

On resuming at 2 p.m., Mr. Hector Macdonald was sworn in as interpreter.

Paki te Hunga handed in list of names.

Kipa te Whatanui wished to make an application under section 39 of the Act of 1894 with reference to Section 14.

The Court informed him that applications of this nature could only be dealt with under a reference from the Chief Judge, and that the only persons entitled to apply under the Horowhenua Block Act were those in the certificate of 1873 and the forty-eight persons named in the Second Schedule to the Act.

Kipa te Whatanui submitted that Manihera te Rau being in the title represented the whole of the Ngatiraukawa.

He was told that the fact of Manihera te Rau being in the title did not give other Ngatiraukawa any right.

Mr. Knocks informed the Court that the Muaupoko who applied with Manihera te Rau wished to withdraw their application so far as it referred to Section 14, and that they still intended to go on with it as regards the other sections.

Mr. J. M. Fraser put in a retainer signed by Rangimairehau and others authorising him to act for them in Section 14. He stated all his clients' names appeared in the schedule to the Act.

Mr. Stevens announced that he now appeared for Wirihana and Warena Hunia only, the other Ngatipariri who originally instructed him having cancelled his retainer.

The Court asked Sir W. Buller if there was now sufficient information as to counter-claimants to enable him to go on.

Sir W. Buller intimated that he was prepared to open his case, but list of counter-claimants should be closed.

The Court said that if that was done all those in the schedules must be represented before the case could go on.

Mr. Stevens urged that some time should be allowed for the people interested to attend.

Sir W. Buller admitted the justice of *Mr. Stevens's* contention, and said that the interests of those not represented could safely be left to the Court.

The Court called upon *Sir W. Buller* to open his case.

No. 1, HOROWHENUA No. 14.—Meiha Keepa te Rangihiwini, Applicant.

Sir W. Buller: The Horowhenua Block was awarded to the Muaupoko Tribe in 1873. The Native Land Court sat in 1886, and, with the joint consent of all the owners, made a partition of the whole block. No. 14 was awarded to Major Kemp. It was the last of the subdivisions. My opening will consist chiefly of extracts from documents. I will therefore, as is customary with counsel in such cases, read most of it. The first question to be decided by the Court is whether Kemp received No. 14 as a trustee. In 1896 a Royal Commission, called the Horowhenua Commission, sat at Levin, and made inquiries regarding the title to No. 14 and other divisions of the Horowhenua Block. The Commissioners, in their report, made certain recommendations *re* No. 14 and other divisions, but none of their recommendations have been carried out by the Horowhenua Block Act, so that the present inquiry is completely untrammelled, and this Court has a clean sheet. The question for this Court to determine is the following: The legal ownership of No. 14 was awarded to Kemp in 1886, with the consent of all the 143 persons (of whom Kemp is one) entitled to share in Horowhenua. Did Kemp take No. 14 as trustee or as absolute owner? If this Court finds that No. 14 was Kemp's own land—his share on the subdivision of the block—then by the Horowhenua Block Act Kemp's Land Transfer certificate, which is suspended, will reissue to him. If the Court finds that Kemp was a trustee for some tribal purpose, it has jurisdiction to deal with the case under "The Equitable Owners Act, 1886," and its amendments. It is admitted that the question is—What occurred at the Court of 1886? Judge Wilson will state that when he awarded No. 14 to Kemp on the 3rd December it was openly stated in Court, and understood, that this subdivision was Kemp's own land. The minutes show this, and that it was intended to give Kemp a subdivision for himself. The counter-claimants will be compelled to ask the Court to disbelieve this before a trust can be proved. Will produce a contemporaneous document initialled by Judge Wilson proving correctness of minutes. None of the counter-claimants disputed the minutes before the Royal Commission. No. 14 was awarded to Kemp in 1886. For nearly ten years Kemp's title was uncaveated, and in 1895 caveat was lodged not by a tribesman, but by an officer of the Government. Kemp leased, sold, and mortgaged parts of it without objection; no one claimed a share of the proceeds although all the tribe knew of Kemp's dealings with it. Unless Court believes that No. 14 was for Kemp himself, it must believe that he alone of all those interested got no share of the block. Judge Wilson's Court opened on the 25th November, 1886. Three subdivisions of the block came on, and minutes for orders were made. On the 27th November the Assessor had to leave, and Court adjourned to the 1st December, when another Assessor arrived. The proceedings commenced before the Court on the 25th November, were treated as abortive, and Court made orders awarding every subdivision in the block as though the abortive Court had never sat. Each order was preceded by a declaration in Court that all the owners had agreed and consented thereto. Meetings of the owners were held in a barn, and Palmerson, surveyor, attended and laid off divisions on a tracing as they were agreed to. The Muaupoko had three objects in view—(1.) To cut off one or two subdivisions to meet and provide for outstanding tribal engagements. (2.) To cut off a large residential subdivision on which their kaingas were: this was No. 11. (3.) To cut up the whole of the balance of the block into individual shares. Kemp alone had no share out of Subdivisions 3, 4, 5, 6, 7, 8, and 13, therefore, unless he got No. 14, he got no individual share at all. Judge Wilson will state here, as he stated in the Supreme Court and before the Royal Commission, that when he allotted No. 14 to Kemp it was declared in Court that it was