

17. In reply, I received, on the 7th November, 1889, from the Hon. the Native Minister, a letter, a copy of which also appears on page 7 of the exhibit marked A hereunto annexed, in which it was intimated that the suggestion which I had made as to the propriety of appointing an additional Judge of the Supreme Court, to whom the work of the Commission should be assigned, was of such importance that he had determined to submit it for the consideration of the Cabinet upon the return of the Premier to Wellington.

18. I heard nothing further of a formal character upon the matter for a very considerable period.

19. I saw the Hon. the Native Minister once or twice, and I had some conversation with him upon one or two points connected with the subject, particularly with reference to the case of *Poaka v. Ward*, which was then under appeal to the Court of Appeal; but the Hon. the Native Minister said nothing to commit the Ministry in any way, either to adopt the course I had suggested or to confer any appointments upon me if they saw fit to adopt my suggestion.

20. At some considerable time after these interviews with the Hon. the Native Minister it came to my knowledge that the Ministry had determined to appoint an additional Judge, and to assign the work of the Commission to him, and it also came to my knowledge that the offices so to be created had been offered to another member of the Bar, who was my informant, and who, after considering the matter, had declined, for reasons personal to himself, to accept them.

21. After this a considerable time—I should think three or four weeks—elapsed before I again heard anything about the matter. At some time towards the end of February—I should think about the 20th February, but I have no record of the date—I received a message from the Hon. the Premier requesting me to call upon him at his office; and upon my doing so he offered me the offices in question, and I accepted them.

22. Later I received from the Hon. the Premier a letter dated the 1st March, which with my reply thereto, was laid upon the table of the House of Representatives during the session of Parliament of 1890. Copies of the said letters are set out in the 5th and 6th paragraphs of the Plaintiff's Statement of Claim in this action.

23. At the time of my acceptance of the said appointments I was a barrister and solicitor in large practice in the City of Wellington, and I had carried on the practice in which I was then engaged, either in partnership with other persons or alone, since the 1st day of May in the year 1877.

24. I accepted the said appointments in good faith, believing that the same were made by His Excellency the Governor by the advice of the Responsible Advisers of the Crown for the time being in the colony in the public interest, and believing also that the power of the Governor to make the said appointments was clear and unquestionable.

25. In consequence of my acceptance of the said appointments at such short notice I was compelled to dispose of my practice for what I could get, and I received from the sale thereof the sum of £500, and no more.

26. Since the date of my said appointments, and up to the 31st day of March last, my salary as a Judge of the Supreme Court of New Zealand was duly and regularly paid.

27. The exhibit hereunto annexed, marked A, contains in the twelve pages thereof the complete correspondence up to the present date between the Ministry at present holding office and myself, and between the Ministry aforesaid and his Honour the Chief Justice so far as the same has been officially communicated to me by him, except as hereinafter mentioned.

28. The exception in the last paragraph mentioned is that enclosed with my letter to the Premier of the 26th February, 1891. Appearing on the fourth page of the said Exhibit A was a memorandum setting forth my views upon the validity of my appointment. This memorandum does not appear in the said exhibit, because the facts therein stated have been found in some minor and immaterial particulars to be inaccurate, and because in some respects I have modified my views as to the deductions of law therein set out, although my own view as to the validity of my appointment has been strengthened, and because my arguments of law are properly submitted to this honourable Court by argument in open Court only.

29. There have been no verbal communications between the present Ministry, or any member thereof, and myself.

30. The validity of my appointment as a Judge of the Supreme Court of New Zealand was first questioned by the Government of the Colony, to my knowledge, in the letter of the 23rd February, 1891, from the Hon. the Premier to his Honour the Chief Justice, which appears on page 3 of the said Exhibit A.