are bound to put in 143 persons who had an interest in Block 11, was estopped from determining a question of boundary, however small or large the area, in the endeavour to settle the difficulty which arose between the area and location. If they had taken it out of Block 6, or out of Block 12, as I think Mr. Baldwin suggested, then, would the consent of these people have been sufficient? Take the case of the *Rerewaho*. They were an unknown body in No. 6—an absolutely unknown and unascertained body, whom no advertisement could have reached. Supposing an error in the boundaries in No. 6, could not in that case Kemp, on their behalf, have agreed to have the boundary of Lot No. 6 shifted? What does the Native Land Court, in respect of boundaries, by advertisement, provide in cases where there is no objection? The Court may proceed; but how could they in Block 6 if there was an unknown and unascertained body. Does it make any difference in this case that the persons concerned in Block 11 happened to be named on the certificate? Now, Block 6 was altered, and the same result applies to Block 6. As you will see on looking at the plans, the area and position of Block 6 was altered. What, then, is the result of that? Was the Court completely estopped because it allotted a portion of land to a trustee for an unascertained body? Does that put an end to its power to adjust a block of land for area and position? The next point is this: that in every case of partition there must first be a sketch-plan.

Mr. Justice Denniston: You have not referred to the point that the person interested was himself the trustee.

Mr. Bell: I think it would be convenient to refer to it here. The point is this: Kemp himself is the person who is trustee of No. 6. He is also, with Warena Hunia, trustee of No. 11. Somewhere or other between No. 6 and No. 11, 1,200 acres are to be located. He is a person who, as trustee of No. 6 and co-trustee of No. 11, sees no objection to the location of No. 14 in the new position. As a matter of fact, as is shown in the case, it did not diminish the area of No. 11, unless you take it as all the land west of the railway-line, by more than 200 acres. If Kemp had concealed this it might have affected the question; but the Judge, in exercising controlling discretion in this matter, tries to ascertain if there is any objection to this course. That is what he has to do if he proceeds under advertisement. He finds that there is no objection by the person who is a co-trustee of No. 11, and who may be assumed to consult with the *cestuis que trustent;* and the surveyors having put it there, being unable to get the acreage elsewhere, a trustee is not disqualified by his interest, though the quality of his consent is affected. I submit, then, further—still upon questions 7, 8, 9, and 10—that in every case of partition there must be first a sketch-plan, and, secondly, a plan to be approved by the Court. That, I think, must be conceded. If the parties exercise any function at all during partition, that must follow in every case. There must be a sketch-plan, and then the plan subsequently approved by the Court, and you must call in a surveyor between the sketch-plan and the final plan; and that is the point I wish to impress upon the Court—that the final plan must be made by the surveyor called in in the interval. The Act provides that on the orders when sealed there shall be a plan which is the proposal for partition, assuming that the parties by voluntary arrangement exercise any discretion in the matter at all. Now, what happens then? The surveyor is called in. The lines drawn by the Court are merely guiding lines; the area is really that which the Court decides. When it draws a straight line it means a thousand acres or so, and not the line. It would mean a line where the boundary was a stream, and there the decision would be location, and not area. The surveyor is called in, and has to provide lines roughly following the adjudication of the Court—to include the area which the Court has allotted. That is the point I wish to impress upon the Court. The person really called in to do the administrative work is the surveyor, and then in ordinary cases it always necessarily results in some displacing of the lines. The sketch-lines themselves, if for 1,000 acres, could not include 1,000 acres—that is a mathematical impossibility; and then the Court attaches that final plan to its order, or a copy of it. If that be so, the same process is contemplated or determined upon by the Court by which it shall take care that its order expresses as nearly as possible the result of its adjudication; and if the Court is satisfied of that, and if it takes due precaution, then it is submitted that is all that is necessary. This is the next point—again speaking of the Horowhenua Block Act as a crystallization of these two divisions: Can you spell out of that Act an intention to say that if one of these divisions thus defined trenches upon another of these divisions as originally intended, or *vice versâ*, that the land there trenching is to be subject to the trust which affected the other? Nothing can be clearer than the final intention of the Judge who signed these orders: the Act requires him to sign the orders, and therefore, it is submitted, gives him a final discretion in the matter. It directs that not only shall the orders be sealed, but also signed by the presiding Judge. Now, does the Horowhenua Block Act mean—can you spell out this elaborately-drawn-out intention—that if one block so crystallized is found by the Appellate Court to have trespassed upon another area which was intended for another trust altogether, then Block 14 should be impressed with the trusts of Block 11? Supposing it had been shifted the other way to provide the area, then would Block 14 have been impressed with the trusts of Block 6? Is it to be ascertained what trust existed with regard to the area thus defined, and defined by the Native Land Court in its order—ascertained whether that land trespassed on to land which was included in another and entirely separate and entirely distinct trust? Supposing, for instance, as I have already put it, this Court had come to the conclusion that this Block 14 is Ngatiraukawa land—on the *functus officio* question that this Block 14 belongs to Ngatiraukawa, and that the trust is for Ngatiraukawa: let us follow that position out. This Ngatiraukawa trust, it is suggested, though intended to be 1,200 acres, has trespassed on to the other trust—the registered-owner trust. Who is, then, to have it? Are Ngatiraukawa to lose 600 acres, and has the land of Ngatiraukawa thus to pass to other *cestuis que trustent?* The intention of the Act, it is submitted, is not to shift from one set of *cestuis que trustent* an area of land which was included in a block awarded to another *cestuis que trustent*, but to ascertain what set of *cestuis que trustent* was intended to be ascertained for the 1,200 acres which are bounded on the one side by the property. That involves this point——