1303. I mean the order of the Court—the judgment of the Supreme Court. It purports to interpret section 58 of the Act. Will you read it?—It does not say, under section 58 of the Act of 1873. It merely says we had power. We had no power before the Act of 1880 was passed. That was the only power we had.

1304. I am not dealing with that. Surely I am not putting an unfair question to you. Look at these telegrams. Now look at the telegram there, Dr. Buller to you, and your reply: "*Re* Owhaoko, Judge Richmond has decided that you have power to make an order affirming the original decision. In his judgment relies upon section 50. Certificate now being drawn up, and will be forwarded to you first steamer"?—As I said, if I had known of section 50, I should have sent no case at all, for the matter was clear.

1305. You reply, "Very glad. If I had known section 50 I should have done same. Many of our judgments," and so on. Then, you see, it appears from these telegrams that the Supreme Court relied upon the powers given to the Court by section 50 of the Act of 1873?—No. I say no such thing. There is no power given under the Act of 1873.

1306. Which Act are you referring to?—1873. It gives the Court no power at all to make an order.

1307. What gives the Court no power at all?—Section 50.

1308. Would you look at it? You said, if you had known of the section you would have done the same?—If I had known of that section of the Act I should have exercised the power given to me by the Act of 1880, without sending a case.

1309. What do you mean? I will read section 50. This is it: "The decision of the Court in every case of the hearing of a claim shall forthwith be published in the *Gazette*, in the same manner as hereinbefore provided with respect to notices of claims; and the persons in whose favour such decision shall be made shall be deemed to be the owners of the land referred to in such decision, unless the decision of the Court shall be amended or reversed upon a rehearing, as hereinafter provided"?—There is no power given to the Court there to do anything.

1310. What do you mean by your statement, then, where you said, "If I had known of section 50 I should have done the same"?—The point is simply this: At Napier Mr. O'Brien and I acted simply, in refusing Dr. Buller's application, under the Act of 1880. We entirely went on the Act of 1880, and he made his application under that Act. It says, "On a rehearing the Court may do so-and-so;" and, as there was no rehearing, we thought the power did not arise. Now, the Supreme Court says that we had power to exercise our discretion, and the discretion arose under the Act of 1880, for there was no such power anywhere else.

1311. Then you mean to say that, though you make no reference to the Native Land Act of 1880, the decision you gave at Napier was under its provisions?—The decision I gave?

1312. Yes—the decision the Court gave. By "you" I mean the Court, of course?—You mean on Dr. Buller's application?

1313. Yes?—That was under the Act of 1880. Yes.

1314. It was not under the Act of 1873 at all—your decision?—No. There is no such provision in the Act of 1873.

1315. Then, the first thing, you proceeded under the Act of 1880 at Napier?—So far as that order is concerned.

1316. Well, then, I would ask you to throw light on the paper. Look at the Act of 1880 and the Act of 1873: do you not think—I would ask this—if you acted on these sections 50 and 58 of the Act of 1873, that they are in force as well as section 48 of the Act of 1880?—At this time?

1317. Now. At the time of the rehearing. That they were both in force?—You mean, supposing I was sitting on a case?

1318. Now. I will take 1881: did you look upon it then as the practice of your Court? I do not care whether it was right law or not. Did you assume, as Judge, that sections 50 and 58 of the Act of 1873, and sections 47 and 48 of the Act of 1880, were all in force?—In my opinion, as respects suits commenced under the Act of 1873 these clauses are all in force.

1319. I do not want to know your opinion. I want to know what the Court acted upon?—There was no practice.

1320. What did you assume?—I say the whole of the Act of 1873 is still in force where it is not repugnant to the Act of 1880.

1321. I admit that. That is clear under the Act. But I want to know did you consider that sections 50 and 58 of the Act of 1873 and sections 47 and 48 of the Act of 1880 could be read together?—Yes. I see no repugnancy.

1322. Then, we will say that. Will you read section 50 and section 48? You assumed, then—I want to know this as the practice of the Court—you assumed that these four sections were all in force?—You speak of my practice. I believe this was the last case I tried. I resigned shortly afterwards. In fact, I resigned next session, only Government did not accept my resignation at once.

1323. Now, under section 47 of the Act of 1880 the granting of a rehearing was left to the Chief Judge. You are aware of that?—Yes.

1324. It was not left to the Governor, as under the Act of 1873?—No.

1325. And then it provides, "That on a rehearing the Court shall have power to affirm the original decision, or reverse, or vary, or alter the same, or to give such other judgment and make such orders as it may think the justice of the case requires. The decision of the Court on a rehearing shall be final and conclusive, and a certificate shall issue forthwith in accordance therewith." Then follows section 47, that I read before, as to the order of certificate being dated on any day the Court thinks fit?—Yes.

1326. Do you mean to say that you put in the 30th October, relying on the powers given to you by section 48?—Yes.