

*Mr. Bell* : The Judge declared the principle of costs between party and party. That was all that he decided. What was done afterwards—what *Mr. Baldwin* calls the agreement—was an agreement with which the Judge had nothing to do. There was a difficulty about ascertaining the quantum upon which the 2½ per cent. should be calculated, and that was left to the two leading counsel to determine. That was the extent to which the Judge determined the principle, and the other matter was left to the leading counsel.

*The Chairman* (to *Mr. Bell*).] He affirmed the principle, and you and *Mr. Cooper* worked it out?—Yes; he never saw the matter from the day he decided to give costs as between party and party on the highest scale. A question I wish to submit is this: when speaking to the Committee I produced a number of documents, which will be in a very disconnected form unless they are connected to the speech I have addressed to the Committee, and I ask the Committee for permission to deliver a copy of what I said on the occasion.

*The Chairman* (to *Mr. Bell*) : Your speech was not taken down?—No, Sir, I used no oratorical method. I simply referred to certain documents, and connected them with sentences.

*The Chairman* (to *Mr. Bell*).] How could you give us your speech if it was not taken down at the time?—Because my memory is equal to the occasion; and, if possible, I would like to have permission this morning in order that I may know what to do.

*The Chairman* : The Committee will deliberate on that matter, and also on the resolution which has been proposed.

On resuming,

*The Chairman* : With regard to the report of the speeches I think we have solved the difficulty. We will ask each of you to send in your written statements of the case; not what you said in July, but a statement setting forth what you think the Committee should consider, and that should be put forth. The Committee has unanimously decided on the resolution as submitted by *Mr. Baldwin*, and also requests *Mr. Baldwin* to summarise the accounts he submitted to-day. The Committee have no desire to suppress anything. What I wish to make clear is this: that if the Committee did not comply or agree with any suggestion made by the solicitor for the Crown, that it might be suggested from the floor of the House that we were sympathizing in some way with *Sir Walter Buller*, and in that way *Sir Walter Buller* would be prejudiced. All will, therefore, see that we have tried to do our best for all parties. It will take some time for you to summarise and furnish the accounts suggested. When will it be convenient to both parties to have our next meeting?

*Mr. Bell* : I would suggest that it might not be necessary to have another meeting, but that we should be allowed to send in our papers. When we come here all sorts of questions arise which are not anticipated, and, therefore, I suggest that we should send in the papers.

*Mr. Baldwin* : We could send them in in a week.

*Mr. Bell* : I and *Mr. Baldwin* have agreed to let the Committee know later on.

#### STATEMENT OF CASE FOR THE PETITIONER, PUT IN BY *MR. BELL*.

1. The Horowhenua Block, containing 52,000 acres, was partitioned by the Native Land Court in 1886, and Division 14, Horowhenua, containing 1,200 acres, was by that Native Land Court of 1886 awarded to *Major Kemp*. A Land Transfer title was duly issued in *Major Kemp*'s name, and registered in the Land Transfer Registry, at Wellington, on the 19th day of July, 1888, Vol. xlviii., folio 140. In 1892 *Major Kemp*, who had been for four years the registered proprietor under the Land Transfer Act of this 1,200 acres, executed leases of the same to *Sir Walter Buller*. Of a small piece, containing 11 acres, he in the same year executed a transfer of the fee-simple to *Sir Walter Buller*, and in October, 1894, he executed a mortgage of the freehold to *Sir Walter Buller* to secure moneys due and to fall due.

2. *Sir Walter Buller* thus in the year 1896 was the registered proprietor in fee-simple of 11 acres, and held a certificate for the same. He was the registered proprietor of leases of the remainder, and held his leases duly registered under the provision of the Land Transfer Act. He was the mortgagee of *Major Kemp*'s freehold interest, and held a mortgage duly registered. Under the provisions of "The Land Transfer Act, 1885," he had an indefeasible title.

3. In the year 1895 it was vaguely suggested that the award of the Native Land Court of 1886 to *Major Kemp* was intended to be to him as trustee, and not as absolute owner. It was further alleged that *Sir Walter Buller* had in some vague way notice of this intention of the Native Land Court, and consequently of *Kemp*'s alleged trusteeship at the times when he (*Sir Walter Buller*) obtained his leases, transfer, and mortgage. The Land Transfer Act confers upon the purchase from a registered proprietor absolute immunity from attack. Even, therefore, on the hypothesis that *Major Kemp* was a trustee, and that *Sir Walter Buller* had some notice of such existing trust, the law of New Zealand gave him absolute protection in his title, for by section 189 of "The Land Transfer Act, 1885," it is provided as follows: "Except in the case of fraud, no person contracting or dealing with or taking or proposing to take a transfer from the registered proprietor of any registered estate or interest shall be required or in any manner concerned to inquire into or ascertain the circumstances in or the consideration for which such registered owner or any previous registered owner of the estate or interest in question is or was registered, or to see to the application of the purchase-money or of any part thereof, or shall be affected by notice, direct or constructive, of any trust or unregistered interest, any rule of law or equity to the contrary notwithstanding, and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud."

4. Therefore, in the year 1896, if it were proposed to attack *Sir Walter Buller*, it was necessary to pass a special law singling him out for the special object of an attack which is prohibited by the statute against all other Her Majesty's subjects, and accordingly a special law was introduced.

5. "The Horowhenua Block Act, 1896," began by declaring void and cancelling the Land Transfer title and registration of certain divisions of the Horowhenua Block, including Division 14,