?—Yes; here it is. It is a very long affair indeed, and it is too long, I think, for reading here, or printing in the evidence.

1444. It is dated 1874, is it not?—Yes.

1445. And is signed by the Judges?—Yes.

1446. Can you say how much attention was paid to that by the Native Minister before the Act of 1880. How far do the notes on the margin go?—To the first page only.

1447. No further?—No, there are no further notes.

1448. *Mr. Stewart.*] In whose writing are the notes?—Sir Donald McLean's, who was then Native Minister. It would hardly do to conclude from the marginal notes that it received no further attention. It was sent round to all the Ministers.

1449. *Mr. Bell.*] How many pages are there?—Twenty-three.

1450. And there are notes only to the third section on the first page?—The notes are before you come to the sections at all, and simply refer to the preamble of the report.

1451. Do you know anything of the circumstances under which Judge Rogan went to Gisborne in the year 1875?—I cannot charge my memory with any specific circumstances. I believe he was sent into the district expressly by the Native Minister to settle the very complicated titles that were in that district.

1452. Was he told to get through his business?—I do not remember any specific instructions given to him.

1453. You do not know of any specific instructions?—No.

1454. But you say he was sent to settle and investigate the titles on the East Coast if he could?—Yes.

1455. And he was specially—I understand you to say—he was specially instructed to do that work?—He was specially detached for work on the East Coast.

1456. Do you know whether he saw the Native Minister—whether he was in personal communication with the Native Minister?—To the best of my recollection he was in frequent personal communication with the Native Minister.

1457. *Mr. Stewart.*] Who corresponded with the Native Office as from the Native Land Court? Did the Chief Judge correspond with you?—The correspondence was chiefly by the Chief Judge. I could not state positively, but the other Judges may have written on occasions to the Native Office. The Chief Judge, however, was recognized as administrative officer to the Court, and conducted correspondence with the Government.

1458. Did you know whether the Chief Judge carried on correspondence with persons who were litigants and persons who claimed to have an interest in the land. Was that the opinion of your department?—I have already explained that the Native Department had no knowledge of the interior working of the Native Land Court Office. It is only recently that the Native Land Court Office has been under the direct control of the Native Office.

1459. *Hon. Mr. Bryce.*] Might I put one question. You have stated that in recent years the Native Department has assumed control in the administrative portion of the Native Land Court work?—Yes.

1460. You draw a sharp line in that respect between the administrative portion and the judicial functions of the Court?—Quite so.

1461. And the Native Department has never assumed any control of the Native Land Court judicially?—Decidedly not.

1462. *Mr. Stewart.*] Can you give the date when this administrative department came under the Native Department—when it was removed from under the Chief Judge?—The Act of 1882 altered the administration. That is to say, the appointment of clerks and everything connected with the administrative work of the office, as distinct entirely from the judicial work, is under the control of the Native Department.