

the Supreme Court. I do not know what the necessity for the wire was. I wrote a reply to be sent from Gisborne. It was in March, 1895. I was not then in the Government service. I was surprised at receiving the wire. It was unusual. It related to a dispute about No. 11, as to whether there was a trust or not. In my reply I said that I had not my notes with me. I knew at the time that my notes had been destroyed. When I reached home I telegraphed that Kemp held No. 11 in a fiduciary capacity. I think I included Warena also. I said also there was only one block in which Kemp had not acted in that capacity. No. 14 was not in dispute at that time. I did not consider that the telegram referred to it. It was not in my mind. I think the Commissioners should have asked me about the telegram if they attached any importance to it, because it may have appeared inconsistent, and I could have explained the apparent inconsistency away. I have no knowledge whether the telegram commented upon by the Commissioners had been proved in evidence. The telegram was written about No. 11 only. No. 14 was not in my mind. It was Kemp's own land, and I had no idea that there would be any dispute about it. [Horowhenua Commission, page 133, question 80, read, with reply.] I reaffirm that answer. I was referring to the proceedings of the second Court. I supposed that Mr. McDonald was reading from the minutes of the second sitting. My answer shows that. [Horowhenua Commission, page 132, question 50, read, with reply.] I affirm the whole of that evidence. I think I said something more on the point.

*Sir W. Buller* : I hand in Judge's notes. [Reads from them : "They were afraid that if all were put in, that individuals would sell," &c. Notes handed in.]

*Witness* : I reaffirm that evidence. It is correct. I understood that No. 11 was to be kept unbroken as a permanent dwelling-place. If No. 11 had not been broken up, Kemp would have had no separate award. As a Court we had nothing to do with what anybody got so long as all agreed.

*Sir W. Buller* : I put in the judgment of the Chief Justice, given when the Horowhenua Block was before him.

[Horowhenua Commission, page 133, question 77A, read.]

*Witness* : My answer referred to Kemp's scheme for partition. [Horowhenua Commission page 133, question 80, read.] I had confidence in the clerk.

*Sir W. Buller* : I put in certified copy of document I examined the witness upon. I have no more questions.

Cross-examined by Mr. A. McDonald.

*Judge Wilson* : I consider my memory sufficiently good to enable me to make alterations after a space of years. I have sometimes to make alterations.

*Mr. McDonald* reads from Native Land Court minutes, vol 7, page 182, *et seq.*, Kemp's evidence, from "I am the applicant in this case," &c., to end of Kemp's evidence. Also, evidence given by himself, pages 183 and 184. Also, evidence given by Mr. T. W. Lewis.

*Witness* : There were three orders made on that day for Nos. 1, 2, and 3. The objection raised by Nicholson was to what is now No. 14. That was never awarded to the descendants of Te Whatanui. No. 14 was not the section awarded as No. 3. There was something said by Kemp about Whatanui's descendants having No. 14 instead of No. 9, but that they declined it. I am certain that Nicholson objected to No. 9 because it was too sandy, being near the sea.

*Mr. McDonald* reads from vol. 7, page 188.

*Witness* : The 1st December, 1886, was the beginning of the valid proceedings of my Court. The Chief Judge was in Palmerston at the time, and coincided with this view.

*Mr. McDonald* reads further extracts from vol. 7, pages 188, 189, and 190 : Kemp's evidence, "I am aware that we are to make subdivisions," &c. [read to end.]

*Witness* : The 1,200 acres there described is the same 1,200 acres as mentioned in the morning of the same day and also at the first Court. It is the only 1,200 acres dealt with. Kemp's 1,200 acres has not yet appeared.

*Mr. McDonald* quotes from vol. 7, page 200, "Application from Major Kemp for confirmation," &c.

*Witness* : My explanation of that is that something may have previously been said about a section for Kemp. I know that No. 14 had been before the Court in the morning of the same day.

*Mr. McDonald* reads from vol. 7, page 193.

*Witness* : I repeat that No. 14 was awarded to Kemp for himself after an award had been made to him for the descendants of Te Whatanui. If the No. 14 had not been properly awarded to Kemp it was open to any of the owners to apply for a rehearing.

The Court adjourned till the 27th instant.

LEVIN, SATURDAY, 27TH FEBRUARY, 1897.

The Court opened at 10 a.m.

Present : The same.

No. 1, Horowhenua No. 14, resumed.

*Mr. Baldwin* asked to be allowed to appear on behalf of the Crown, and produced authority.

*Sir W. Buller* objected, unless Mr. Baldwin could show statutory authority.

*Mr. Baldwin* claimed that the Crown could appear in any Court. In this case the Crown was concerned in seeing that the grants were issued to the proper persons. He quoted authorities in support of his contention that the Crown had a right to be represented in any Court where a probability was likely to arise that its rights would be invaded.

The Court would like to hear what Mr. Stafford had to say on the question.