

I now proceed to quote the evidence on which I rely. [Appellate Court minute-book, Vol. 31, pages 62, also 43, 42, 55, 56, 62, 63, 66, 79, 80, 84 (Judge Wilson); Vol. 31, page 313 (McDonald); Vol. 31, page 369 (Nicholson); Vol. 31, page 108 (Rangimairehau). Horowhenua Commission, page 98, question 1, *et. seq.* (Rangimairehau); pages 161, 162 (Nicholson); page 28, question 113; page 32, questions 205, 181. Native Land Court minutes, Vol. 13, page 177, Vol. 14, page (Kemp). Horowhenua Commission, page 52, question 124, page 59, question 17, page 60, questions 18 and 19 (Wirihana Hunia).] This, then, disposes of the proceedings at Mangakahia's Court, and it is, I submit, conclusively proved to the satisfaction of this Court that No. 3 in Mangakahia's Court was the section at Ohau. I will pass on from that Court. It appears that the Court shortly after adjourned to the 27th November. It would seem that prior to that date the Assessor, Mangakahia, left for home, and several days elapsed before the arrival of a new Assessor. Judge Wilson sat on the 27th, and purported to adjourn the Court until the 1st December. This step was a very questionable assumption of jurisdiction, and, although it has been held by the Supreme Court that a Judge acting alone had power to adjourn a Court under the Act of 1880, the point is not clear from doubt. It is possible that the whole of the proceedings subsequently to 27th November for this reason became invalid. With that point, of course, this Court will, I presume, have nothing to do. During the interval between Mangakahia's Court and the resumption of the Court on the 1st December a large amount of work seems to have been done by the Muaupoko outside the Court.

In the first place, with regard to the piece of land for the descendants of Te Whatanui. Shortly after the adjournment of the Court Mr. Lewis received a telegram containing the information that the land for the descendants of Te Whatanui was to be near the Horowhenua Lake. This he communicated to Major Kemp and, among others, Nicholson. [Appellate Court minute-book, page 324 (McDonald); page 367 (Nicholson).] The news was received by the Muaupoko, to whom Kemp alleges he communicated it, with great expressions of anger and dissent. And there was reason for this. Although at the present time, to Europeans, No. 14 might possibly be a more desirable block than No. 9, it must be kept in mind that No. 9 was, from a Native point of view, and especially from a Muaupoko point of view, in 1886, a far more desirable section. In the first place, No. 14 lay right at the extremity of their block, and joining the Ngatiraukawa land to the south. It was, moreover, bush-covered, and in part hilly, stony land; besides which it did not trench in any way on any fishing-waters or grazing-lands of the Muaupoko. Any section proposed to be given near the Horowhenua Lake was, on the contrary, of necessity, a section of land right alongside and adjacent to the fishing-ground of the Muaupoko, and right in the centre of their residential block. Moreover—a still more serious objection from a Maori point of view—it was difficult to locate it in any position which would not interfere with cultivations or burial-places of the Muaupoko inhabitants. Eventually, however, owing, probably, to the persistence of the Whatanui people, and to Mr. Lewis's influence, it was agreed that a section should be laid off somewhere near the Horowhenua Lake, and adjoining a small block—Raumatangi—which had been awarded in the Court of 1873 to the representatives of Te Whatanui. The exact location, however, was not quite definite. This was as far as the outside negotiations seem to have gone with regard to the land for the descendants of Te Whatanui.

Now, I do not propose, nor do I think it material in this case, to go carefully through what was done with regard to all the other blocks, but I would draw the Court's attention to certain subdivisions that were made. One was the subdivision for the Muaupoko residents—106 persons, of 105 acres each. It is noticeable that Major Kemp's name is not included, although in the list as originally handed in his name did unquestionably appear. The explanation given to account for that fact would appear to be that suggested by more than one of the witnesses, that the block I am about to mention next was given to Major Kemp by the tribe, and that the tribe considered that was a fair amount for him of the land then being cut up, if, indeed, the point ever presented itself to the Natives at the Court of 1886 at all. [Native Land Court minute-book, Vol. 32, page (Himiona Kowhai); page (Paki te Hunga).] In any case, however, the Muaupoko did consent to give Major Kemp 800 acres, the pick of the block, in order that he might pay a private bill of costs of his own, which were incurred in connection with other tribal lands in which other Natives were interested, and with regard to which the Muaupoko people had no concern or interest whatever. Even at that time this 800 acres was worth £3,200, and I submit to the Court that that in itself was a very substantial award to Major Kemp. For it must not be lost sight of that at that time the tribe were really only cutting up the comparatively useless portions of the block so far as they were concerned.

The whole of the land actually dealt with at that Court, with the exception of No. 9, in which case they had no option, was the heavily bush-covered land lying to the westward of the railway-line. This was land which had no particular value from a Maori point of view, and it was only in the anticipation of profitably leasing it to Europeans that the 105-acre sections awarded to the various Natives were of any value whatsoever. (*Hansard*, page 976, paragraph 4.)

Having, then, in their meetings disposed of this bush country to the westward of the railway, and having, with what grace they could, submitted to the giving at Raumatangi of 1,200 acres as an alternative section for the descendants of Te Whatanui, the Muaupoko then left the residue of the block intact. Adopting the words in Sir Walter Buller's own petition prepared for Major Kemp, and presented to Parliament in 1894, a copy of which appears in *Hansard*, page 976: "(5.) The effect of the partition amongst the owners, so far as it had now been carried, was to leave the residential portion of the block, called Horowhenua No. 11, containing 14,975 acres (then 15,207 acres), and including the whole of the Horowhenua Lake, quite intact. (6.) The tribe, having determined to keep this portion of the estate unbroken as a permanent home for the people, declined to have the partition carried any further, and moved the Court to order a certificate of title for the same, as before, in the name of your petitioner, Major Kemp (*Hansard*, page 976). No doubt this is true. The tribe at that time resolved to retain the balance of the