

I submit that he has been libelled to Parliament, and is entitled from a Committee of Parliament to a statement which shall appear in the Appendix to the same Journals as shall contain this attack upon him—a statement that he is free from imputation of improper or dishonourable conduct.

Then comes in Mr. Fenton. And it is very extraordinary that he from the first recommended a rehearing. No doubt that is fairly stated in the memorandum. I say it is extraordinary for this reason: that it appears Mr. Fenton did exactly what the writer of the memorandum would have desired him to do. He recommended the rehearing of the case, and insisted upon obtaining a rehearing. It was through his exertions mainly that the rehearing was granted and the Order in Council made. He had determined that, so far as he was concerned, the matter should be thoroughly investigated. The Supreme Court, upon a case stated, held that he had power to reaffirm the original judgment; but he had himself held that he had not that power, and that the land was open as Native land under the Act of 1873.

*Mr. Stewart:* You will observe on page 18 that, in this order signed by Judge Fenton, he says at the end of it, "Upon such rehearing it was ordered that the original decision be affirmed and that the former order of the Court be confirmed accordingly." There never was, in point of fact, any such decision.

*Mr. Bell:* No. The order was drawn up by Dr. Buller; and I do not know that it is usual for Judges or any one else to take much trouble about the form of the document. I am glad you called my attention to it. But, as I say, the order was drafted by Dr. Buller; and the result of it was practically as the Supreme Court decided the point, though the judgment of the Native Land Court is slightly misrepresented. I here specially desire to call the Committee's attention to this fact: that throughout the papers there is but little to remind Mr. Fenton that there were Patea applicants for a rehearing as distinct from the Taupo applicants.

WEDNESDAY, 21ST JULY, 1886.

Mr. Bell resumed his address.

The Committee will find that the letter of Heperi on page 3 was sent to Mr. Fenton; but will also find that, of the blocks which Heperi mentioned in that letter, two only had actually been dealt with, and six had not. You will find on page 13 of the papers on the table that the minute on this letter was that the claims had been received only for Owhaoko and Kaimanawa. On this Mr. Fenton minuted, "Acknowledge, and send forms." So that the Committee will see that the attention of Mr. Fenton was drawn to a complaint respecting eight blocks, and the Clerk minuted for his information that, as to six of them, no application had been received, and all the Clerk had informed Mr. Fenton as to the remaining two blocks was, that claims had been received. He did not tell him that these two had been investigated. Six of the eight had actually not been investigated; so that Mr. Fenton's attention was not called specifically to the complaint that the Court had sat and investigated two. I call attention to this because there was nothing in the information that Mr. Fenton had before him upon that letter to show him that the Court had actually sat and investigated the title to these two claims out of the eight. Then, passing on, you will find, and, no doubt, with surprise, that when the Native Office made difficulties as to whether this rehearing could go on—made difficulties, that is, as to whether the time had not elapsed—Mr. Fenton, in the middle of page 8, on the 3rd November, 1879, pointed out that it was clear that the rehearing could and ought to go on. Everything was regular. Not only that, but on the 16th October, 1879, again on page 8, Mr. Fenton reiterates to the Native Minister his desire that the rehearing should be granted. He calls his attention to the fact that the application had not been at that time granted by Order in Council. But here, again, the Committee will see that Mr. Fenton is referring to the Taupo grievance as distinct from the Patea grievance. The rehearing which he had recommended was on the Taupo application. The insistence by him that the rehearing should go on referred to the grievance of the Taupo Natives, and there is nothing to show that Mr. Fenton knew of any grievance by the Patea applicants other than the letter of Heperi, to which, I have referred, and, I think, explained. He may have seen the letter of Captain Mair, which is in page 8, dated 13th October, 1879; but that paper was on the Native Office file, and not on the file of Mr. Fenton's Court. Therefore it would not probably be before him on any occasion when he was considering this matter. And when he called the attention of the Minister, on the 16th October, 1879, to the fact that the Order in Council had not been made, it is noticeable that he referred only to the application of the Taupo Natives, showing that at that time he had not in his mind the fact that anybody but the Taupo Natives felt aggrieved. As to the comments in the memorandum, on the top of page 9, upon the date of the order of the 31st October, 1877, I have already pointed out that the Court had power, at any time before the issue of the memorial, to make an order, whether the Court was sitting or not, and that the order so made would be deemed to be an order made in the Court. I submit that the date which was put in—namely, the 31st October, 1877—as the date of the adjudication was, in fact, the true date of the adjudication; as I have already pointed out that what Judge Rogan did was to determine who were entitled to be named in the memorial, and that a memorial should accordingly issue when the correct plan should come before him. I submit that, the Judge having taken that course, the order properly bears the date of the day when, the plan having been received, he signed the order. That, I submit, disposes of the part of the memorandum which bears upon this date which was put in the order respecting the larger block. There is a comment also upon the Order in Council in page 9. There, no doubt, was a mistake. The date in the order, I submit, was correctly stated; but no doubt it was a mistake to say that the order was made at Porangahau. The Committee have seen how that error arose. The order as to the two smaller blocks was made on the 2nd December, 1876, at Porangahau. That is to say, that is the date that Judge Rogan, having received the plan, directed the Clerk to enter a minute that the memorial for the smaller blocks should issue. No doubt there is a mistake in this notice; but it