

12th Sept., 1871.

dence whatsoever in connection with that case. With reference to the vote of Henry Tomlinson, I propose to offer evidence to the following effect: That in the year 1867, Henry Tomlinson and his three brothers all preferred claims to vote in respect of freehold property then in their possession. The Henry Tomlinson who was examined as a witness claimed to vote in respect of a freehold section in Waimea West, contained about 180 acres, and numbered 10. I propose to prove that his claim was preferred, in common with the claims of his other three brothers, by Mr. Winfield Higgin, then acting as schoolmaster at Waimea South, to show that the claim was prepared in due form, and submitted to the Registration Officer in due form. I can show now, by the signed copy of the revised roll for the year 1867, that the names of George, Joseph, and Charles Tomlinson, the three brothers, were inserted by the Registration Officer, and allowed by the Revising Officer, in the list of persons claiming to have their names inserted on the electoral roll. I am informed that the reason why the name of Henry Tomlinson, the claimer, was not inserted in the list of those claims was, that the Registration Officer was acting under the belief that he was the same person who was already on the electoral roll as Henry Tomlinson, not knowing that there were two distinct persons bearing the same name, and that the Registration Officer was under the impression that it was merely a claim in respect of an additional qualification, and that it was unnecessary, therefore, to make any alteration in the roll. I will show that that was the reason why this special claim was omitted; and I will show, moreover, that the Henry Tomlinson, who appears on the roll as a householder, has left the district many years before, and has never since possessed a qualification, in respect of which he is on the roll. Now, I submit that if I prove these facts, if I prove that, although the qualification opposite the name of Henry Tomlinson is certainly not that in respect of which he claimed to be and would have been entitled to vote, I submit that that would sufficiently identify the Henry Tomlinson as the individual, the Henry Tomlinson who appeared before this Committee to give evidence; and that, therefore, although the qualification was described the identity would be established, and that his vote could not be objected to on the ground that he personated a voter. I have stated the facts I propose to prove. It is not an uncommon course, as my friend will admit, for Counsel in a litigated case before any judicial tribunal, to state that which he proposes he is prepared to prove. The Committee having the facts which I propose to adduce in evidence before them, may think it desirable to consider whether these facts, if proved, would amount to a sufficient rebuttal of the *prima facie* case already made out by my friend in respect to Henry Tomlinson. It will be necessary for me, in order that I may be able to produce that evidence, to ask the Committee for an adjournment, so that I may send for the witnesses. There is a mail about to close for Nelson, and assuming the possibility that the Committee would grant the adjournment, I have prepared subpoenas for the necessary witnesses, which would go off by the steamer. There would be but a small amount of delay in the case. No further delay than that necessary to serve the witnesses, who are close at hand, and who would be able to come by the earliest steamer. One of the witnesses lives at a distance of thirty miles from Nelson, so that it would not be possible to serve him in time. I would, therefore, ask the Committee for an adjournment, in order that I might be prepared to adduce evidence in support of what I have stated we are in a position to prove. I am not prepared to adduce any evidence in the case of James Hagan, but I shall be prepared to address the Committee upon it when the case on both sides has been closed. I shall be prepared to prove that it does not come within the allegations of the petition, and that the Committee cannot treat it as coming within those allegations. It is unnecessary for me to trouble the Committee with observations on that point now, if the Committee grant me the adjournment in order to produce the evidence in connection with the case of Tomlinson. The Committee will be good enough to understand that I do not admit at present that the case has been made out against me. The Committee have decided that a *prima facie* case exists.

*The Chairman:* The Committee have decided rather more than that. The Committee are of opinion that there is a strong case: in fact, they decided that the case has been made out.

*Mr. Gillies:* I object to such a statement. I would not submit to an imputation of prejudging the case in that way.

*The Chairman:* Well, the Committee have decided that there has been a *prima facie* case made out.

*Mr. Travers:* I understand it that my friend's case, unless actually rebutted, is made out.

*Mr. Bunny:* That is correct.

*Mr. Travers:* The Committee came to that decision with the reservation that they would hear counsel on the point. There may be matters which would present themselves to the members of the Committee in a different light from that which they present at present. I should be prepared to address the Committee on that point, unless in the meantime they consider that the evidence I would adduce would not affect the matter in any degree in their minds, as at present advised. If the Committee have not come to a conclusion upon the point, they would probably favour me with the necessary adjournment. Assuming the possibility that the Committee would grant the adjournment, I have written full letters of instruction to the agents of Sir David Monro, and I have the subpoenas prepared for the witnesses, and which would be sent by the steamer. I believe the next steamer will be here in the course of a week.

*The Chairman:* Cannot you telegraph?

*Mr. Travers:* We could not telegraph the subpoenas. The witnesses are not bound to obey anything but the actual subpoena under the hand of the Chairman. I would telegraph to the agents to expect the communication. The witnesses could not be here on Thursday, so that I would ask an adjournment, in the first instance, until Monday next.

*The Chairman:* Do you raise any objection, Mr. Allan?

*Mr. Allan:* I am entirely in the hands of the Committee. We should have got notice of this. When the petition clearly discloses the ground on which the petitioner proceeds, if it is intended to dispute those grounds, notice is generally given to the parties at the time the case comes on, in order that they may know all about it, and that there may be no delay.

*Mr. Travers:* Although the petition mentions Henry Tomlinson, it does not give us any clue to the person referred to.