

1089. When did you see it there?—When I came to Wellington a fortnight ago.

1090. Yes; but this was filed in Auckland?—I only saw it when I came to Wellington.

1091. You are aware that a letter was addressed to you by the Natives, addressed the 3rd of November?—Yes.

1092. It must have been placed before you by Mr. Dickey on the 9th December, 1880?—I never saw it.

1093. How can you say that you never saw it?—Because there is no writing upon it of mine, and, moreover, I was in Napier at the time.

1094. When were you in Napier?—On the 17th November.

1095. But this is the 9th December?—It would be about the 20th November that I left Napier and went to Rotorua. I went overland, under the instructions of the Government, in reference to the thermal springs.

1096. Can you explain to me how it was that you did not see this letter from the Natives?—I cannot explain why I did not.

1097. Where were you on the 9th December?—At Ohinemutu. I was getting that township—the hot-springs township.

1098. Then the Clerk was neglecting his duty in not showing you these papers on your return to Auckland?—I cannot say whether he did or not. I should have written upon them if I had seen them. I should have written “Seen,” which I wrote when I had nothing to say.

1099. Can we assume that you have seen none of the papers that you have not written “Seen” upon?—Yes; I made it a rule to make that mark. The reason was that many years ago, when I was Assistant Law Officer in the Attorney-General’s office, he omitted to make a mark on some document, and afterwards, when it turned up, he said he had not seen it. After that I always got him to write “Seen” upon papers, which he did. I subsequently followed the same rule myself when I became the head of a department.

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THURSDAY, 15TH JULY, 1886.

Mr. ROGAN further examined.

1100. *Hon. Sir R. Stout.*] The point I wish to bring out from you is this, Judge: You are aware that in the Act of 1873 there is a reference to minutes of proceedings in the Court?—Yes.

1101. Did you understand by “minutes of proceedings” the minutes kept by the Clerk, or the Judge’s notes?—I understood, to a certain extent, that it was the minutes kept by the Clerk; but I did not depend upon them, but upon my own minutes, in cases where there was particularity required, such as taking down the names of owners. Although my counsel the other day stopped me from making a statement with regard to the plans, the plans, or, often, the sketch, that was before the Court was a matter of the greatest consequence, and at times—for instance, in marking off a reserve—there are many instances where Judges have important evidence with regard to the portion which is required to be cut off, which was considered evidence although it was not taken down in the evidence-book.

1102. You notice that certain things are said to be recorded in the minutes of the proceedings, such as service of notices to the Natives? The Act says so. Do you remember that?—Yes.

1103. And also the Act says that, supposing a voluntary arrangement was made, it was to be entered in the minutes of the proceedings. Would that be entered in the Clerk’s minute-book?—No: very probably it would be taken by myself, after the evidence was over.

1104. It would be his duty to enter it?—Yes. I might say also, with regard to that question of taking down the names of owners, that I made a rule for many years of insisting upon the names of the Natives being given to me in writing—the names of persons who were to be included in the grant; and that was attached to the books. That was most important evidence, as I could produce it simply against the Natives at any time in case of their disputing the names in the grants. I observe that there are very few of them attached to the books at the present day, and probably in moving from time to time these fly-leaves have been lost. It would have been very important for me now if the papers had been here, as it would dispose of the names at once.

1105. But that is not the point. The point is this: Did you, as Judge of the Native Land Court, in reference to the minutes of proceedings, keep minutes of the proceedings, as provided by the Act? Which did you recognize?—The minutes that were taken down by the Clerk were, as far as I was concerned, recognized to a certain extent, and my own minutes were also taken down.

1106. Well, I want to know which were the minutes of the proceedings in pursuance of the Act—your notes, or the Clerk’s minute-book?—The Clerk’s minute-book, I should say.

1107. Now, at the time you were asked your opinion of the granting of the rehearing of the Owhaoko, you had your own papers?—Yes.

1108. And you had access also to the minute-book if you wanted it?—Not to the minute-book, because it was in Auckland.

1109. Sent up to Auckland as a record of the proceedings?—Yes.

1110. You had your own notes?—Yes; I must have had them.

1111. You then advised Judge Fenton as follows as to the rehearing: “This land passed the Land Court at Napier without opposition. I am not able to say whether Topia has a claim or not. I know little or nothing of the boundary or the Natives. Mr. Locke, I believe, sent notices of the sitting of the Court to the applicants. I submit that Mr. Locke’s opinion should be taken on this application. He knows the people, and was the District Officer—J. ROGAN, 21/8/78.” When you were asked to give an opinion, I presume you would have referred to your notes in such a matter as this of the rehearing?—I do not know that I should.