some time afterwards to Sir James Fergusson. Although there were frequent subsequent allegations that the grantees did not comprise all the Natives interested, no action was taken thereon nor rehearing given. Probably, concerning most of the Land Court adjudications there are similar complaints. The Chief Judge points out that it is in the Governor's power to remove the restrictions; and that, if he does not do so, he only injures Fergusson, without benefiting the Natives who claim outside the certificate. It appears to me the power of removal or retention of restriction was not meant, nor should it be used, to further a Minister's idea of the justice of a Native Land Court's decision of title. Presumably, no decision is ever given—or very rarely—by a Native Land Court to which there are not dissentients, as is the case with most other legal judgments. In my opinion, to use the power of enforcing a restriction because of doubting the title is a misuse which answers no purpose, except to bring into contempt the title awards. The plain fact is that, if the Crown grant issues with restrictions, the Government will break its promise; its excuse for doing so will be puerile, for the allegation of the proper Natives not being in the grant will not be met, since the Crown grant will settle the title in the same grantees. The result will be simply this: The Crown will break its pledged word; Natives whose title the Government doubts will have that title confirmed, and they will be allowed to deprive Europeans of money paid to them (the Natives) because of the express promise made by the Government and deliberately broken. As regards the doubts as to the correctness of the title award, if the discontent of Natives left out is to be weighed—without a legal rehearing—there is no title in the country worth the paper it is written on. That there has been a great deal of injustice and miscarriage of justice with regard to past titles seems to be beyond dispute; but the evil would be multiplied manifold if the Government set itself to override the law and to indirectly or directly review titles.

This was written, I believe, in 1866; I am under the impression about the end of the year. I must have forgotten the date of it.

83. *Sir G. Grey.*] In reference to Sir Donald McLean's letter, I would ask what right has any person to assume that the Governor would take his advice if offered; that is to say, that the Governor would be compelled to take such advice when tendered to him? In this matter the Native Minister appeared to have exercised more than the ordinary power belonging to the Government?—It is frequently the case that a single Minister pledges the Government. Presumably, he does so on points that are unimportant, or those upon which he knows the mind of the Government. As regards Native matters, as far as my experience is concerned, not in one case out of a hundred does the Minister consult the Government. He is in the habit of acting on his own responsibility, not only with respect to his own action, but with assurance and confidence that the Government will act in accordance with his recommendations.

84. I will put my question in another way. The rule at Home is, that any advice tendered by a Minister of the Crown cannot be divulged without consent of the Crown previously obtained: Why should it not be the same here?—You know more about that than I do; but I am under the impression that the case often arises, when it is intended to bestow distinctions, that the Minister tells the proposed recipient what he intends to submit, and asks whether he would be willing to accept the distinction. The inference from that is, that the advice would be given, and that the Crown would act on it.

85. What I know of the practice in such matters is rather to the contrary. What would take place would be to ask whether, if I tendered such advice to the Crown, and the Crown were disposed to take it, "Would you accept"?—Well, that seems to me nearly the same, perhaps the same thing.

86. But that did not bind the Crown?—Certainly not; but our practice here has been different, and it is presumed that the Governor will act upon the advice if tendered.

87. I can only say I know nothing of that practice. It was not so in my time. What I understand from your evidence is that it was a binding promise that was given by Mr. Donald McLean, a promise that would bind the Governor to carry out a certain thing. Mr. Donald McLean had no right to tell the advice he intended to give. Such promise could bind neither the Government nor any one else. No one could give an unconditional promise that the Governor would act in a particular direction. I am quite clear that this ought not to be allowed to become a precedent at all?—With regard to the letter and telegram in the petition, I agree with you that they go no further than that the Minister promised to recommend that the Governor would remove the restrictions. There was no necessity for the indorsement; it amounted to nothing more than a simple promise to recommend. But the recommendation has not been given, and should have been given long since.

88. The Governor was trustee for the Natives; that was the meaning of the very large powers given to him?—If there were any doubt as to the expediency of issuing the grant without restrictions, it appears to me there would be no medium between allowing a rehearing and giving the grant without restrictions. The grantees would have the land whether the restrictions were removed or remain.

89. But, besides these grantees, the other Natives interested would have descendants. Remote interests might arise?—But their interests are protected.

90. But ought a Minister to divulge to another any portion of the advice he intends to give to the Crown?—I think the whole conduct of Native affairs has been of the loosest possible description over a large series of years. Ministers have constantly pledged the Cabinet and the Cabinet pledged the Governor before assent was given. In most cases the Minister goes straight to the Governor. In all cases it seems to be understood that the Governor will accept the advice tendered, except in cases of extending the prerogative of mercy with regard to the infliction of capital punishment, or a dissolution. Ministers are rarely near the Governor, except during the session of Parliament.

91. Does each Minister send his advice to the Governor without it going through the Premier?—It is done frequently. Suppose the Premier is in Otago, the Governor in Christchurch, and there are three or four Ministers in Wellington. The chief of the Executive, in that case, would not be the Premier, but the senior Minister. Although I was not Premier in the late Government, I was frequently in the position of head of the Executive.

92. But, as a general rule, would the Premier send it on?—Yes; I should say that would be the case, as a general rule, if he were in Wellington.

92A. But, if I may be allowed to refer to a question that has not been touched, suppose a