

*The Court* stated that it was premature to ask it to interfere until some questions arose to necessitate its intervention. It deprecated these passages-at-arms, and had endeavoured on all occasions to keep the parties from personal recrimination. It hoped now that, as each side had promised to observe proper demeanour towards each other, there would be no occasion for it to interpose again.

*Mr. McDonald* called Sir Walter Buller.

Sir WALTER BULLER sworn and examined.

*Witness*: My name is Walter Lawry Buller. I reside at Wellington. I remember making a speech and answering some questions in October, 1895. [*Hansard*, page 982, question and answer read by McDonald: "A. I am aware of the arrangements which led," &c.] I gave that answer to a question put me by the Minister of Lands through the Speaker. It is impossible for me to say how I got the information, but it is what I had in my mind at that time. I gave the answer believing it to be substantially true. I gave it partly on Kemp's authority, but not altogether. The question was put to me hurriedly. I had been in constant communication with the Muaupoko then. I gave a frank answer to the Minister of Lands. I thought at that time that the Ohau section extended to Papaitonga Lake. I said the award was afterwards made by consent. I understood it had been marked off on the plan. I don't say that it was marked off before it was awarded. I intended to convey the impression that those who were entitled to object refused the section first offered them because they wanted it in another place. I assumed that all who were entitled were represented at Palmerston. I think so still. Nicholson has said so. Some were absent, no doubt. By the word "they" I did not mean the descendants of Whatanui, who were in Palmerston. At that time no rumour of any trust had reached me. As a matter of fact I had not Pomare in my mind before the House. I don't think I had heard of Pomare until time of Commission, but Kemp may have spoken to me about him. When I said that Kemp's ownership of Papaitonga is undisputed, I had in my mind the time of partition in 1886. I can't say who I got the information from. My statements were facts, so far as I knew. I was not pleading for Kemp or any one else. I think I satisfied Parliament that I was frank and open with them to the best of my knowledge and ability. Everything I said was absolutely true. [*Hansard*, page 986; question by Mr. Carroll, and reply, read: Q. "Was not the Horowhenua Block," &c. A. "It was first of all by Major Kemp, and offered," &c.] That was the answer I gave to Mr. Carroll's question. [Q. "Did not the Whatanui family elect," &c. A. "They did," &c.] That was my answer. [Q. "When the Whatanui family," &c. A. "Because the people agreed that this should be Major Kemp's allotment," &c.] That was my answer. It is impossible for me to say what impression was produced by what I said. I only intended to convey the meaning the words bear. They are plain English. I don't say that No. 14 then existed as a section. I was speaking of No. 14 as we know it now. These questions were not formulated by me; they were put by Carroll. I knew they referred to No. 14, and answered accordingly.

*Sir W. Buller* asked to be allowed to put in all the questions put to him, and his replies thereto—the whole of the Appendix to *Hansard*, No. 37, 1895.

*Witness* (to McDonald) [*Hansard*, page 976, paragraph 10 of petition, read: "In the month of February, 1890, a sitting of the Native Land Court was held at Palmerston," &c.]: I admit that I drew the petition, and am responsible for the expression "a fiction of law." I interpreted the petition before Kemp signed it, and he perfectly understood it. I believe I was his professional adviser at the time, and the professional adviser of many other of Muaupoko. When I first took the matter up for Kemp and Muaupoko I was informed that Warena was declaring himself an absolute owner, whereas Kemp held that he was a trustee for the tribe. I was informed that Kemp had executed a declaration of trust, and tried to compel his co-trustee to do the same. All this was in my mind when I drew the petition. So far from any desire to rush my clients into expense, I not only did not take a shilling from Kemp myself, but I advised him to exhaust every remedy before going into Court. I was aware of what had been done in what was called "a compromise," the proposed compromise being that Warena and Kemp should each have a big slice, and the rest go to the people. I had this information from Kemp and Muaupoko. I said that I would be no party to any compromise: there was either a trust or no trust. [Reads from *Hansard*: "I was instrumental," &c.] It did not occur to me to advise the people to call the two chiefs before them and ascertain what they would do, because I was instructed that Warena insisted that he was an absolute owner. I did not propose any meeting of the tribe, for I knew it would be hopeless after what had taken place, but I twice approached Parliament on behalf of Kemp and Muaupoko, and used my influence with Mr. Seddon to pass a short Act setting up a tribunal to ascertain whether there was a trust or not, so as to avoid expense. [Reads Horowhenua Commission, page 31.] While I was endeavouring to get the relief I sought for Kemp and Muaupoko I wrote the following letter to Mr. Seddon [Horowhenua Commission, Exhibit Av. 1, read]. The object was to set up a tribunal to ascertain whether Kemp and Warena were trustees. It was not until the Government had purchased the State farm that I advised Kemp to go to the Supreme Court. I had no personal communication with Warena. Donald Fraser had. Mr. McDonald and Donald Fraser both said before a Committee of the House that Warena claimed the land in his own right, but that he would make some provision for the tribe. That was a position I absolutely refused to recognise. I told Mr. Stevens this, when he told me at the time that the matter might be arranged. It was my opinion that I could only get justice for the people by undoing what had been done by what I call "a fiction of law." The Judges had no option to do anything but to go on with the partition in 1890. This was what I may call "a fiction of law." I was not acting for Kemp till August, 1892. I did not advise Kemp then to convey his portion of the land to the people, because he did not recognise all the owners. He only recognised the rights of the *ahika*. His prayer all along was that the Native Land Court should ascertain who were the permanent