

671. Then, I will put this case to you. Without any such proof or consent being given, a memorial was issued in the name of five or six persons, when it appeared in evidence that other persons had a claim to the land: was that a usual thing?—I do not remember such a case.

672. I suppose you have had experience under different Judges of the Native Land Court?—Yes.

673. I suppose their practice was not uniform—each Judge exercised his own discretion—there was no recognized rule?—No. In matters of detail each Judge, I think, acted upon his own judgment.

674. Were there many cases in respect to which the Chief Judge had been corresponding with litigants or persons who claimed to be interested in the block? Were there many which ultimately came before him from the primary Judges?—No, I do not think so.

675. Supposing this: that the Chief Judge had been communicating with claimants in the block of land—or possible litigants—and making suggestions to them, have you known any cases such as that which have ultimately come before him in his judicial capacity? Was it a common thing for cases to ultimately find their way before the Chief Judge in his capacity as Judge?—Only on rehearings, if I understand you aright.

676. Well, but the rehearings came before the Chief Judge?—It was not always before him; but very often he was one of the Judges.

677. *Hon. Mr. Bryce.*] In whom did the administration of the Act of 1873 rest or vest?—I think in the Chief Judge.

678. In reply to a question put by Mr. Bell, it became evident that you were aware that considerable portions of that Act were ignored or not acted upon?—Yes.

679. You were aware of the fact that it was not acted upon, and you accounted for that in a certain way?—Yes—that I knew of the Chief Judge having a conversation with the then Native Minister.

*Hon. Sir R. Stout:* From hearsay.

680. *Hon. Mr. Bryce.*] But this witness has been perfectly aware that portions of the Act were not acted upon, and no doubt that occurred as curious to his own mind, and he became satisfied that it was owing to arrangement made. Who was the Native Minister that you alluded to?—Sir Donald McLean.

681. I want to ask you a few questions in relation to the subject of the Clerk's minutes and the Judge's notes. You said, in reply to Mr. Bell or Sir Robert Stout, that, in cases where there were discrepancies between them, the Judge's notes must prevail?—Yes.

682. But, in truth, are the Judge's notes not finally placed in the Native Land Court—the administrative part of the Court—are they not finally placed there?—They were not accessible to any but the Chief Judge himself. They were, in fact, the private property of the Judge who made them. That was the rule; but we have instances where the Judge has given up his notes to the possession of the office. Mr. Thomas Henry Smith has given up possession of the notes of Courts which he has held—Courts where no Clerk or interpreter was present; and these have been held as minutes.

683. *Hon. Sir R. Stout.*] That is, when there is no minute-book?—Yes.

684. *Hon. Mr. Bryce.*] Do you know of cases where they have given up their notes when the minute-book existed?—No, I do not.

685. Then I come back to this question: Are these notes any portion of the record of the Court?—The officers in the department did not recognize them.

686. Then, how can you say that as part of the administration of the Court these notes must prevail, when in fact they did not exist?—I mean to say, with regard to any discrepancy or incorrectness of the Clerk's entry. When he discovered that the entry was not correct he got access to the Judge's notes, and minuted it.

687. Then, in truth, it amounts to this: The Clerk's minutes were and are final records; so that it was possible the final records of the Court could be corrected by the private notes?—It was possible.

688. And sometimes it was done?—Yes.

689. You say that in certain cases, where minute-books have not existed, that these notes have been supplied as records. Do you know of any instance to the contrary? Do you know of any instance where there was no minute-book, and the Judge's notes were refused by the Judge to be made a record?—No; I do not know of one case where there is no minute, and the Judge has refused; but I know there are cases where the Judge's notes are the only record. I do not know of a case of refusal.

690. Do you remember an inquiry being made by Judge Wilson into the Tauranga claims under the Native Land Act?—I do not remember it.

691. Afterwards the inquiry was carried on by Mr. Brabant?—No; I do not call it to mind.

692. Then you are not aware, in that case, that Mr. Wilson refused repeated applications for his notes?—I beg your pardon. I recall circumstances of that kind now.

693. Mr. Wilson did refuse, as a matter of fact, and never gave them up to the present day?—Not to my knowledge.

694. Although no public records are in existence?—No; to my knowledge he has not surrendered them.

695. And, as a matter of fact, the claim had to be heard *de novo* by Mr. Brabant in consequence of not having these notes?—I cannot speak as to that.

696. However, the fact remains that the notes are the Judge's private property?—Yes.

697. And I offer this as a proof. It proves that they have no final place of necessity in the records of the Court?—Yes.

698. Now, as to these notices. Is there not generally a notice given in the *Kahiti*?—Yes; always.