

103. The case resulted, I believe, in the seat being declared vacant, and a fresh election being ordered?—Yes.

104. What was the order made about costs? Members of the Committee will see that I am making these questions leading in order to come as soon as possible to the point of the enquiry?—Mr. Buckland, I think, had to pay the costs on nine issues, and I had to pay the general costs attached to others. I do not properly understand the matter now.

105. Was it this? Upon certain issues which Mr. Buckland failed to prove, he had to pay costs, and upon the issues which he proved, you had to pay costs?—Yes.

106. Can you tell us what was the total amount of costs you were asked by your solicitor to pay, both as against you to Buckland and to your solicitor, for the hearing of the case which you say lasted three days?—I had not all the documents with me. I think the amount was £385.

107. Have you a copy of the judgment?—No, I have not; but I have sent for it.

108. I have a printed copy in the *New Zealand Herald* of the 17th of March. The decision against you was not because you had been guilty of a breach of the Corrupt Practices Prevention Act?—Nothing of that kind was mentioned.

109. You had to recontest the seat?—Yes.

110. You did so?—Yes.

111. And won the election?—Yes.

112. *Mr. Turnbull.*] What had you pay to Mr. Buckland?—I had to pay over to him £150 11s. 5d. He withdrew two cases, lost on seven, and won upon the other one.

113. *The Chairman.*] What was the amount of his bill?—The original amount of the bill was £361, but it was taxed down to £150 11s. 5d.

114. What was Mr. Lusk's own individual bill against you?—The amount was £385, with what I had to pay Mr. Buckland. That would make £234 8s. 7d. the amount of his bill against me.

115. This was for the case lasting three days?—Yes.

116. The Court sat at Papakura two days, and, after that judgment was given at Otahuhu?—Yes.

117. I suppose counsel engaged would have to leave their ordinary business in Auckland for two days?—Yes.

118. If they travelled up and down by train?—Yes.

119. *The Chairman.*] I will now read the certificate of the Judges. [Certificate marked B read.] In point of fact the election was made void purely owing to some misconception of the Returning Officer?—Yes; that was the Judge's decision. With the permission of the Committee, I will state how this happened. At Howick, there was a person named Dovell, who had been in the district six weeks. He had his name on the roll as an elector. He went to vote at Howick, when a person named Hattaway followed him and objected to him, on the ground that he had not been in the colony twelve months, or in the district six months. Hattaway asked the Deputy-Returning Officer, Mr. Smith, to question Dovell, and, at the same time, detailed the questions to be asked. One was, "Have you been six months in the district?" The Deputy-Returning Officer asked him this, and Dovell, finding that he had been overstepping the mark, got frightened and would not vote. He was told that if he did vote, his vote would be put on one side and not counted with the others. He then withdrew. Hattaway's vote was struck off me afterwards, it was alleged, for intimidation. It was held that, if it had not been for this the result of the polling, as between Mr. Buckland and myself, would have been even. In consequence, the Judges declared the election void, and stated that the Deputy-Returning Officer was to blame.

120. *Mr. W. H. W. Williams.*] Is that stated in the report? Do the Judges say so in their judgment?—

121. *The Chairman.*] In giving judgment His Honor the Chief Justice said: "We have come to the conclusion that Dovell was prevented from recording his vote by the conduct of Hattaway, and also in consequence of the conduct of the Deputy-Returning Officer. The question, however, is, whether he was prevented from recording his vote by the action of Hattaway. We think there was an intention to object to Dovell's vote on the part of certain persons who believed his name was put on the roll improperly, and that there was a penalty attached. They also knew that he would probably vote for Mr. Buckland, and it is clear that the intention to object to him was on that ground, and that Hattaway was acting with a number of persons who were outside the polling place, and that, upon Dovell entering it, Hattaway followed him, and practically threatened that if he voted he would probably be prosecuted. Substantially a threat was used with regard to his giving his vote. I do not say that I am at all of opinion that Hattaway was doing anything that he thought improper, but he was under the impression that Dovell being wrongly on the roll, he ought to be prevented from recording his vote, and he did not hesitate to threaten him with prosecution if he voted. I think it was clear that he was prevented by these threats from voting. It has been ably argued by Mr. Lusk that Dovell, being conscious of having committed an offence by being placed improperly on the roll, was prevented by that from carrying his vote into effect, but that made the impression on his mind stronger when Hattaway used the threat. The fact that he was conscious of an offence would make the impression stronger. The result was, that Hattaway's vote was void, and must be disallowed to the respondent. This leaves him still a majority of one. The question remains, what is to happen with regard to Dovell's vote? We think it cannot be given to the petitioner so as to make an equality of votes, but the effect is, that a vote which if given might have placed the petitioner and the respondent on an equality, was refused, and, that being the case, are we to say that there was a due election? We think not. We cannot say what the Returning Officer would do, and we declare the election void. I cannot avoid commenting on the manner in which the election was carried out at Otahuhu. It plainly was not in accordance with the Act. It was the duty of the Returning Officer to have informed the candidates that he would have separate ballot boxes, and if he had they would be under his own control. The election, as conducted, was calculated to cause confusion. The result is, that six votes were not ticked, and it is impossible to say whether they were good or bad votes, and