

No. 3.

Mr. FOUNTAIN to Mr. W. B. WHITE, R.M.

(No. 711.)

Colonial Secretary's Office (Judicial Branch),
Wellington, 4th October, 1872.

SIR,—

I have the honor, by direction of Mr. Sewell, to enclose a copy of a letter received from Mr. H. H. Fenton, complaining of your conduct as a Magistrate, in order that you may have an opportunity afforded you for making such remarks thereon as you may think proper.

I have, &c.

W. B. White, Esq., R.M., Mongonui.

R. G. FOUNTAIN.

No. 4.

The RESIDENT MAGISTRATE, Mongonui, to the Hon. the Colonial Secretary.

SIR,—

Resident Magistrate's Office, Mongonui, 20th September, 1872.

I have the honor herewith to forward a complaint made by Mr. G. Kelly, Clerk to this Court, against Messrs. W. Butler and H. H. Fenton, Justices of the Peace, for conduct unbecoming their position. I am not able to say more than I regret the occurrence very much, as I was not present in Court, Mr. Fenton having very unjustifiably subpoenaed me as a witness, thereby preventing my presence on the Bench, though I was not called upon to give evidence: indeed I could not have given any material to the case.

I forwarded the charges to Messrs. Ball and Anderson, the Justices who sat in the case, for their remarks, for the information of the Government.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

W. B. WHITE, R.M.

Enclosure in No. 4.

Mr. G. KELLY to Mr. W. B. WHITE, R.M.

Fenton v. Frear.

SIR,—

Resident Magistrate's Office, Mongonui, 12th September, 1872.

I very much regret to have to report the conduct of H. H. Fenton, J.P., and W. Butler, J.P., of this district, but I feel it to be my duty to do so. The conduct of these gentlemen towards the Bench, and towards me in particular, throughout the whole proceedings in the above case, which came before this Court on the 27th August last (in which Mr. Fenton was the informant), was most insolent and disgraceful. Thomas Ball, Esq., and A. Anderson, Esq., were presiding Justices. My complaints against Mr. Fenton are as follows:—

That he made a most pointed attack against me while conducting his case, by putting the following questions to the witnesses:—"Have you had any conversation with the Clerk of this Court about this dog since the commencement of proceedings—have you had any advice from him?" To another witness, "Have you had any conversation with the Clerk of this Court with reference to this matter? Have you received any advice from any functionary of this Court on this matter? Have you heard it discussed by any functionary of this Court? Have you heard it argued by the functionaries of this Court that there must be a nonsuit against me?" Also, further, putting such questions as to elicit the following answer:—"I have not had any money encouragement to defend this case; I have not been encouraged by Mr. Kelly, or any one else before me, to defend this case." Also, that he took every advantage of the leniency of the presiding Justices, having subpoenaed the Resident Magistrate, whom he did not call upon to give evidence, thereby depriving the Court of his knowledge in conducting the case; did all he could to mislead the Bench, and cause the case to be conducted in an informal and irregular manner, interfering with me in my duties as Clerk to the Court by interrupting me when called upon by the Justices for advice as to the proper mode of conducting the proceedings; and that he made use of the following improper language:—"I call upon the Bench for protection inside this Court; I can protect myself outside the Court." Also, that on a previous occasion he made use of his position as a Justice of the Peace to try and influence a vote in the late election of a member of the Provincial Council of Auckland.

My complaints against Mr. Butler, J.P., are, that during the proceedings in the above case he took his seat in the Court, telling the Justices that he declined to sit on the Bench as his son-in-law (Mr. Fenton) was the informant, but that he was determined to sit and watch the case, but would render them any assistance he could in the shape of advice, as he had had more experience in these matters than either of them; that instead of advising he did everything to mislead the Court; and that on the morning of the 30th August he came to this office, in company with Mr. Fenton, and tried to intimidate me to cause me to give up the depositions in the above case to the informant (who had appealed against the judgment) to copy, by telling me that I would have to pay the whole costs in this case awarded by the Supreme Court for having refused to do so. This occurred in the presence of Mr. C. M. Masters, Native School Teacher, Pukepoto.

I beg, Sir, to request that you will be good enough to forward these complaints to the Government, and urge that an inquiry may be held on the conduct of these gentlemen, which I have represented in the mildest form possible, and for further corroboration of these statements I beg to refer you to Thomas Ball, Esq., and A. Anderson, Esq., Justices of the Peace.

I have included my complaints against both these gentlemen in one letter, as they acted conjointly throughout the whole proceedings. Upon all occasions Mr. Fenton was accompanied by Mr. Butler