

matter to be reopened on the motion of one whom they believed to be acting with this lever behind him. No doubt it was no reason for barring the claim, but surely it was a good reason for not departing from the regular and the ascertained practice of the Court. I may add that among the papers of this year there is a very instructive telegram from Mrs. Donnelly, dated from Wanganui, 27th May, 1886. It is on the file of original documents, which I have been allowed an opportunity of seeing.

*Hon. Sir R. Stout* : I do not think I have seen that.

*Mr. Bell* : It is a very instructive telegram. It is to the Native Office, and says : " I hope you will be able to introduce a clause into your valuable Bill which will enable myself and relatives here, so wrongfully excluded from other blocks, as well as Owhaoko 1, 2, and 3. Renata is only acting as our trustee, and it would be a very great injustice to a large family if nothing is done." I say this is instructive. It is dated from Wanganui on the 27th May, 1876. And we find another of these Native gentlemen who claimed to be owners—Hirika te Rango—petitioning on the 20th of May, 1886, also from Wanganui, with reference to this Bill, and supporting it. Therefore we find not only Heperi directly, and by proof, connected with the persons whom the Native Land Court had reason to suspect were endeavouring to commit a wrong, but also this gentleman, Hirika te Rango, writing from the same place and at the same time as Mrs. Donnelly, to the Native Minister commending this Bill, and complaining of the grievance which a large family had suffered. Then, I say that the criticism of the memorandum upon the judgment of the Native Land Court is a criticism upon the law of the Court. I understood the Hon. the Premier to withdraw the portion of his comment which appears on page 14. I mean that part of it which says that Judge Fenton knew that the desire not to prosecute the rehearing did not come from the Natives because, the memorandum then goes on to say, " If Dr. Buller's telegram of the 26th of July was correct, it was at Judge Fenton's own suggestion that the Natives were asked to consent to a withdrawal of the rehearing." When I called Judge Fenton's attention to that part of the paper, Sir Robert Stout interposed, and stated that that part of the comment depended upon the correctness of Dr. Buller's telegram. That, I think, disposes of that part of the comment which attaches any suggestion of impropriety to the action of the Judge. As to that part of it which speaks of the practice and the law of the Court, I am neither concerned nor qualified to speak. So far as my advocacy has gone in the past, it has been rather in the direction which the Attorney-General has here indicated. But it is the law of the Native Land Court ; and, bad law as it may be, possibly—I know not whether it is good or bad—it is, at all events, law till reversed on appeal, and a Judge is not likely to feel grateful for comment of that kind contained in a document whose writer is privileged. Now, as to what appears at the foot of page 14 and the top of page 15 of the memorandum, and the three grounds which the Attorney-General states for his conclusions, I have nothing to say as to the first and second grounds—they are matters of law, and the Attorney-General is much more likely to be right in his law than I, though I do not know that he is more likely to be right than two Judges who had given the matter special study—but as to the third ground, on the top of page 15, I confess I do not understand it. The Court was aware that Hohepa and Topia were the only Natives who had signed the petition to Lord Normanby. That appears by the letter, dated the 25th of October, at page 12. It was a fact that Hohepa and Topia were the only two who signed the petition to Lord Normanby, for Hohepa Tamamutu wrote all the names except Topia's, and on the 25th of October, 1880, a letter which was signed by Hohepa, and was carried by Dr. Buller to Mr. Fenton, called special attention to that fact, and pointed the attention of the Court to it. Now, I do not know whether the Attorney-General contends or says—because of course his opinion will guide the Committee far more than mine could—that a person authorized to commence proceedings is not authorized to drop them. I should have thought it was plain common sense and plain law that a person authorized to commence a proceeding in any Court is authorized to drop it.

*Hon. Sir R. Stout* : Suppose a person is authorized to sign a petition to the Governor for a rehearing, do you mean to say that the agency continues after the rehearing is granted ?

*Mr. Bell* : I say that it is so. Either they had or had not authority to apply for it ; and in either case they had authority to withdraw.

*Hon. Sir R. Stout* : The point is not as to the withdrawal. You overlook the point, which is as to the giving of the retainer to appear ; and as to the retainer, it does not give Buller authority to appear for the other Natives who signed.

*Mr. Bell* : The retainer had nothing whatever to do with the matter. I submit the question was whether the document was signed, not whether Dr. Buller was authorized to present that document. The learned Attorney-General has already said he cannot see what reason there was for a retainer at all. No more do I. The Native Land Court had nothing to do with Dr. Buller's retainer. All they had to inquire was whether the application had been withdrawn. They came to the conclusion that it had—on what I contend were sufficient grounds. But there is another matter. There has not been a tittle of evidence to show that there was a single Native present ready to support an adverse claim. There were two learned counsel, and they do not seem to have taken the view which the Attorney-General takes of the matter, because they do not seem to have raised any of the points which the Attorney-General lays stress on. Nor when they came to draft a case did they consider it necessary to raise these points.

*Hon. Sir R. Stout* : Mr. Lascelles said he appeared for fifteen Natives who were interested in the land, although their names were not in the application.

*Mr. Bell* : Mr. Cornford, who appeared with Mr. Lascelles, had said that he appeared for Heperi, and as Heperi had signed for twenty-five others it was quite legitimate for any one who appeared for Heperi to say he was acting for the others. Doubtless Mr. Lascelles appeared for Heperi and those whom Heperi represented.

*Hon. Sir R. Stout* : Would you allow me, before leaving this point, to say that you overlooked the point which strikes me. When Dr. Buller applies for the order, on behalf apparently of Topia and Hohepa, he applies as their counsel for the order. He is not applying for the order as Renata's counsel.