

MINUTES OF EVIDENCE.

TUESDAY, 4TH NOVEMBER, 1879.

Mr. W. L. REES sworn and examined.

Mr. Rees.

4th Nov., 1879.

1. *The Chairman.*] Have you seen the petition, Mr. Rees?—I have seen the petition and read it.

2. Can you give the Committee any information on the subject-matter of the petition?—I may state that I know all the parties who are mentioned in the petition except Paora Nonoi, who, I believe, is dead. I have the statement of all the parties—that is, of Davie himself, of Rora Nonoi, the daughter of Paora Nonoi, another daughter, and a man named Nikera—I forget his other name—the husband of one of the daughters. I believe Nikera was a witness to the alleged signature of Paora Nonoi and Rora Nonoi to a deed of conveyance to Mr. Sutton—I think to Mr. Sutton personally. I have seen also this paper-writing, which, I believe, is in Mr. Sutton's handwriting, and is alluded to in the petition itself. I may state that I have sent up for this paper-writing. I sent for it by telegraph. It is in my office in Napier. I expect it down by the mail to-night.

3. *Sir G. Grey.*] Would you just read the purport of this paper-writing?—I believe the original is in similar words to those set out in the petition. [Portion of petition referred to read.] I think those are the very words, so far as I can remember; however, I shall be able to produce the paper-writing. I have never seen the original deed from the Natives to Mr. Sutton. I have seen the copy of the deed. Rora Nonoi appears there to have signed her name, although she is no party to the deed, and the attesting witness to Rora and her father's signatures is this man Nikera. George Buckland Worgan is the interpreter, so far as I can remember, and Nikera the witness. I commenced an action against Mr. Sutton for £7,500, I think. Under the circumstances, I sued Mr. Sutton for Rora Nonoi and her husband, Wi Rangirangi—I think his name is Wi Rangirangi, but I will not be positive. I sued on their behalf for the value of 350 acres of land, inasmuch as no reserve had been made for Paora Nonoi. I did not set out the paper-writing in the civil action against Mr. Sutton, or sue upon it, because, in my opinion, the paper-writing did not come under the law known to lawyers as the Statute of Frauds. I sued, therefore, for the amount of damages, £7,500 or £7,000, the value of the land for the reserve, alleging for the purpose of the action the facts that a promise had been made of a gift of land in order to get Paora Nonoi's signature, and that the signature had been obtained to the deed, but the land so promised had never been given. To that writ and declaration Mr. Sutton's solicitors demurred. I am endeavouring to explain to the Committee the manner of the proceedings; otherwise I might merely say that the proceeding had been taken. Mr. Sutton's solicitors did not deny the facts set forth in the declaration. They stated that, allowing the facts might or might not be true, they did not entitle these people, Wi Rangirangi and Rora Nonoi, to recover. There were two grounds upon which the defence went. The first ground was, that Rora Nonoi and her husband had not been appointed administrators in accordance with English law to Paora Nonoi's estate. They were only successors according to Maori custom, and therefore the right of action, if any, did not pass to them. That was the first point. The second point was this: that, the promise being for land—a promise of 350 acres—it ought to have been in writing, in accordance with the Statute of Frauds, and, from the declaration, there did not appear to be any such paper-writing. On both points the Court upheld the contention of Mr. Sutton's solicitors. The Court stated that, as it did not appear that Rora Nonoi was administratrix under the English law, they had no right to recover, supposing that there were a right to recover; and, in the second place, it was alleged that a verbal promise was of no legal use under the Statute of Frauds, and therefore the case could not proceed on that ground. The Natives some time after this came down to me and instructed me to commence criminal proceedings against Mr. Sutton and Mr. George Buckland Worgan. I then examined the Natives fully in the presence of an interpreter. In a civil suit, I did not see that anything further could be done. I examined them thoroughly before I entered into any criminal suit, one by one. A criminal information was then laid against Mr. Sutton in conjunction with Mr. Worgan. Worgan at that time was arrested upon another charge at Wanganui, and he could not be produced in Napier. The magistrate in Napier declined to proceed with the case unless both Worgan and Mr. Sutton were present. The case was adjourned in Napier, and application was made in Wellington, to, I think, Mr. Justice Richmond, for a writ of *habeas corpus* to produce the body of Mr. Worgan in Napier in time to be present at the hearing of the charge. I think it was Mr. Justice Richmond to whom the application for the writ of *habeas corpus* was made. At all events Messrs. Izard and Bell made the application. The application was refused, and we were unable to get Mr. Worgan up to Napier. The magistrate still refused to go on without Worgan. I appeared, I may state, in Court, and desired to proceed with this case. The magistrate, however, maintained that until both Mr. Sutton and Mr. Worgan were present the case could not go on. The case, therefore, had to drop, there being no means of obtaining Worgan but by the writ of *habeas corpus*. The Natives having gone to some expense and trouble about the matter, they then asked me what else could be done now; for both the Civil and Criminal Courts had been shut up against them. What could they do, they asked. I said that the only thing that they could do was to bring the matter before Parliament, a body possessing power to make laws; and, I believe, upon that advice the petition was framed and sent down here last session. I could of course, if desired, state what Rora Nonoi and her sister stated to me. I do not state it here now, as it would not be evidence in a Court of law. I took every opportunity of testing the truth of their statements. I satisfied myself as far as I possibly could that the statements were true as to the time and fact before commencing any criminal prosecution at all. I may state in relation to the written memorandum that I took the opinion of many persons who knew Mr. Sutton's