

*Mr. Bell* said he did not admit that it was an interlocutory order.

*Chief Judge Davy* : It is a matter for the Land Transfer Office what the effect of it is.

*Mr. Bell* then submitted that Sir Walter Buller was a person entitled to be represented in the present action, he being lessee, mortgagee, and holder of part of the freehold of the land in question. There must be some means by which the Native Appellate Court would provide reasonable procedure. He was there representing a person to a large extent beneficially interested. Surely every person interested in the block was, in proceedings of this kind, entitled to be heard, just as much whether he possessed only part or the whole of the land. He submitted that the Appellate Court had the right to decide a course of procedure in such matters. He had an application to make which really took precedence of Sir Robert Stout's application for adjournment. He made this application on behalf of Sir Walter Buller, and he would repeat it on behalf of Wikitoria (Kemp's daughter) as soon as the Court held that he was entitled to speak for her. It was an application made under "The Native Land Court Act, 1894."

*Sir Robert Stout* wanted his application dealt with first. How could the Court deal with an application in a case one of the parties to which was dead?

*Mr. Bell* said Sir Walter Buller was a party to the case now before the Court.

*Mr. Baldwin* : How does he become a party?

*Chief Judge Davy* : I think we are becoming mixed.

*Mr. Bell* said the reason he wished his application heard before the Court granted an adjournment was that it was necessary that his application should be made before the Court did anything in the case. He was bound to make the application at the earliest opportunity.

*Sir Robert Stout* : I do not understand that Sir Walter Buller is before the Court at all. He has not been served. I do not know how he came here.

*Mr. Bell* : Whom did you serve?

*Mr. Baldwin* : Kemp.

*Sir Robert Stout* understood that Mr. Bell wanted to ask for security for costs for Sir Walter Buller. But why? Sir Walter Buller was not wanted there at all.

*Mr. Bell* : I have no doubt you do not want him here.

*Chief Judge Davy* : Then, your application, Mr. Bell, is on behalf of Sir Walter Buller, that before proceeding with this petition the petitioners should be required to deposit a sum of money as security for costs?

*Sir Robert Stout* said he had several objections to make to that. First, that Sir Walter Buller was not a party to the proceedings; second, no relief was asked against him; third, the special jurisdiction conferred upon the Native Appellate Court by the Act of 1895 gave the Court the same powers as the Supreme Court. The Appellate Court would therefore follow the analogy of the Supreme Court, and the Supreme Court in such cases as the present ordered security for costs. As to his own application for adjournment, he submitted that before the Court could proceed with the case the proper parties to it must be ascertained, and this could only be done by ascertaining the successors to Major Kemp. The Court could do nothing until the representatives of the late Major Kemp were before it.

*Chief Judge Davy* said the first question was whether Mr. Bell was in a position to appear before the Court.

*Mr. Bell* then proceeded to argue his right to be there on behalf of Sir Walter Buller on account of his interest in the land concerned. He had never heard such an argument as was suggested by the other side. Was it to be said in any Court of law or equity that a man who had a title was not to be heard as to whether that title was to be quashed? That was Sir Walter Buller's position.

*Mr. Stafford* said the Court had no jurisdiction over Sir Walter Buller.

*Mr. Bell* said it was comical to hear his friends saying that Sir Walter Buller could not be heard.

*Chief Judge Davy* pointed out that if Sir Walter Buller were introduced into the case it would not be a case between Natives and Natives.

*Mr. Bell* asked: If the Natives questioned the certificate of title, what was to become of Sir Walter Buller? If the Court said it would hear no party interested excepting those set out in the petition it was surely laying down a rule that the Court would proceed contrary to the rules which governed Courts of equity. This was a far more important matter than the question between the petitioners and Sir Walter Buller and Major Kemp. It was a question whether Maoris were to be allowed to come there and be heard with Maoris only as defendants, the Court refusing to hear those persons the Maoris had dealt with. Surely the Court would not lay down such a ruling. Why, there might be collusion between the parties, and weak or useless argument submitted by the nominal defendant.

*Chief Judge Davy* : Has this Court any evidence before it that Sir Walter Buller has any interest in this land? Have not all titles been swept away?

*Mr. Bell* : A judgment of the Supreme Court has been given which has restored the titles of Sir Walter Buller.

*Sir Robert Stout* : We are not attacking Sir Walter Buller's titles.

After further discussion,

*Sir Robert Stout* said, regarding the security for costs, that if what Mr. Bell had contended was correct his request was too late, for already the case had been advanced without security being asked for.

*Mr. Bell* : No.

*Sir Robert Stout* : Pardon me, but you applied for adjournment, and this waived your right to ask for security.

*Mr. Bell* : I was very careful. I said "before any proceeding is taken."

*Sir Robert Stout* : I do not care what you said, the course was taken.