

937. And you are not satisfied now?—Do you mean up to that time?

938. Up to now, even, you having the evidence that the Natives were not served in reasonable time?—I think that is a question for the Committee, is it not?

939. However, from what was before you, you were asked and advised on the rehearing, and had then the statement before you that they only got the notices on the 13th?—I do not think that would weigh much on my mind.

940. Well, then, to return to the general question. After these notices were supposed to be served the Court met, and, of course, as I said, it was the duty of the Court to find out whether the notices had been served before it investigated the case?—Yes.

941. Then the next duty was to find out who were the owners, was it not?—Yes.

942. Was it the duty of the Court to take statements not on oath as to the ownership of land?—Well, I suppose one-third of the people, we may say, were not Christians—many of the elder witnesses were not Christians—and we made that the test of oath or no oath.

943. You took evidence without that?—Yes.

944. Then, I want to know if you made any distinction between calling for objectors, who gave their evidence, and the ordinary examination of witnesses in the procedure of the Court?—You have to consider the end, you know. It was the custom, I believe—it was mine, at any rate—to ask if there was anybody in the Court who wished to make any objection or make any remark. If not, the evidence was supposed to be concluded on behalf of the claimants.

946. It was the conclusion of the case if nobody wished to say anything?—Yes. We had a form—I forget the exact words of it now—that the interpreter used to go to the door and call out; because lots of the people used to sit outside the Courthouse and smoke. This used to be shouted out loud three times; and if there was anybody came, I asked if they wished to give evidence on behalf of themselves; and, if so, heard them.

947. Suppose he did not make any claim—did you generally treat him as a witness if he made no claim for himself?—I do not understand how he could be a witness.

948. I do not think so either. The reason I put the question is that a complaint seems to have been made against me of keeping out from the memorandum what an objector said who was not a witness?—It would form a very material element, of course, in the determination of the case; but you seem to think we carried out our proceedings as though it was in the Supreme Court. We could not do it; it was impossible.

949. I can see very well that you did not. I am making no charge of that kind?—I would like to mention, in connection with this matter, that if you apply strict rules of law in some of our early Courts in Taupo the whole of the proceedings would be upset altogether. After the Court had been sitting at Taupo a long time the news came that Te Kooti's people were coming up, and the Court had to make an illegal adjournment—that is, they had to run away; and an interpreter, who happened to be down a gully at the time with a party of soldiers, was shot. He was Mr. Gill's son. Again, Mr. Heale was sitting in the Court at Maketu, and they were blazing away over his head. That is what we had to put up with in the early days. Once, when I was sitting, myself, at Cambridge, the Natives came with a message from the king that if we did not discontinue to sit they would come down and take us all prisoners. I knew that if we gave in there would be a perpetuation of the Land League; and, as there was a body of Armed Constabulary near, we sent for them, and went on with the sitting of the Court. All these things produced a great many irregularities.

950. Yes, I have no doubt; but I am not speaking of the days of the war. Turning back to the question of notice, you will observe that section 41 emphasizes this question provided for in section 35. It says, "At such sitting of the Court the Court shall, after having satisfied itself that all notices hereinbefore required to be given have been duly served." You will notice it emphasizes what is already stated in section 35, as to the Court being satisfied that the notices were sent?—I would state broadly, in answer to that question, that the serving of notices in the way contemplated by Sir Robert Stout is absolutely impossible.

951. Why?—Because we had not the men to do it, and did not know whom to serve.

952. But you had the District Officers to serve them?—You mean, if they had gone to serve them personally?

953. Where there was no post-office, why could not that have been done?—They could not serve personally if they had not the men to be served.

954. Yes; but here there were people living on the land, and it was your duty to make the preliminary inquiry as to whether notice had been served?—Even being on the land is not evidence of ownership, or claim even. It is not *prima facie* evidence.

955. You notice this: that it was the duty of the Court to be satisfied that notices were served?—The word "service" in your meaning is impossible.

956. Then the Court sat, Mr. Fenton?—Yes.

957. Who should have been declared owners by the Court?—I am speaking generally as to the practice?—Those persons that the Court thought to be owners.

958. Had the Court any right to exclude any person that was proved to be an owner?—Under the Act it provides that they shall prove to the Court's satisfaction.

959. Yes; and in that case had it any right to exclude any one from the ownership of the land?—Yes.

960. Who were proved to be owners, remember?—Yes. Under the Act powers are given to the Court to recognize voluntary arrangements.

961. Except that, there was no other power?—No; not that I know of.

962. Would you consider it right to have excluded a person from ownership without his consent?—You mean his personal consent?

963. Yes; or by an authorized agent?—No; he must have one of them.