

*Mr. Stafford* : If the Act is construed as *Mr. Baldwin* wishes, the Court would have to go back to 1873 and reinvestigate the title to the land. This would be monstrous. The Act assumed that the persons in the certificate were the *cestuis que trustent*.

*Mr. Baldwin* : I am now instructed to act for Kipa te Whatanui, who has sent in an application. We claim that Major Kemp is a trustee for certain Ngatiraukawa.

*Mr. A. McDonald* asked to be allowed to appear for Himiona Kowhai. Suggested that any one should be allowed to set up a claim provided that they were prepared to pay costs of Court.

*Sir W. Buller* objected.

*Mr. Baldwin* still claimed that all persons who could prove that Kemp was their trustee in 1886 and 1873 could come in.

*Mr. Stevens* : The Legislature never contemplated making the land *papatupu*. Kemp could not have been trustee for the Ngatiraukawa, because none of them appear in the lists.

*The Court* : It is clear to the Court that its jurisdiction is confined to the persons who appear in the certificate of 1873 and the forty-eight persons. *Mr. Baldwin* appears to rely too much on the provisions of the Equitable Owners Act. Those provisions are only imported into this Act for certain purposes, which are clearly set out in section 4 of the Horowhenua Block Act.

*Mr. Stafford* would like to know what Kemp's position was. He had held a Land Transfer title, but it had been taken away by the Horowhenua Block Act, and he could not claim as a *cestui que trust*.

*Sir W. Buller* stated that Kemp was the beneficial owner of Section 14, and that the Horowhenua Block Act provided that if the Court decided there was no trust the title would reissue to him.

*The Court* : The question is whether Kemp's title is destroyed or only suspended.

*Mr. Beddard* argued that the Court had power to decide the question of trust, and, if there was no trust, to order that the title should reissue to the original owner.

*Sir W. Buller* contended that Kemp was beneficially interested in Section 14 as absolute owner, and therefore could apply. Kemp had both a legal and equitable title. He was entitled to make the application even if only as one of the 143.

*The Court* suggested that the better plan would be for *Sir W. Buller* to allow the other parties to assail Kemp's title.

*Mr. Stevens* said that it appeared that Kemp's application was technically wrong, and that *Sir W. Buller* was seeking to have it amended. In his opinion, the proceedings would be shortened by taking Horowhenua No. 11 first. It was the largest block, and if No. 14 was taken first it would be necessary to go over the whole of the evidence again when No. 11 was dealt with. He asked that No. 11 be taken first.

*The Court* : The main question is, Who is to begin in either case?

*Mr. Stevens* would have no objection to *Sir W. Buller* commencing so long as he did not lose the right of reply.

*Sir W. Buller* said he was ready to go on as soon as he knew who his opponents were.

*The Court* held that Kemp could not be a trustee and a *cestui que trust* as well.

*Mr. Scannell* submitted that, as *Mr. Stevens* was making a concession to *Sir W. Buller*, he was entitled to reply.

*The Court* : If *Sir W. Buller* begins he will have the right of reply. Is *Mr. Stevens* ready to disclose the names of all his clients?

*Mr. Stevens* asked the Court to decide who was to begin.

*The Court* : If *Sir W. Buller* wishes to put himself in what the Court considers a disadvantageous position, the Court will allow him to go on.

*Sir W. Buller* in that case would prefer his opponents' case being taken first.

*Mr. Stevens* again suggested that No. 11 should be taken first.

*Sir W. Buller* objected.

*The Court* did not see why No. 14 should not be taken first.

*Mr. McDonald* pointed out that Nos. 11 and 14 might be taken together.

*Sir W. Buller* would rather commence than have the two cases heard as one, but would like to know who his opponents were.

*Mr. Stevens* said that all the persons whose names appeared in the schedule to the Act claimed a beneficial interest in No. 14, but he only appeared for Wirihana and Warena Hunia, together with those who claimed with them.

*The Court* remarked that the majority of those in the schedules did not appear to be represented.

*Colonel McDonnell* handed in names of persons he acted for—viz., Teone Broughton, Kate Broughton, and Emily Broughton, and stated that Te Raraku wished to make an explanation to the Court.

*The Court* decided to hear her, and she said that Kemp claimed to be the sole owner of No. 14. Neither she nor those with her disputed his right to do so. Did not object to Kemp having the whole of No. 14, because he was not awarded any other portion of the block for himself in 1886, whereas all the other Muaupoko had awards made to them.

*Paki te Hunga* preferred a claim to Section 14, and said that there were others with him, but that their conductor had not arrived. He objected altogether to this section going to Kemp alone.

*Rangimairehau* appeared on behalf of all Muaupoko. Did not oppose Kemp's claim to the whole of Section 14. Took the same view as Raraku and party.

Special licenses were granted to *Colonel McDonnell* and *Mr. John Stevens* : £1 each paid.

The Court adjourned to enable *Mr. Stevens* and *Paki te Hunga* to prepare their lists of names.