

vented any decision on the question of trust being given until the following November, thus rendering the case for the Public Trustee in the Supreme Court absolutely hopeless. At this point Mr. Cooper was retained as senior counsel for the Public Trustee.

*The Action decided on by the Public Trustee.*—Some controversy has arisen as to what course was decided upon by the Public Trustee and his advisers. It is asserted by Sir Walter Buller that they definitely concluded to abandon the whole of their case and to admit that Sir Walter Buller was innocent of the charges made against him. This is absolutely incorrect. The extreme length to which it was determined to go prior to the date of the trial was this: It was agreed that no evidence should be offered against Sir Walter Buller and that judgment should be allowed to go for him. The terms of the arrangements between counsel are contained in the following letters:—

Mr. Stafford,—

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

THE HON. the Premier has asked me whether I instructed Mr. 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 whether 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 that 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 evidence should therefore be offered, and that judgment should, by consent, go for the defendant, Buller. Mr. Cooper stated that he proposed to inform the Court that, after the evidence which had been taken in the Appellate Court, he was satisfied that the action could not be successfully maintained, and that, therefore, he advised me that 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 choose to allow them in the face of that to call evidence that was a matter for the Judge himself, but that he, Mr. Cooper, should decline to cross-examine the witnesses or take further part in the proceedings.

To the best of my recollection, this is all that occurred. I think that Mr. McLean was also present. Would you please let me know as soon as possible if what I have stated is correct?

J. C. MARTIN, Public Trustee.

DEAR SIR,—

17th September, 1897.

Re *Horowhenua*.—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. McLean (barrister and solicitor), who had from the first acted as confidential clerk to Mr. Stafford in these proceedings, was present at the consultation, and has the same recollection of what transpired.

Yours, &c.,

E. STAFFORD.

P. E. BALDWIN.

The Public Trustee, Wellington.

*The Hearing.*—What transpired at the hearing bears this out. If the language of Mr. Cooper is carefully weighed it will be seen that he only stated that he had not the evidence to prove the charges against Sir Walter Buller. One necessary item of proof was the existence of the trust. This Mr. Cooper knew was at that stage and in the Supreme Court incapable of proof. If Mr. Cooper went further he went beyond his instructions.

*The Judgment.*—Judgment was accordingly entered up for Sir Walter Buller. His counsel applied for costs on the highest scale as between solicitor and client. So did Major Kemp's counsel. The Supreme Court, without indicating in the remotest way that it would do more if it could, held that it could only give costs up to a certain sum, and eventually certain sums were fixed as the amounts which Sir Walter Buller and Major Kemp were to receive as their costs against the Public Trustee. It is these costs that Sir Walter Buller is now applying to receive from the country.

*Proceedings subsequent to the Case.*—Sir Walter Buller, with characteristic activity, since the decree has left no stone unturned to obtain these costs. He has made repeated applications to the solicitors of the Public Trustee. The final reply was that he must wait until the whole of the costs of both sides was settled and that then the whole would be paid. There was some delay in rendering Messrs. Stafford and Co.'s bills. Sir Walter Buller thereupon turned round and said that he would not wait, that he would not rely on the Government paying, but would himself compel the payment of the costs by the Public Trustee.

At first there were threats and loud warnings in the newspapers. Then the battle commenced, and was bitterly carried on until the judgment of the Supreme Court, which entirely supported the attitude and action of the Public Trustee. And it must not be forgotten that but for the good feeling which prompted the Public Trustee to assist in the matter the result would have been disastrous to Sir Walter Buller. Had the Public Trustee declined to submit certain questions of law to the Supreme Court Sir Walter Buller would have been obliged to take actual steps to enforce his threats, and had he actually taken even one of the steps he threatened he would, upon the principles laid down in the Supreme Court judgment, have committed a grave trespass for which heavy damages would have lain against him. The Supreme Court's decision having been against Sir Walter Buller's right to obtain his costs from the Public Trustee by attachment, execution, or mandamus, Sir Walter Buller turns round again. He now contends that the country should pay.

*An Appeal to Parliament.*—Having done all in his power to damage the reputation of the Public Trustee and the credit of the Public Trust Office, having done all in his power to vilify the Government and the Liberal Administration, and having failed by these manœuvres to compel payment of his costs, Sir Walter Buller next appeals to Parliament.

*How the Claim is based.*—Sir Walter Buller's cry is that the Public Trustee, who is the plaintiff, cannot pay him, and asks that the country should do so. To prove the justice of his claim, he must show that by "The Horowhenua Block Act, 1896,"—(1) He was subjected to certain litigation, and to the payment of heavy costs thereunder, without any fault of his own;