

Mr. Stafford said that he was not prepared to state what the actual legal position was, as he had not had an opportunity of looking into the question, but he was of opinion that under the circumstances it would be advisable to allow the Crown to appear as it might be the means of facilitating a final settlement of the whole question. He would ask the Court to look at the question from that aspect and allow the Crown to be represented.

Mr. Beddard opposed the opinion expressed by *Mr. Baldwin*, that the Crown had an inherent right to appear in a Court of civil jurisdiction. He quoted authorities to show that the Crown could only appear in civil cases in the same manner as a private individual could. *Mr. Stafford* had not dealt with the legal aspect; his argument bore upon the expediency of the case alone, and did not touch the point at issue.

The Court stated that upon hearing counsel it had decided to grant the application made by *Mr. Baldwin* to appear as counsel on the grounds of expediency, as it did not recognise the inherent or constitutional right of the Crown to appear before it except in a similar manner as a private individual could, but as the Horowhenua Block had been the subject of so much litigation, and the circumstances associated with it were of a peculiar nature, it seemed advisable to permit counsel to appear, but it must be understood that it was not to be looked on as a precedent in regard to other cases.

No. 14 was not awarded by any Court to Kemp for the Ngatiraukawa. There was something said in my Court by Kemp about his having offered it to the Ngatiraukawa. It was never offered to them in my Court. Outsiders are much more likely to be confused than I am. They had their meetings outside as well as hearing the proceedings in the Court, whereas I only heard what took place in Court.

From memory I say that I never made an order for any part of No. 14 vesting it in Kemp for the Ngatiraukawa. No. 14 did not cross the railway until after the survey. The order finally made to Kemp for No. 14 was confined to the eastward of the railway. I did not make any order to Kemp on the 25th November, 1886, for the portion of what is now known as No. 14, east of the railway, for the purpose of its being conveyed to the Ngatiraukawa. It was spoken of in the Court, but no order was made until after No. 10 was dealt with.

Mr. McDonald here put a question to witness, and afterwards withdrew it.

Witness: We were told in Court that part of what is now No. 14 had been offered to the descendants of Whatanui outside of the Court and that they refused it.

[Horowhenua Commission, page 161, questions 89 to 98, Nicholson's evidence, read.]

Witness: I should like to hear all the quotations you intend to make from the evidence taken before the Horowhenua Commission before replying.

[Evidence from Horowhenua Commission read by *Mr. McDonald*, as follows: Page 274, answer 222, to end of witness's evidence; page 145, questions 27 to 31, Waata Tohu's evidence; page 156, question 341, Paki te Hunga's evidence; page 169, questions 354 to 360, Himiona Kowhai's evidence; page 276, question 304, Rawinia Ihai'a's evidence; pages 331, 332, same witness; and page 28, question 113, Major Kemp's evidence.]

Witness: The evidence you have read has not altered my mind—that of Nicholson alone is worth replying to. His evidence taken with what appears in the minute-book goes to show that his objection in Court was to what is now No. 14, but I am clear that there was no order for it. The locality appears to have been mentioned. I am quite sure that No. 9 was objected to because it was sandy. At the first sitting No. 14 seems to have been sufficiently delineated to enable Nicholson to identify it, but it was taken out of the Court and brought in again as No. 9. I remember you asking my permission to take a tracing. Do not remember whether I saw the tracing. I remember that *Mr. Lewis* was at Palmerston on the 25th November, 1886. Kemp said in Court that he had offered the land that afterwards became No. 14 to the Ngatiraukawa and that they refused it. After No. 10 was disposed of Kemp applied to the Court to award No. 14 to him in accordance with their agreement; objectors were challenged. There is no minute of this.

To Court: Kemp did not hand in a list for No. 14.

[File handed to witness.]

Witness: I see that lists were handed in. I had forgotten. We were more careful than I thought we were.

The Court announced that it intended to sit in the afternoon, as Judge Wilson wished to get away.

Mr. Stevens asked the Court not to release Judge Wilson from attendance after this case, as his evidence would be necessary in other cases.

Mr. Baldwin asked that Court adjourn till Monday to give him an opportunity of getting up his case.

Mr. Stafford suggested that if case were adjourned till Monday Judge Wilson's evidence could be got through on that day.

The Court agrees to adjourn accordingly.

The Court adjourned till 10 a.m. of the 1st March.

MONDAY, 1st MARCH, 1897.

The Court opened at 10 a.m.

Present: The same.

No. 1, Horowhenua No. 14, resumed.

Mr. McDonald asked to be allowed to put two questions to Judge Wilson.

Judge Wilson (to *Mr. McDonald*): I know nothing about *Hansard*. I never see it. [Horowhenua Commission, page 131, questions 25 to 27 (witness's evidence), read to witness.] That refers to No. 11. I remember the questions and answers perfectly. I still say that it describes a