n due course of law terminated. It was herein contended that if in the proceedings on the subdivision the Native Land Court had not, with regard to Division 14, followed the directions of the Native Land Acts regulating the preliminaries to and the proceedings in the subdivision, then the so-called trust arising out of the certificate under section 17 remained, as to Division 14, unaffected by the subdivision. I am of opinion that the latter contention is not admissible, and that the first contention is the one which is supported by a purview of the Horowhenua Block Act. If it had been intended by the Legislature that the Native Appellate Court should ascertain whether or not the Native Land Court had in its subdivision proceeded in due course of law, the main and substantial provision would not have been as it is—that the Appellate Court should proceed under and exercise the jurisdiction conferred by the Native Equitable Owners Act. That Act was passed for the purpose of ascertaining whether, in any given case, a person, though appearing on the title to be absolute owner, had when obtaining that title been intended to hold, not for himself alone, but for others, or for himself and others: that is, admitting the validity of the title of the apparent owner, the Court was to inquire whether, though the person named in the title appeared to be absolute owner, he was nevertheless affected by an intended trust. It was not within the scope of that Act for the Native Land Court to ascertain whether, by reason of faulty proceedings in the Native Land Court, a title had been obtained which ought not to have been obtained, or which was intended should not have been obtained.

It was contended on behalf of the opponents of Major Kemp that section 15 of the Horowhenua Block Act is an independent section, conferring all the powers of "The Native Land Court Act, 1894," and "The Native Land Laws Amendment Act, 1895," and that whatever revising, correcting, or nullifying powers are conferred by these Acts are exercisable as to Division 14.

But the answer to this is that these powers are given for the purpose of carrying out the provisions of the Act. The purposes of the Act are, as I understand it, the ascertaining by the exercise of the jurisdiction given by the Native Equitable Owners Act whether there was any, and, if so, what, intended trust, and if a trust, then for whom, and the conferring of individual titles on any found to be entitled as beneficiaries. For these purposes the powers referred to in section 15 would be exercisable. The Native Equitable Owners Act contains but few provisions: it seems in that Act to have been taken for granted that the ordinary powers of the Native Land Court would be exercisable in the carrying-out of the Act. Section 15 of the Horowhenua Block Act is for the purpose of providing expressly as to the Native Appellate Court, in exercising jurisdiction under the Horowhenua Block Act, for what was assumed in the Native Equitable Owners Act to be the case with regard to the Native Land Court in exercising jurisdiction under the Equitable Owners Act.

Taking the view I do of the scope of the Horowhenua Block Act, the fact (if it be so) of the Native Land Court, in the subdivision proceedings, acting upon insufficient evidence of a voluntary arrangement not formally recorded, or omitting to formally cancel the certificate granted under section 17, or other such matters, are not subjects for inquiry under the Horowhenua Block Act with regard to Division 14. I think that the Appellate Court cannot go behind the Native Land Court subdivision orders. There is, of course, one matter upon which the orders are not conclusive. They are not conclusive on the question whether Major Kemp or others, though intended to appear sole beneficial owners, were intended not to be so in reality, but to hold subject to some trust.

The subdivision orders were in due form signed and sealed by the presiding Judge (Mr. Wilson) alone. This is in accordance with the law. The Assessor does not sign and seal such orders. It appears that the approval of the survey of the piece of land affected by the order relative to Division 14 was by the Judge alone, and without previous notice by advertisement. Even if there were any irregularity, or something more than irregularity, in this, the matter is not one for inquiry by the Appellate Court under the Horowhenua Block Act. Even if it had been, I should have been inclined to the opinion that in subdivision proceedings each order must be deemed provisional till the whole subdivision is completed by actual survey. It seems to be alleged as a grievance, going to the validity of the order for Division 14, that after the order for Division 11 was made for 15,000 odd acres (being the balance of the land on the west of the railway-line) the order for Division 14 was made for 1,200 acres on the eastern side of the railway-line, but that, as upon survey of the 1,200 acres it was found that 1,200 acres could not be given without trenching upon some other divisions already ordered, the Division 14 ought to have gone short—at any rate, should not have had the deficiency made up out of Division 11, on the west of the railway-line. As already stated, I incline to the view that any order on subdivision, though made prior to another, is so far provisional that it may have to be rectified as to location, and even as to area, when the orders come be completed by actual survey.

What seems to have taken place was that Warena Hunia, to whom, conjointly with Kemp, Division 11 was ordered, agreed that the deficiency in No. 14 should be made up from the 15,000 acres in Division 11, and that it is said by the opponents of Kemp that the agreement was ineffective, as Warena Hunia and Kemp, though the only names in the order for Division 11, were not solely interested in that division, inasmuch as they held it on behalf of themselves and a large number of others. It is unnecessary to determine whether such an agreement by trustees, if free from fraud, would be binding on the beneficiaries or not. There might be much to support it. If the Native Land Court could, upon the deficiency for Division 14 being ascertained, open up the subdivisions, it does not seem beyond the powers of the representative owners to come to some agreement in order to prevent delay and expense and trouble of opening up the subdivisions by the Court.

However, it is not necessary to determine this question. It is not, in my opinion, a subject for inquiry by the Appellate Court. I have now stated my own opinion upon the governing point in the case, and upon some of the more important questions.

The answers to the questions put by the Appellate Court are the answers of the Court.