

107. *Mr. Bell.*] The case was fixed for the Monday, and it was only in consequence of something connected with the Governor's arrival that the case was postponed until the Wednesday, and communication was made by Mr. Cooper, as your counsel, to me on Sunday; therefore I put it to you that the advice or determination of what should take place must have been made on the Saturday?—I am quite clear about the matter; it was on the Monday night.

108. *Mr. Baldwin.*] Did you have a report from Mr. Stafford and myself as to our recollection of it?—Yes. When the Premier returned—he was away at the time, but when he came back—he asked me whether I had authorised Mr. Cooper to make the statement he did when withdrawing the case. I told him then what had occurred, and I said, "I have no note of the matter, but Mr. Stafford, Mr. Baldwin, and Mr. McClean were all present, and I will write to them immediately and forward my letter to you with their replies, and you will see whether their recollection agrees with mine." And this is the letter:—

Public Trust Office, Wellington, 17th September, 1897.

Horowhenua.—Referring to my interview with you yesterday, at which you asked me whether I authorised Mr. Cooper to make the statements which he was reported to have done, I beg to repeat what I then told you. Mr. Cooper did not outline to me, or otherwise indicate to me, what language he proposed to use to the Court. My recollection as to what passed between Mr. Cooper and myself is very clear, but, as I told you, Mr. Stafford, Mr. Baldwin, and Mr. McClean were present, and I therefore this morning wrote to Mr. Stafford and Mr. Baldwin letters in the same terms, substituting Mr. Stafford's name for Mr. Baldwin's and Mr. Baldwin's for Mr. Stafford's where necessary. The following is a copy of my letter to Mr. Stafford:—

"The Hon. the Premier has asked me whether I instructed Cooper to make the statement which he did make in Court on the 11th August. My recollection of what passed is set out below, but, as I am speaking from memory, I should be glad if you would say if my recollection is correct. I am writing a similar letter to this to Mr. Baldwin. Mr. Cooper on the evening before the case came on stated, in effect, that he was clear the action could not succeed. Mr. Baldwin and yourself concurred. The Chief Justice had previously refused to adjourn the trial until after the Appellate Court's decision, or to have the questions of law which you raised argued before the trial. Mr. Cooper advised, and you and Mr. Baldwin concurred in that advice, that no reason should therefore be offered, and that judgment should by consent go for defendant Buller. Mr. Cooper stated that he proposed to inform the Court that after the evidence that had been taken in the Appellate Court he was satisfied that the action could not be successful in maintaining, and that therefore he advised me I ought to consent to judgment for the defendant. I drew his attention to the fact that the other side would probably not be satisfied with such a statement, and that they would possibly try to call evidence. Mr. Cooper replied that if they did so he should point out to the Judge that he had consented to judgment for the defendant, and if the Judge chose to allow them in the face of that to call evidence, that was a matter for the Judge himself, but that he (Cooper) should decline to cross-examine witnesses or to take part in the proceedings. To the best of my recollection this was all that occurred. I think Mr. McClean was also present. Would you please let me know as soon as possible if what I have stated is correct."

J. C. MARTIN.

I have just received the following in reply: "We have read your memorandum of the 17th instant addressed to us respectively, and your statement of what transpired at the consultation you refer to is correct. The consultation took place on the Monday preceding the Wednesday, the day of trial, and was a final consultation before the case was called on for trial. Mr. McClean, barrister and solicitor, who has from the first acted as confidential clerk in these proceedings, was present at the consultation, and has the same recollection of what transpired.

"E. STAFFORD,
P. E. BALDWIN."

And in Mr. Stafford's letter of the 13th instant, a copy of which has already been forwarded: "I was quite prepared to acquiesce in his views that final judgment should be given for Sir Walter Buller, although I thought, and still think, that the questions of law were arguable; but I was surprised at the extent of Mr. Cooper's admissions. I was not prepared for the complete withdrawal of the charges made against Sir Walter Buller, but, of course, as Mr. Cooper was senior counsel in charge of the case and took full responsibility I could not interfere." I should be glad if you would let me know if there is any other point upon which you want explanation. If so, upon hearing from you I will at once reply.

The Hon. the Premier, Wellington.

J. C. MARTIN, Public Trustee.

109. *Mr. Bell.*] Your statement of claim against Sir Walter Buller is set out in the Appendices G.-2B to the Journals?—Yes.

110. You saw defendant's statements?—Yes, I saw them.

111. Do you say he had notice of trust?—No.

112. Did you accuse Sir Walter Buller of taking advantage of Major Kemp as his confidential adviser?—Very possibly I did.

113. You charged Sir Walter Buller with taking fraudulent advantage of his client, Major Kemp?—I do not recollect what the statement of claim is.

114. I put it before you as it is in G.-2B?

115. *The Chairman.*] Is that one of the blue-books of the colony?—Yes.

116. And is the print there a copy of the original in the Supreme Court?—Yes, I believe so.

Mr. Bell: I refer you to paragraph 32: "Plaintiffs further say that, when the defendant Sir Walter Lawry Buller obtained from the defendant Meiha Keepa te Rangihiwini the mortgage referred to in the said paragraph 28 hereof, he was the solicitor and confidential adviser of the defendant Meiha Keepa te Rangihiwini, and he then represented through the defendant Meiha Keepa te Rangihiwini that the said mortgage was intended to secure a sum of £500 then advanced by the defendant Sir Walter Lawry Buller to the defendant Meiha Keepa te Rangihiwini, and also further moneys to be thereafter advanced to and owing by the defendant Meiha Keepa te Rangihiwini to the defendant Sir Walter Lawry Buller; but he concealed from the said defendant Meiha Keepa te Rangihiwini that the said mortgage was intended by the said defendant Sir Walter Lawry Buller to cover a large sum of money for costs then alleged to be owing, amounting to £1,000 and upwards, and all further costs thereafter to become due and owing by the defendant Meiha Keepa te Rangihiwini to the defendant Sir Walter Lawry Buller, all of which said costs the defendant Sir Walter Lawry Buller now claims are secured by the said mortgage."

117. *The Chairman.*] You were one of the plaintiffs in the statement of claim?—Yes.

118. *Mr. Bell.*] Will you read paragraph 33? "The plaintiffs further allege that it appears from the said mortgage that the said defendant Sir Walter Lawry Buller obtained from one Robert Ward, a Trust Commissioner under 'The Native Lands Frauds Prevention Act, 1881,' a certificate under 'The Native Lands Frauds Prevention Act, 1881 Amendment Act, 1888'; but the plaintiffs