68. At whose suggestion was the Public Trustee put in?—I do not know—certainly not at mine. It is about the last suggestion I should dream of making. After my experience of him, the Public Trustee was the very last man in the world I should have suggested.

69. Was it not suggested by Sir Robert Stout?—Not within my knowledge. As a matter of fact, I was never consulted by any one about it.

70. *Mr. Bell.*] These costs, Sir Walter, as fixed by the Supreme Court between party and party: do they represent the amount you are liable for as between yourself and client?—Certainly not. I am responsible myself for a large amount of costs as between solicitor and client.

71. *The Chairman.*] Then, the costs as between party and party, would they run concurrently with the decree of the Judge—would they be incurred during the same period?—Yes; in the same period. I mean the costs in that particular action.

72. You applied for costs as between party and party?—Yes; and also costs as between solicitor and client.

73. And the Court in its judgment estimated the costs you should receive at £335 8s. 5d.?—Yes. It was to come by arrangement. Mr. Cooper and Mr. Bell settled the amount, as there were some questions to be considered. I also asked for payment of these other additional costs.

74. All these additional costs were anterior to the judgment?—Yes; anterior to the judgment.

75. All these costs were in the mind of the Judge when he made the decree?—That is so, Sir.

Mr. Bell: The Judge gave judgment that the costs as between party and party should be paid. He had no power to give costs as between solicitor and client. The Judge held that he had no power.

The Chairman: All the costs applied for now by Sir Walter Buller were in the mind of the Judge when this decree was made, and the costs were settled as between party and party upon the scale fees, and estimated in the way you describe?

Mr. Bell: Yes.

Mr. Baldwin: Costs on the highest scale as arranged between counsel were allowed to each of the defendants, Kemp and Buller.

Mr. Bell: They could not have been allowed on any other scale—the amount was over £500. The order of the Native Appellate Court, asked for yesterday, I have here. It is dated the 14th April, 1898: "It is hereby declared that the order of the Native Land Court, dated the 3rd December, 1886, made in the name of Meiha Keepa te Rangihiwinui was made to him as sole beneficial owner." That was made two years after the passing of the Horowhenua Block Act. Then, on the 24th April, 1898, the Appellate Court added this: "Provided, and it is hereby expressly declared, that the foregoing declaration is in the nature of an interlocutory decision, and it is not intended as a vesting order under section 5 of 'The Horowhenua Block Act, 1896.'"

Mr. Baldwin: It is only eighteen months after, and less than twelve months after bringing the action.

Mr. Bell: I would refer the Committee to Mr. Cooper's address to the Supreme Court on the 11th August, 1897, and which will be found set out in G.-2B, page 12, of the Appendices to the Journals of the House. Mr. Cooper said:—

If your Honour pleases, this is a statutory action brought by the Public Trustee, under section 10 of "The Horowhenua Block Act, 1896," a section which directs and empowers him to institute, on behalf of the original owners of Division 14, Horowhenua Block, an action for the purpose of testing the validity of the alienations in fee-simple of Sir Walter Buller, and of the registered dealings with him by Major Kemp upon the original certificate of title. I should like to say, before I proceed further, that the Act is one very difficult to construe indeed, and that the Public Trustee was advised that the obtaining of the judgment of the Appellate Court was a condition precedent to the exercise of any jurisdiction by the Supreme Court under section 10, and, entertaining that view, he applied to your Honour for a postponement of trial until the question should be determined, or until the Appellate Court should have delivered its judgment. After argument, you determined that the application should not be granted. Some ten days ago I was myself introduced into the matter, and I have given it the most careful and anxious consideration. My first impression was that the judgment of the Appellate Court was a condition precedent to the exercise of the jurisdiction of the Supreme Court; but after going very carefully through the Act I felt I could not successfully maintain that position, and I think it my duty to say so at once. I have also made a most careful and anxious examination of the evidence which is in the hands of the Public Trustee, for the purpose of ascertaining whether that evidence shows any notice on the part of Sir Walter Buller of any trust which might have existed in Major Kemp, and I feel bound to come to the conclusion that the evidence does not show any such notice on the part of Sir Walter Buller. It is probably within the knowledge of your Honour that there has been a very complete investigation of the circumstances connected with this portion of the Horowhenua Block in the Native Appellate Court, but the Court has not given its judgment, although the taking of evidence has for some time been concluded. We have no evidence in the matter further than that before the Appellate Court and the Commissioners. It is on an examination of the evidence more fully adduced at the further investigation by the Native Appellate Court, during which all the witnesses were fully examined and cross-examined, that I have felt it my duty, with the full sense of the responsibilty which rests upon me—a responsibility in which my learned friends associated with me are quite prepared to share—to advise the Public Trustee that there is no evidence of notice on the part of Sir Walter Buller of any trust—if any trust exists—in Major Kemp. Under these circumstances it seems to me—and I may say my view is concurred in by those learned friends associated with me—that it is the plain duty of the Public Trustee to say so to this Court, and to submit to a decree under section 10 of the Act, stating that the transactions appearing upon the original certificate of title are valid, and that "they shall be reregistered on any new certificate of title which may be issued under the provisions of the Act for the land, the subject of such dealing." Those are the words of the section. It is only due to the Public Trustee that I should say that the views which were taken up a few days ago have very considerable force in them in the provisions of the Act. They are views, however, which I have come to the conclusion I cannot be successful in maintaining. Then, the applications which were made for the determination of these questions, and for the postponement of the trial, although refused by your Honour, I feel it is due to the Public Trustee to say were made in perfect good faith. I think, also—and my learned friends on the other side will agree with the course I am taking in stating the view I hold—that the view I take, that there is no evidence to support