

1068. Then, I put it like this: Is it usual in the Native Land Court to allow counsel to appear for diverse claimants who had diverse interests?—It was done once; but I informed the presiding Judge of what I had heard, and he withdrew his permission to appear.

1069. Would you have allowed it?—I should in this case, because I do not think they were diverse claimants after Hohepa had withdrawn his claim. I did not think they were on opposite sides. I may mention that I heard of a case where a lawyer was engaged for two or three sides. I wrote to the Judge calling his attention to it, and asking him to take notice of it. He withdrew the permission to appear in consequence. Would you allow me to say that I look upon this as an entirely personal matter, and that my remarks in the long paragraph of the newspaper report, except some verbal alterations, I entirely agree with. I was reading them over last night, and I was greatly impressed with the propriety of them.

1070. Do you wish to explain anything?—Do you ask me to explain generally what I approve of? I say that, with a few verbal alterations, I quite agree with the *obiter dictum*. I should like, if the Committee will allow me, to read something which I said on the same subject many years before, and which I have said constantly ever since—that is, in 1867, two years after the Act was passed: “The intention of the Legislature appears to be that English law shall regulate the succession of real estate among the Maoris, except in a case where the strict adherence to English rules of law would be very repugnant to Native laws and customs. The leaning of the Court will always be to uphold Crown grants and the rules of law applicable to them, and the Court will decline to consider the particular circumstances under which the grant was originally obtained, or the equities which have been created, or understood to have been created, at the time thereunder, unless the evidence shall disclose strong reasons for deviating from so obvious and desirable a rule. It would be highly prejudicial to allow the tribal tenure to grow up and affect land that has once been clothed with a lawful title, recognized and understood by the ordinary laws of the country. Instead of subordinating English tenures to Maori customs, it will be the duty of the Court, in administering this Act, to cause as rapid an introduction amongst the Maoris, not only of English tenures, but of the English rules of descent, as can be secured without violently shocking Maori prejudices. In this case we think that the evidence discloses no equities in favour of the tribe, and we see no reason to make any interference with the ordinary law except in one particular. The Court does not think the descent of the whole estate upon the heir-at-law could be reconciled with Native ideas of justice or Maori custom, and in this respect only the operation of the law will be interfered with. The Court determines in favour of all the children equally.”

1071. That is very interesting, but I do not see its bearing on the Owhaoko?—This paper speaks of succession.

1072. Yes; but I am not speaking about succession at all. I am dealing with a case of rehearing. I ask you if it was a correct report in substance. Well, we get to this, at any rate. I do not go into the preliminaries of stating the case; but the case was stated. You notice that in your statement of the case you say that the investigation was held on the 2nd December, 1876, while the Order in Council says it was held on the 20th December. I suppose you followed Judge Rogan's certificate? Now, you settled this case on the 9th July?—I drew it, did I not?

1073. You signed it, then, at all events; and it seems to have been determined during the same month, was it not?—I do not know the date. It is not stated in the paper.

1074. Now, in stating this case you did not consider it your duty to consult Renata or his solicitors before you settled a case dealing with their title?—There is no duty about it: I can send a case of my own accord, without consulting any one.

1075. Do you know if this case was ever argued before the Supreme Court?—I do not.

1076. Before you had settled this case you had got a telegram from Mr. Bryce telling you that the withdrawal had been obtained practically by fraud?—I saw that here. I never saw the letter.

1077. What letter?—From Mr. Bryce. Telegram, I mean.

1078. Do you mean to say that the telegram sent to you did not reach you?—I do not say that. I never saw it.

1079. How did it get on the Land Court file?—I assume the Clerk put it there.

1080. Mr. Bryce minutes on the telegram, “The telegram had better be repeated to the Chief Judge.” “This telegram,” as I said lower down, “was repeated to the Chief Judge. The Chief Judge took no notice of this telegram, and sent no reply to the Native Office.” Were you sitting in Napier on the 12th November, 1880?—Yes.

1081. Did any person have any authority to open your telegrams?—Yes.

1082. Who had—the Clerk of the Court at Napier?—Yes. I never opened any of my telegrams.

1083. And he opened the telegram and put it on the file without showing it to you?—It seems he has done so.

1084. Then you mean to say you never saw the telegram of the 12th November, 1880, from Mr. Bryce?—I do say so. What date do you say?

1085. The 12th November, 1880?—You will find not an administrative paper in my office that I have read that has not been signed by me or marked “Seen.” I do not say that I should have taken any notice as far as the Natives are concerned; but still, I did not see it. I say that with very great confidence.

1086. That you never saw the telegram?—Yes, I do say so, and you may take my word for it.

1087. Can you explain it?—I can only explain it in this way: that the Clerk got it and perhaps handed it to me. I find that I was engaged in making a genealogical table, which is a piece of work requiring great attention; and the probability is that I handed it down to him, and he put it on the file, so that I never saw it again. Of course that is only a guess.

1088. Do you notice that this telegram sent to you is filed in the Native Land Court Office in Auckland?—I saw it on the file.