

*Mr. Bell*: Well, I must say that that appears to me to be utterly absurd.

*Hon. Sir R. Stout*: Yes, I think so, too; and, if you look, he says Mr. Cornford was not appearing for Hohepa or Topia.

*Mr. Bell*: I confess it seems to me a perfect muddle, and I did not understand Mr. Fenton's evidence on this point. He must have been mistaken, and I do not doubt that the application was made by Dr. Buller in Renata's interest.

*Hon. Sir R. Stout*: I do not know. If you look at the newspaper report you will see that Mr. Fenton was right. Either the Native Land Court allowed Dr. Buller to appear for two distinct parties, or else, as Judge Fenton put it in his evidence, he was only appearing for Topia and Hohepa.

*Mr. Bell*: Yes; I understand, the way you put it to me. What did happen was this—and any one can see that this is the fact: Dr. Buller appeared for Topia and Hohepa, and put in an application for withdrawal. Then, the next day he appeared for Renata, and asked the Court to affirm the original order.

*Hon. Sir R. Stout*: If you look at the second day's proceedings you will find that Judge Fenton is right, and you are wrong. You will see that Dr. Buller put in his retainer on the second day.

*Mr. Bell*: Yes. Well, Dr. Buller may have put in the retainer again, but nobody can doubt—and the Attorney-General has no doubt in his memorandum—that when Dr. Buller was contending for an affirmation of the original order he was really acting in the interests of Renata. That seems to be quite clear. The Attorney-General says Dr. Buller did not call special attention to the fact. The Court seems to have raised the point, "How will this point affect the original title?" That is the first thing done on the first day. The retainer is put in, the application is withdrawn, and then the Chief Judge begins by saying he is in doubt as to how such a course will affect the present title.

*Hon. Sir R. Stout*: The Chief Judge says that report is inaccurate. He says he never said anything at all of the kind.

*Mr. Bell*: At all events, it is of very little importance as affecting the honesty of the Court. It affects Dr. Buller in this sense: that he appears to have been acting for two different parties, perhaps in diverse interests. He may have satisfied himself by that time that they were in the same interest. I suppose the Committee will not form an adverse conclusion as to Dr. Buller's action in his absence. It may be that when he went to Taupo he found that the Taupo Natives had discovered whom the Patea applicants really represented, and therefore would be able to fall in with Renata's claim. You may be quite certain that, except Hohepa, no Taupo Native desired to proceed for the benefit of either Mr. or Mrs. Donnelly. Now, passing on—I am afraid I have detained the Committee rather too long upon this point—passing on to Heperi's letter of the 3rd November, Hohepa's letter of the 11th November, and Mr. Bryce's minute, Mr. Fenton says he never saw this telegram; and the reason he gives is this: He says that there is no minute of his on the papers, and that shows he never saw them.

*Hon. Sir R. Stout*: He says, "It may have been handed to me by the Clerk of the Court when I was investigating a very complicated title, and I may have handed it back without reading it."

*Mr. Bell*: Yes; I beg your pardon. Then he says, "It was never brought to my careful attention; because, if so, being from a Minister, I must have replied to it. It is my habit to minute upon all documents that I have seen, what steps are to be taken." If you look at the letter and the telegram you will see that there is no minute upon them; and I challenge the Committee to find any document which Mr. Fenton has seen and upon which he has not made a minute in his own handwriting. He says that is the reason why these matters were not noticed. "If I saw them at all, I must have seen them when I was on the Bench, for a moment, and I must have handed them down and they must have got on the file. I did not see the file, because it went to Auckland, and I did not return to Auckland for a long time afterwards." That is his explanation of that matter. I am quite sure that, after the explanation he has given, no one will doubt its sufficiency. As to the statement of the case for the Supreme Court, I have to remind the Committee again that what the Judges of the Native Land Court did determine was that they could not affirm the original order; and that would leave the title at large to be dealt with *de novo*. That was their conclusion; but they consented to state a case for the opinion of the Supreme Court. When the matter came before the Supreme Court, that Court held that under section 50 the Native Land Court might affirm their original decision.

*Hon. Sir R. Stout*: I would like to ask you whether the Act of 1880 was referred to either in the argument or the judgment.

*Mr. Bell*: I do not know. Of course, I had nothing whatever to do with it. But I would say that, so far as I am able to offer an opinion to the Committee, I differ from every word of the paragraph on pages 17 and 18 which comments upon the case sent to the Supreme Court. What the Native Land Court wanted was a decision upon a point of law, and not upon a question of fact; nor had it any authority whatsoever to state a case upon anything other than a bare question of law. The question whether or not these applications had been withdrawn was, I submit, a matter entirely of fact. In the 103rd section of the Native Land Act of 1873 it is provided "that on the application of either of the parties, or on its own motion, the Court may order that any question of law arising in any manner judicially before it should be sent to the Supreme Court." Now, I submit that the matters which arose afterwards, and which the learned Attorney-General thinks should have been referred to in the case—namely, Heperi's and Hohepa's letters—did not arise in any way before the Native Land Court; and the only question they could state was whether or not the Court had power to affirm its original decision. I say that no other point of law arose, and I do not think that the Attorney-General, if he were addressing a Court, would insist upon arguing that which he submits in the paragraph to which I have referred.

*Hon. Sir R. Stout*: I will still keep to it. The point of view from which I looked on the matter