

MINUTES OF EVIDENCE.

FRIDAY, 19TH NOVEMBER, 1897.—(Mr. MEREDITH, Chairman.)

The Chairman : After what passed at our last meeting, I thought it right to consult the Speaker on the question of summoning witnesses and defraying their expenses. Mr. Speaker informed me that it was not parliamentary usage to summon witnesses for petitioners at the public expense. In cases involving great principles it was sometimes done.

Mr. Phillips : As I knew this question would come up, at the last meeting of the Committee, you will remember, I declined to go to any expense in summoning witnesses. But, however, in order to meet the wishes of honourable members, I did ask two or three witnesses to attend. One of them declined to do so. I think the majority declined to attend unless they were subpoenaed—so that I am in this position: that I have no witnesses. The power rests entirely with yourself. If you desire this matter to be gone into, I think the witnesses will not attend unless you summon them. I have, however, one witness here who has kindly consented to come before the Committee. As his time is much occupied, I would feel obliged if the Committee would allow him to be examined on a few relevant questions and then allow him to leave. I mean Mr. Bell.

The Chairman : I do not think at this stage of the inquiry it is desirable that Mr. Bell should come before the Committee and give evidence, for this reason: the Committee might desire to ask Mr. Bell questions. It might, perhaps, be better to have his examination later on, at a later stage of the inquiry.

Mr. Phillips : Mr. Bell is Mayor of this city (Wellington), and his time is much occupied. If he is not heard now, it may be impossible to have his attendance again.

The Chairman : Very well, then we will take Mr. Bell's evidence now, as desired by Mr. Phillips.

Mr. H. D. BELL examined.

Mr. H. D. Bell : I understand that Mr. Phillips asks me to give evidence in respect to the petition in the licensing election. I conducted the case for the petitioner. It was proved, in regard to the conduct of the Returning Officer, that he refused the nomination of two gentlemen who were candidates on the ground that they were shareholders in the Wairarapa Farmers' Association. It was proved that Mr. Deller had four shares, and Mr. Adam Armstrong, finding that he had four shares, refused his nomination. It was alleged that Mr. Armstrong went out of his way to find this out. The point in the case was this: A Returning Officer cannot be cast in costs unless he has been guilty of something worse than a mere mistake or an error of judgment. That was the contention. The Magistrate who heard the petition was of opinion that Mr. Armstrong's conduct was the result of more than an error of judgment, and costs were allowed against him. I understood that Mr. Phillips offered to adduce instances of the Returning Officer's misconduct. It was on subsequent proceedings that the misconduct of the Returning Officer was indicated. I understood that the question then was whether he was a fit man to hold the position of Returning Officer. He is Returning Officer under the Licensing Act because he holds that position under the Electoral Act.

The Chairman : This is how his other conduct has come to be relevant.

Mr. Phillips : My nomination was refused. Mr. Armstrong refused two other nominations; and what is complained of is that this was done through partisanship.

The Chairman : That, acting from strong partisanship, he refused your nomination?

Mr. Bell : I understood that the question of partisanship was proved by his conduct in the subsequent election.

Mr. Phillips : It was proved that Armstrong's refusal to receive my nomination was worse than a mistake; that it was the result of partisanship. That was shown by the way he behaved immediately after, when he refused the nominations of Messrs. Deller and Grace. He went out of his way to refuse those two other nominations through partisanship.

The Chairman : I understand that Mr. Bell appeared for the prosecution in the case of refusing your nomination?

Mr. Bell : I was saying that the question of costs came on for determination, after the Magistrate held that the grounds of Mr. Armstrong's objection to the nomination was ludicrous. It was then the question of costs arose. Costs cannot be given against a Returning Officer in the matter of an election unless he has done something more than having committed a mistake or error of judgment. The Magistrate, in delivering his judgment, said he had conducted himself in such a way that he ought to be visited with costs, and the Magistrate made the order for him to pay costs. Mr. Armstrong subsequently sued for his expenses. One of the defences to that action alleged that the judgment of the Magistrate went upon the ground that he had been guilty of misconduct—that he had refused these nominations on simply ridiculous grounds. The Chief Justice, in deciding the case on other grounds against Armstrong, gave an opinion that, if that plea were proved, he should be deprived of his expenses on that ground.

1. *Mr. Armstrong.*] Was this petition defended?—You were in Court.

2. Did I not say that the County Council would not find the means for a solicitor?—You did say that.

3. I said in my evidence that members of the Committee who were going to be nominated were original shareholders?—I think you did say that.