

repealed; and I do not know—perhaps this Committee knows—which part of the Act of 1873 is not repugnant to the Act of 1880.

*Mr. Stewart*: Do you mean to say that by this section (104) when a Judge found he had made an erroneous decision he could reverse it in chambers?

*Mr. Bell*: No. Having made a decision, he could amend an error in the minute at any time prior to the issue of the memorial, to make his order correspond with the true facts of what was done. Sir Robert Stout says that no Court sat on the 2nd of December, and that the order was signed at a time and as of a date when no Court was sitting; but section 104 provided that everything done, whether the Court was sitting or not, should be deemed to be done in Court, provided it was done before the issue of the memorial of ownership.

*Mr. Stewart*: That is only for the purpose of correcting errors?

*Mr. Bell*: Yes, of course—not matter of substance. The Act of 1880 I only desire to refer to for a moment or two. Section 17 of the Act of 1880 provided that the application should contain a description of the land, what tribe and hapu, and a statement that the boundaries had been marked out by the owners, and, if a plan had been made, a statement that it had been deposited in the Court.

*Mr. Seddon*: Without interrupting you, I would like to know if you mean that one Judge had power to alter what another Judge had done.

*Mr. Bell*: No, I should say not; but a Judge up to the issue of a memorial could correct any error. In this case it was done by Judge Rogan only, and had nothing to do with what was done by another Judge. Section 19 provides that copies of notices of the opening of the Court should be forwarded, a reasonable time before the sitting of the Court, to the Commissioner of Crown Lands in the district in which the land was situated; and section 20 provides that after the receipt of the application notice shall be given by the Chief Judge in such manner as appears to him best calculated to give proper publicity to the same, and by the same or subsequent notices it is to be stated when the Court will sit. Such are the provisions of the Act of 1880. I submit that Parliament must have known that what was required by the Act of 1873 was impossible, and must have known that what had been done under the Act of 1873 was done because strict compliance with the Act of 1873 was absolutely impossible; and by the Act of 1880 Parliament directed that notice in the ordinary way, such as other Courts proceeding *in rem* require—a notice published in some sufficient manner—should be given to the world, inasmuch as it was impossible to personally serve everybody. Mr. Fenton explains that in the case of the Patetere Block it turned out that the Natives interested resided from Auckland southwards down to Napier on the East Coast, and to Porirua on the West Coast; and that shows how absolutely absurd it would have been had the Judges under the Act of 1873 required personal service upon everybody who ultimately turned out to be interested. Now, I have shown what were the provisions under which the Judges were required to act; and I have shown that strict compliance with the Act was, if the correct plans were insisted upon, if a preliminary inquiry was held, or the applicants were required to prove that they had served notices upon those whom they believed to be interested, impossible, or, if not quite impossible, would have involved the necessity of such a staff of officers as the Government would never have provided.

Now I come to the particular inquiry into these two blocks. You will find, Sir, that notices under section 36 were sent out to the District Officers on the 5th April, 1875. That is not mentioned in the memorandum, but you will find the fact recorded in the record-book, page 70, and you will find that the *Panui*, or the notice for sitting on the 16th September, bears date 9th August. We have the evidence of Mr. Bridson that such notices were invariably sent out to the District Officers and others, for service upon such persons as might be supposed to be interested, within a week from the day on which they bore date. And so there would have been, so far as the officials in Auckland knew, at least three weeks' notice of the Court sitting. It would give a month from the date of posting. I am not able to say whether there was a *Kahiti* between the 9th August and the 7th September, because a portion of the only file of *Kahitis* to which I have been able to refer is missing. Sir Robert Stout states that the *Gazette* of the 7th September contains notices of this Court. I apprehend that it is quite possible that the reason why there were no *Gazette* notices before that date was that there were no *Gazettes* between the 16th August and the 7th September. We have it in evidence that, even if there were, the *Gazette* would not be sent out, but that the *Panuis* would be distributed by the hundred. But, if it was not gazetted till the 7th, that was not the fault of the Native Land Court, for the *Panui* must have been received in Wellington shortly after the 9th August, and the Native Land Court had no control of the *Kahiti*, which is a Government publication published at Wellington. Now, coming to the Kaimanawa—Oruamatua Block, I do complain of the way in which this memorandum states the evidence. I complain of it because I think that it does not state the case fairly for the information of those who are not acquainted with the proceedings in the Native Land Court. The memorandum gives Renata's and Noa Huke's evidence, and it says "two witnesses only were examined." That is true if you restrict the word "examination" to examination on oath. A reference to the minute-book shows that what took place after these witnesses were examined was this: Objectors were challenged, and then Te Hapuku, a great Napier chief, came forward and said there were no objectors to the claim put forward, and Meihana, another great chief, said there were no objectors on his side. Now, I submit that it is not a fair statement to say that only two were examined, for it was of great importance to the Judge when arriving at his decision to know that there were two great chiefs who said there were no objectors. The decision upon the Kaimanawa Block was that when the map came to hand—a sketch-plan only being before the Court—a memorial of ownership would be prepared. Now, that was not, strictly speaking, in accordance with the Act; but it was in accordance with the practice, and a practice which was perfectly proper, and was, indeed, necessary to give any effect to the Act at all. I omit here the reference to the Owhaoko Blocks, because I am coming back to them. I find that Mr. Rogan's action after hearing Noa Huke's