

84A. *The Chairman*] But he says it was not till the 27th?—It was not before the 27th, at any rate.

*Hon. Sir R. Stout*: Then I understand that this paragraph, "Ask Mr. Hamlin to open Court, and adjourn till Monday at 2," was written after "The application for rehearing is withdrawn." It might appear in order, but there is no date to it.

85. *Mr. Stewart*.] What you mean to say is: that this adjournment was not looked upon as settled till the application for a rehearing was withdrawn?—Yes.

*Hon. Sir R. Stout*: As this had no date, I assumed that it was after this order that Mr. Dickey had sent this telegram of the 26th, because I did not think that Mr. Dickey would have ventured to order Mr. Hamlin to adjourn the Court without Mr. Fenton's order.

*Mr. Bell*: However, there seems to be no doubt that this follows on.

*Hon. Sir R. Stout*: If that is so, why should he direct Mr. Dickey upon adjourning the Court when he knew that Mr. Dickey had the day before done what was necessary to secure the adjournment?

*Mr. Fenton*: Mr. Dickey had no authority.

*Hon. Sir R. Stout*: Well, he had done so. That is the reason that I could not read them aright.

86. *Mr. Bell*.] There is no explanation except that it was a misunderstanding?—No. The rules require that the adjournment should be in writing by the Judge.

*Hon. Sir R. Stout*: It appeared strange that there was no reason for this second adjournment.

87. *Mr. Bell*.] Now, on the 26th October a telegram had been received by you at Auckland, apparently from Dr. Buller, as follows: "*Re Awhaoko* withdrawal. Withdrawal of application by post," &c.; and on the 27th you received a second. Then you minuted, "The application for rehearing is withdrawn;" and then you minuted, "Ask Mr. Hamlin to open the Court and adjourn it till Monday at 2"?—Yes; that is what appears to me what I should do, and what I did. Of course I did not bear all these things in my mind. There were many Courts going on, in all directions, and if honourable members suppose that I was able to remember all proceedings in all the Courts, I desire to say that I was not. When I gave the verbal order previous to the 25th, intending Mr. Dickey to put it into form, I was unaware of this rehearing. He kept a "Rehearing Book," and, on reference to that, he called my attention to it. These papers were placed on my table, and I saw them the first thing in the morning. On the 27th there was Mr. Dickey's memorandum telling me that there was a rehearing, which up to that time I was not aware of, and along with it the telegram of Dr. Buller's withdrawing the application. Had the proceeding taken place twenty-four hours after, I should, of course, have remembered that.

88. The importance of the telegram from Mr. Dickey passed away when you heard it was withdrawn?—No, not the importance of it. There was a book called the "Rehearing Book." This book was kept to prevent the time limited for rehearsings lapsing. When he got my order to adjourn the Court he looked at this book and made this memorandum, calling my attention to it, which I did not see till the 27th.

89. Now, with reference to the question of rehearing, you seem to have accepted as *prima facie* evidence the statement of Dr. Buller that a rehearing had been withdrawn. Sir Robert Stout says this: "I assume that no Court would consider a telegram from the solicitor of the parties objecting to the rehearing to be evidence of the withdrawal of claims by those who had applied for a rehearing." Would you, as an administrative officer, believe Dr. Buller to be telling a falsehood?—No. I should believe no one was telling a falsehood unless I had some antecedent evidence against his character.

90. You had one rather unpleasant matter in connection with this gentleman, had you not?—I did not know it at that time. It was not till after that. But I will say this: I am getting an old man now, and the longer I live the more I believe that there is more good than bad in men.

91. Except Judges in the Native Land Court?—Well, they have traps, tricks, and pitfalls of every description from Native and Europeans. Honourable members can never understand how they are surrounded with difficulties and snares. You never know when you are safe.

92. There is a report of the proceedings of the Court over which you presided at Napier. On pages 12 and 13—

*Mr. Fenton*: I should like to say, with reference to my accepting Dr. Buller's word, that during the three years, I think, or more, that I was District Judge—that is, in a purely European Court, of course—I always made it a practice, when counsel said, "My learned friend is engaged, we have arranged that this case shall be struck out or adjourned," that I never declined to accept his word; and during all that period I was not once deceived.

93. *Mr. Stewart*.] You accepted the assurance of counsel?—I never would dream of doing the contrary.

94. *The Chairman*.] As a matter of fact, there was a withdrawal signed, which had been sent to your office at Napier?—Yes; it was on its way.

95. You did not see it till afterwards, of course?—No.

*Hon. Sir R. Stout*: Well, it was not correct, because it was not fully signed.

96. *Mr. Bell*.] Well, I want to get through this question of the Court. It is a question of law simply. Do you know whether this report is a correct report of what took place? You have your own minutes, have you not, of what took place? The report commences at the bottom of page 12, and is continued on pages 13 and 14. Can you say whether the report is correct? Have you your own minutes of what took place then?—Yes.

97. Can you produce them?—Yes.

*Hon. Sir R. Stout*: Is there anything in the newspaper report that is incorrect?

98. *Mr. Bell*.] Is there any matter of the report that you have any objection to?—Yes, I object to the whole of it, because there were no proceedings.