

do you think that a relevant fact to the point of law which you wanted to determine?—Certainly not. We did not recognize them at all.

154. Can you conceive now that there could have been any object in your consulting Natives as to the point of law which you wanted the opinion of the Supreme Court upon?—No. If Mr. Lascelles felt a strong opinion on the matter, then would have been the time for him to apply to the Supreme Court for prohibition to prevent me going on; but he did not. And during the whole course of our fifteen years' proceedings in this direction; if any person thought my law was wrong he should have gone to the Supreme Court and opposed it. Then, if wrong, it would have been declared by a proper tribunal.

155. Look at the next page, Mr. Fenton. There are two telegrams. The first is, "Have you done anything *re* amendments? Anxious. Relying on you.—JOHN STUDHOLME, 1/6/81." To this a reply was sent by you, "Have delayed case until last moment, for obvious reasons. Buller is now settling it. Better that judgment of Supreme Court should be during session.—F. D. FENTON, 1/6/81." Before I ask you a question I will read Sir Robert Stout's comment.

*The Chairman:* You will notice that this telegram is dated five weeks before the case is stated.

*Mr. Bell:* Yes, that is so; but Sir Robert Stout says there are telegrams which show that Mr. Cornford is acting in the interests of Dr. Buller's clients. I have been unable to find any such telegrams.

*Hon. Sir R. Stout:* I will show them to you.

156. *Mr. Bell.*] I was reading these telegrams to you. I am going to ask you to explain this remark of Sir Robert Stout's: "I gather from this that, if the Supreme Court decision was adverse to the affirming of the previous decision of the Court, an application would have been made to Parliament for some Act to make Renata's and his friends' title complete." I ask you to explain that?—I cannot explain Mr. Studholme's telegram—he must explain that himself. All I would say to that is what I stated the first day—that all papers, telegrams, and every description of document that came to me were put on the file without exception. As to my own telegram—"Have delayed case until last moment for obvious reasons. Buller is now settling it. Better that judgment of Supreme Court should be during session.—F. D. FENTON"—the reasons were these, as far as I remember. I do not know whether I ought to mention one of them, but I suppose I must. One of my reasons—in fact, I remember two with certainty—one was that we were anxious, and all the Judges were anxious, to get the opinion of Mr. Justice Richmond. I do not like saying this, but his opinion was more highly esteemed than any other. The recollection on my mind—I cannot say why, for I do not remember—is that if there was a delay we should get that Judge's opinion. The next reason was that I did not want the same state of things to occur with respect to this block as had been displayed to me in a subsequent case. A large block of land at Pukehamoamoa had come before the Court, and a very distressing state of things had been divulged. Renata was the chief of the tribe. I must explain this at some length. This tribe, Ngatiupokoiriiri—I think that was the name—in the old days was a hapu of the Ngatihahuungu. It was one of those unfortunate tribes that had been in great distress during the whole of its existence. The Court—*i.e.*, Mr. O'Brien, and I, and the Assessor—found during the hearing of the case that it had been attacked by the Ngatituwharetoa, from Taupo; by the Ngatiporou, from the East Cape; by the Arohas, from the Lakes; slightly by the Waikato tribes; and ultimately by the Ngapuhi, from the Bay of Islands, who came down in great force and took Renata prisoner. He was a man of rank and great spirit. He was one of the loyal chiefs in our wars, and fought for us most strenuously. He was not only the father of the tribe, but during all these wars he was the preserver of the tribe. They would have all gone into slavery but for the remarkable energy and military skill of this single man. When we were sitting on this Pukehamoamoa Block we found that all the younger members of his family—his first cousins once removed, and others—had all turned against him. A European had married one of them and had got up an agitation which was entirely destructive of the old chief's mana and happiness, and they tried even to turn him out of all this land.

157. *Hon. Sir R. Stout.*] What was the name of the European?—I might mention it, but I would rather not.

158. *Hon. Major Atkinson.*] What was his name?—Then, sir, if I must state it, his name was Donnelly. I think, during the whole course of my experience in these Native Land Courts, I never came across a more distressing case. Though Judges ought not to be distressed, I could not help feeling greatly moved. So much so, indeed, that in this case we tied up the land—this Pukehamoamoa Block—and ordered that nothing but a short lease should be allowed. We even ordered that nothing should be done to permit alienation of the land during the lifetime of Renata. But for him the people who were then opposing him would not, in all probability, have been alive. The remnant of the tribe would have been destroyed if it had not been for his energy and wonderful skill. It pained me to see these very people whose lives had been preserved by him trying to upset this fine old fellow—for he is one of the few old chiefs we have in New Zealand who live to remind us of the higher qualities of the race—because a European had married into the tribe. This left such a strong impression on my mind that I resolved I would do all I could to prevent this land (Owhaoko) also from being disturbed in the same way. If my law had been right everything would have been similarly adrift in this present block of land.

159. *Mr. Bell.*] Because you had decided that you had not power to reaffirm the original judgment?—Yes; that was my law—which I am very glad to say turned out to be bad law. It would have been all adrift. Renata would have been subject to the same indignities, to the same loss of interest in land and everything else that was attempted in the case of the Pukehamoamoa.

160. *Hon. Major Atkinson.*] Because you thought it would be reopened by a rehearing being granted?—No; "rehearing" is the wrong word. Dr. Buller asked us to make an order reaffirming the original judgment.