

Allegation No. 3: That the section actually awarded in the Court on the 25th November, referred to on the morning of the 1st December, and finally awarded on the afternoon of the 1st December, was from first to last identical with the section now No. 9, or Raumatangī section. This allegation is disproved to a great extent by the reply to Allegation No. 1. See also evidence of Judge Wilson: "There was an abortive attempt made to put the land now 14 through the Court for Te Whatanui's people." Nicholson's objection of the 25th November was to what is now 14. (Judge's notes, page 56.) "I should not like to swear that no order was made on the 25th for the section now No. 14." "It may have been between the two Courts that Mr. Lewis withdrew the land from the Court."

Allegation No. 4: That Major Kemp made application in Court on one day (fixed by Major Kemp to be the same day as that on which the square foot was awarded—viz., the 2nd December) to have the Ohau section, now No. 14, awarded to him for his own use and benefit, but that the Court made no order on that day on the application. In reply to this allegation, I would point out that this is an absolutely new theory set up by Judge Wilson, and eagerly caught up and followed by the claimant and his Maori witnesses. The theory was not heard of or suggested at any former investigation *re* Horowhenua. If allegation No. 3 is true, how did the Ohau section, with a figure 3 on it, come to be on the Court plan when this present alleged application of Major Kemp's on the 2nd December was made? There is not the slightest hint of any such application recorded in the minutes of the Court of 1886, and it is not credible that so important an application should pass without notice by the Clerk of the Court. Judge Wilson says the application gave him a shock. How, then, is it credible that the Clerk took no notice whatever of the matter? I submit that the story of this application as told by Judge Wilson is simply an afterthought to explain the words "confirmation of that order" in the application of the 3rd December. I regret to have to add that this is not the only instance in which Judge Wilson, as we shall see presently, has simply evolved a tale out of his own imagination to avoid being compelled to admit that he had made a mistake in thought or in action. I submit that the allegation under review is without solid foundation in fact, and does not need for its rejection the positive contradiction of counter-claimants or their witnesses. See also Report of Royal Commission, page 139, question 223, *re* the Judge's memory: "Gets an idea in his head and keeps it for years; then finds he was wrong." See also page 99 questions 52, 53, and 56: "Kemp, caretaker for all the blocks, including 14" (evidence of Rangimairehau); page 103, questions 218 and 219 (evidence of Makere te Rou); page 108, questions 429 to 439 (evidence of Kerehi Tomo); page 118, questions 4 to 8 (evidence of Kerehi Tomo). Both in Kemp's name until descendants of Te Whatanui decided.

Allegation No. 5: That on a succeeding day (fixed by Judge Wilson as the last day of the Court—viz., the 3rd December) Kemp renewed his application to have the Ohau section, now No. 14, awarded to him for his own use and benefit, and that the Court then made the order accordingly; and, further, that the minute, "Applications from Major Kemp (f. 200, B.7) for confirmation of that order," &c., is the renewed application referred to in this allegation. In reply to this assertion Judge Wilson, in the earlier part of his evidence, 26th February, 1897 (page 7, my notes), propounds a theory of explanation of the words "confirmation of that order" in the minute. He suggests that the interpreter, clerk, and Kemp, between them, made a mistake. He thinks it probable that Kemp used the word "*whakatatuturu*," which the interpreter translated "confirmation," and the clerk took the word from the interpreter and wrote it down. But when this explanation broke down in all its parts, partly under cross-examination, but chiefly by the simple inadequacy of it as an explanation, the Judge at once evolves out of his own imagination this new theory rather than frankly admit that he had been mistaken in taking the application of the 3rd December as an application for a section not previously dealt with by his Court. But this new theory also is inadequate. According to Judge Wilson's own story, he made no order at all on the alleged previous application of Kemp. Why then use the words "confirmation of that order"? Judge Wilson, however, offers no further explanation; nor do any other of the claimant's witnesses. They simply follow as carefully as they know how in the track suggested to them by the Judge. I submit that, as in the case of Allegation No. 4, this allegation (No. 5) does not need the positive evidence of the counter-claimants' witnesses to insure its rejection by this Court. See also evidence of Judge Wilson, Report of Royal Commission, page 135, question 110, for another version of explanation. See also Rangimairehau's evidence, Report, page 89, questions 207, 208. Notwithstanding leading questions, Rangimairehau says he did not hear Kemp apply in Court for No. 14.

Allegation No. 6: That at a meeting of Muaupoko, in Mr. Palmerson's barn, Major Kemp asked Muaupoko to allow him to take the land, now No. 14, for his own use and benefit, and as his share, or part of his share, in the Horowhenua Block. With reference to this, I would state that, apart from the legal objection applying equally to all the alleged "voluntary arrangements" of Muaupoko for partition of the Horowhenua Block, particular legal objections lie against this alleged transaction, as, for instance, that Major Kemp had not then, either in fact or by inference, divested himself of the character of trustee which he had held as from 1873, and could not therefore be a party to this alleged "voluntary arrangement" for his own benefit. Moreover, apart from all merely legal objection, the story of witnesses touching this alleged meeting and arrangement to allot this section to Major Kemp as his share or otherwise is too inconsistent to be believed. Kemp's own evidence is simply that the meeting agreed. Rangimairehau says the whole meeting audibly assented with a hearty "Ae." Raniera says, "No one spoke; all were silent." Ru Davis says, "Te Kiri only spoke, and she only said, 'Who can gainsay you?'" If there is any truth at all in this witness's evidence it only shows that the relation of trustee and *cestuis que trustent* was so potent that a Court of equity would certainly set the transaction aside as absolutely void. Raniera and Rangimairehau swear that Alexander McDonald was present at the meeting, and the latter points out the exact position in the barn which Alexander McDonald occupied, but Alexander McDonald swears that he never at any meeting or elsewhere heard Kemp, or any one else, propose or suggest that the