

*Hon. Sir R. Stout* : But no order was made at this time, and, in the absence of an order, were they not strictly within the law in applying under the name of Ngaruroro? You will notice in previous letters the land was called Ngaruroro, and therefore they were strictly within their right.

*Mr. Bell* : There is no doubt in my mind that the Natives applied for investigation of this block under the name of Ngaruroro because an application under the name "Owhaoko" must have been instantly rejected. Of course, if that conduct was not wrong, I am wrong in saying it was a fraud. I submit that is the only possible deduction the Court could draw from the facts before them. The Attorney-General says no order was made; but that is a mere technicality.

*Hon. Sir R. Stout* : It is called Ngaruroro in Mr. Locke's minute on page 8, and therefore it could not be said to be a new name, seeing it was officially known by that name.

*Mr. Bell* : Yes, that may be; but they were using this name for the purpose of deceiving the Court, and for no other purpose. At all events, Mr. Fenton thought it was being used for this purpose. It is a mere technicality to say that the order was not signed, as everybody knew that the order would be signed. Well, Mr. Fenton received this letter; and, as I say, he could have taken one of two courses. He might return it to the writer and say that he is to be addressed as "Sir," and "I have the honour," &c., or he might put it upon the file and take action upon it. He took the latter course. If you could find a letter upon the file addressed "Dear Studholme," and signed "F. D. Fenton," that would be evidence of familiarity on the part of the Chief Judge; but there is no such letter. I submit that the course the Chief Judge took was the proper one. There was a matter brought before him of the greatest importance, and the proper way of treating it was to say, "I will take action upon it, and not return it to him and say it is not in proper form." Then, the only other point in these telegrams which has any bearing upon the matter before the Committee is that in which the Chief Judge asks Judge Heale to dismiss the case with costs. He explains that in this way: He says he wished the Natives to be compelled to pay the costs occasioned by the improper application which had deceived the Court, and he quotes an instance where, in a similar case to this, a second certificate had actually been granted when the Natives had applied under a fresh name. He says he had no other idea of any sort or kind. If the Committee do not believe Mr. Fenton in this, then of course they would have to come to the conclusion that his word could not be trusted in any part of the case.

*Mr. Stewart* : Mr. Fenton explained that he did not mean legal costs, but the expenses of the Natives.

*Mr. Bell* : Yes; he meant the expenses incurred by the witnesses in travelling, &c.

*Hon. Sir R. Stout* : There were no costs allowed in the Native Land Court at that time.

*Mr. Bell* : Yes, I think there were.

*The Chairman* : Mr. Fenton explained in the latter part of his evidence that the "costs" referred to were only amounts given to the Natives for their time and expenses.

*Mr. Bell* : That is what Mr. Fenton has said, and that confirms his evidence that there was no idea in his mind of assisting Dr. Buller or Mr. Studholme to get money out of the applicants. I submit he was bound by his oath, and by his position as administrator, to defend the title which had been issued by the Native Land Court, and which his Court was about to reaffirm on the rehearing. I complain here of this dramatic touch in the comments of the writer of the memorandum: "I have no doubt the Chief Judge's opinion was obeyed." Surely the writer might have adhered to facts, and, before making a comment of that kind, have examined the authority for it. For, if the Committee will refer to the minute-book, on page 79 they will see that "costs were not allowed."

*Hon. Sir R. Stout* : I did not have the minute-book before me when I wrote that memorandum.

*Mr. Bell* : But that appears not to mitigate the effect of what I state, that this dramatic touch introduced into the memorandum, and submitted to Parliament, is proved to be incorrect by documentary evidence.

*Hon. Sir R. Stout* : I do not see that. It is a different case you are referring to.

*Mr. Bell* : No: on page 79 it is stated "Court would not allow costs." "Owhaoko (new claim).—Wednesday, 18th January, 1882.—Dr. Buller applied for costs. Struck out, inasmuch as the claim had been brought before the Chief Judge."

*Hon. Sir R. Stout* : Will you give the names of those interested?

*Mr. Bell* : Retimana and others; Topia Turoa and others.

*Hon. Sir R. Stout* : Those are not the same claimants at all. Otherwise the minute-book is wrong again, because Retimana te Rango has not applied here, nor Topia Turoa. It is a different six altogether. Was this the rehearing of which the wire was sent? It is entered here as the 18th January.

*Mr. Bell* : Well, I have no doubt that it is the same. I thought that the production of this minute-book would satisfy the Attorney-General that the "Judge's opinion was not obeyed."

*The Chairman* : It was denied, I think, by Mr. Fenton.

*Mr. Bell* : Yes; Mr. Fenton said the Judge would not do it, and now I produce the minute-book to show that he did not.

*Hon. Sir R. Stout* : I should like this minute to go down, as it again shows that the Native Land Court, relying on counsel—that is, Dr. Buller—made another mistake. It is as follows: "Owhaoko (new claim).—(1) Retimana te Rango and others.—Dr. Buller applied to have the case struck out, inasmuch as the claim had been brought before Chief Judge on rehearing, and referred to the Supreme Court as to whether, the application for rehearing being withdrawn, the Native Land Court had power to affirm the original order. Dr. Buller then handed in the opinion of Mr. Justice Richmond, which said the Native Land Court had power to affirm the original decision. He also stated that an order had been made, and signed by the Chief Judge, and notice given, and therefore asked for the claim to be dismissed, and applied for costs.—Owhaoko (new claim).—(10) Topia Turoa and others. Same as above. Claim dismissed. Court would not allow costs." Then it