

had been driven by Ngapuhi. I will now bring my statement to a more recent date. I had seen trouble through the Native school reserve at Te Aute not being used for the purpose for which it was reserved. I formed a plan of starting a school at my own settlement. I said, "I will set apart a piece of land for the purpose of supporting this school." I did so. I gave Owahaoko for the purpose of supporting it. Subsequently the parents of the children took them away from the school. The school being deserted, I used the land for my own purposes. When the land was heard before the Native Land Court it was adjudged to belong to myself, to Noa Huke, Ihakara te Raro, Karaitiana te Rango, and Retimana te Rango. I put these people into the certificate. I was aware of the adjournment to Porangahau. I did not attend that Court: I was ill. The judgment arrived at at that Court was a correct one. After I was put into the title I did not use it for my own benefit alone—I divided the money amongst my relations. I know there was a rehearing, and that the original decision was upheld. The people amongst whom I divided the money were descendants from the same ancestors as myself. I was the only descendant of the people who held the mana of the land. I had re-established this mana by driving Te Heuheu off the land, and also keeping Te Hapuku and others from selling land. I was present at the Provincial Chambers when the hearing was called. Noa Huke gave evidence of the genealogy of our people. I gave evidence before the Court. I said, "I will put these people—Ihakara, Te Retimana, and others—into the land, not because they are owners, but through friendship—because the land is mine." Karaitiana was present, and, I believe, Ihakara was also. The Court then asked if any one had anything to say. Wi Wheko stood up and said, "What Renata says is perfectly correct. I am one of the people, but I am not in the land." I know nothing about the last hearing of the case. It was in the hands of my solicitor. I object to the opening-up of these titles, as they have been adjudicated and settled for years. If the verdict of the Native Land Court is to be upset in this case, other titles will be interfered with. I have always understood that the judgments of the Native Land Courts were final after the time allowed for a rehearing. Dr. Buller was acting for me in the rehearing. I cannot state what he did. He is in England. He will have to speak for himself. With regard to the school reserve, that was set apart by me solely for the support of the school established by me at Omahu. That school having failed, the land reverted to me. None of the Patea, or Taupo, or Heretaunga Natives have ever said anything to me against the decision of the Court.—RENATA KAWETO.—Taken before me at Napier this 23rd day of July, 1886—GEORGE A. PREECE, Resident Magistrate.

*Explanation by Mr. Fenton of his Evidence on the Subject of "Service" of Notices, given on Wednesday, 18th July.*

Sir Robert Stout desired me to read the latter part of clause 35, Act of 1873, which is as follows: "And the applicants shall satisfy the Court at the sitting thereof for the hearing of the claim that such notices have been duly served upon such persons or parties; and in the minutes of the proceedings of the Court shall be entered a note of the manner in which the Court was so satisfied." In my examination thereupon I understood Sir Robert Stout to assume, as I certainly assumed, that these notices of sitting should have been served by the Native Land Court; and I answered the questions on that supposition. The "forwarding" of the notices, directed by the following section (36), was clearly the duty of the Court; and I had that duty in my mind when I answered Sir Robert Stout's questions. When I got home in the evening I read the whole clause, which is as follows: "A copy of the application shall be sent at the same time by the applicants to each of the tribes, or hapus, or persons named in the application, or believed by the applicants to be interested in any portion of the land comprised in the application. And the applicants shall satisfy the Court, &c." (as above). I then perceived that the duty of serving these notices was on the applicants, and not on the Court. My answers are therefore irrelevant. If I had been aware of the whole of the clause I should have answered in this way: Applicants never in their applications disclosed opponents, and never served them at all. In fact, they did not recognize them even when standing up in Court. "*Kaore au e mohio*" was the invariable answer of a claimant when asked in Court if he admitted the claim of an opponent. "*Kaore au e mohio*" means "I do not recognize him." I do not remember a single instance of counter-claimants being disclosed by claimants. The slightest knowledge of Native character and customs would have forbidden the insertion of such a clause. It is one of the most fantastic clauses in an Act full of absurdities. The clause never operated at all; and in 1878 it was, at my suggestion, repealed by Parliament.

*Letter from Mr. Fenton to the Chairman.*

Auckland, 21st July, 1886.—Sir,—I have the honour to address you on the subject of my answer to the Hon. Mr. Bryce's supposititious question as to the relative rights of a dominant chief and persons whom he called his people. "Mine is the land, and mine are the people," was the phrase as put to me by Mr. Bryce, as words supposed to have been used by the chief. My answer was, I think on reflection, too general, because it should have been modified by a knowledge of the political status of the people referred to. Thus, (1) if the people were the chief's own relations, descended from one common ancestor, they should be heard, as their rights are the same as that of the chief, varying only in degree, not in character, and opportunity should be afforded to them to appear; if, (2) on the other hand, they are *pahi* or *rahi*, or descendants of persons who have been conquered in battle whose lives have been spared, their status would be different. The decisions have been consistent that in cases of this sort the conquering tribe, not having exercised at the time their admitted rights of killing the vanquished, have thereby granted them a right in the land—a necessity for their future subsistence. This right has always been recognized by the Court in all cases where the subjugated people were not moved off their old land and reduced to slavery. But in this case, too, the people (*pahi*) would have a right to be heard, and should have an opportunity. If my answer goes further than this, I should wish, if it is possible, that it may be qualified. I think that Mr. Bryce alluded to residence as conferring title. This, by itself, is not so. (See decisions in "Important Judgments," pp. 81, 87, 94.) I will take this opportunity, if I may be permitted, with reference to the point of law so strongly urged by the Hon. Sir Robert Stout, that at a rehearing all parties could come in and demand to be heard, of recalling your attention to the fact that the Court at Napier was sitting under the Act of 1880, which contains no provision about commencing the "case *de novo*," but merely says that there shall be a rehearing. The rules, moreover (No. 37), are very clear upon the point that there can be no new parties: "37. The Chief Judge may return the application for amendment or explanation, or may refer it for remark to the other party, or may fix a time and place at which he will hear the parties in reference thereto." Even under the Act of 1873 the intention of the Legislature appears to be sufficiently indicated by the use of the word "case" (to commence *de novo*) in the Act of 1873 as contrasted with the word "claim" (to commence *de novo*), used in section 16 of "The Native Land Act Amendment Act, 1878 (No. 2)." I shall feel much obliged to you if this note can in any way be appended to the proceedings.—I have, &c., F. D. FENTON.—The Chairman, Owahaoko Committee.

*Letter from the Hon. Sir R. Stout to the Chairman.*

Premier's Office, 7th August, 1886.—E. T. Conolly, Esq., Chairman, Kaimanawa-Owahaoko Committee.—Dear Sir,—In the letter from Mr. Fenton, dated the 21st July, 1886, which I have seen for the first time this morning, I find he refers to the rehearing of Owahaoko, and wishes the Committee to understand that the Court, in dealing with that rehearing, was acting under the Act of 1880. This contention is, to me, very surprising. It is certainly peculiar that not until 1886 does he discover that the Court was acting under the Act of 1880. On the face of the case submitted to the Supreme Court, as well as on the face of the order made under the decision of the Supreme Court, there is no mention or reference to the Act of 1880, and I feel certain the Court never contemplated that it was sitting under the Act of 1880 to hear this Owahaoko case. Nor do I see how it could. First: The only rehearing that could take place under the Act of 1880 was a rehearing ordered by the Chief Judge. (See section 47.) Second: This rehearing was ordered in February, 1880, by the Governor in Council, and the Act of 1880 did not come into force until the 1st October, 1880. If the rehearing was not, therefore, under the Act of 1873, the rights granted by the Order in Council must have been destroyed by the Act of 1880. Were this so, the sitting of the Court was entirely illegal. I need not say it was not so. Third: If the Court was sitting under the Act of 1880, then the Supreme Court was wrong in making any order or giving any decision as to the effect of section 50 of the Act of 1873, for clearly section 50 of the Act of 1873 was merged in or repealed by section 47 of the Act of 1880. Judge Fenton's contention, therefore, is of no avail; and the fact that he desires to raise it shows that he is not satisfied now in his own mind that the Court's