

1898.
NEW ZEALAND.

THE HOROWHENUA BLOCK.

MINUTES OF PROCEEDINGS IN THE NATIVE APPELLATE COURT ON THE APPLICATIONS OF HETARIKI MATAO AND OTHERS FOR AN ORDER DECLARING KEEPA TE RANGIHIWINUI TO BE A TRUSTEE FOR DIVISION NO. 14, AND FOR OTHER RELIEF.

Presented to both Houses of the General Assembly by Command of His Excellency.

SYDNEY STREET SCHOOLROOM, WELLINGTON, 14TH APRIL, 1898.

THE Court opened at 10 a.m.

Present : G. B. Davy, Chief Judge (presiding) ; A. Mackay, Esq., Judge ; W. J. Butler, Esq., Judge ; A. H. Mackay, Clerk.

[NOTE.—This is not the Court convened under provisions of "The Horowhenua Block Act, 1896."

Application by Hetariki Matao and another, also by Rihipeti Tamaki and another, that Major Kemp be declared a trustee in Division No. 14, and for other relief.

Sir R. Stout and Mr. Baldwin for Hetariki Matao and Maata Huikirangi.

Mr. Stafford for Rihipeti Tamaki and Wirihana Tarewa.

Mr. H. D. Bell and Mr. A. P. Buller for Major Kemp and Sir Walter Buller.

The Court decided to take the cases separately, and called on the application of Hetariki Matao and Maata Huikirangi.

When the petition was called on,

Mr. Bell claimed that before dealing with the matter the Court should first give its judgment upon a matter affecting Major Kemp in connection with Block 14, which had already been argued for its decision.

Sir Robert Stout : That is not the present Court.

Mr. Bell submitted that it was the same Court, no special Court being set up by the Horowhenua Block Act. For all they knew, the judgment referred to might show that Major Kemp had no interest in the case now brought, and, if so, why should he be put to the cost of having to pay for counsel to watch the case on his behalf? He submitted with the greatest possible respect that what he was asking was only bare justice. He was asserting no more than the bare right of every litigant to have the determining of the Court before which he was tried. To some extent he could plead *res judicata*. But another reason was that the Land Transfer titles of his clients were suspended pending the delivery of the judgment to which he had referred. His position there was gravely prejudiced by the fact that he had not a Land Transfer title. He submitted that the Court would not allow such an advantage as that to be acquired by the other side merely because the Court had not yet delivered its judgment.

After some argument between counsel,

Mr. Bell, continuing, contended that the Court should not be asked to suspend its judgment in order that another proceeding under another section might be wedged in, and the Courts be invited in this jurisdiction to deliver a judgment which might absolutely contravene the judgment arrived at under special jurisdiction.

Sir Robert Stout said this was certainly amusing. So far as the parties interested in the Horowhenua Block Act were concerned, they were desirous that the whole question in dispute should be settled by the highest tribunal in the land—the Court of Appeal. What happened was that the Court of Appeal decided on but one point, and his learned friend had struggled hard to stop the Court getting the merits of the case. And then he came and asked for justice.

Judge Davy : He is not asking to stop you. It is entirely a question of the order of business.

Sir Robert Stout said this was not so. Mr. Bell wanted to get the decision of the Court to get certain Native land titles registered, and block the Native Appellate Court.

Judge Davy said there was nothing to show this.

Sir Robert Stout asked what else was desired. The fact was the Court of Appeal had been blocked, and the petitioners were now there to appeal under the jurisdiction of the Appellate Court. They were now raising more than they were allowed to raise under the special Court, therefore the special Court's judgment could not be applied to them. The special Court under the Horowhenua Block Act had simply to sit as a Court under the Native Equitable Owners Act. He submitted that the petitioners were entitled to have the present case heard now, upon the ground that the judgment in the other case might prejudice them. Surely the Court, as a Court of equity, would struggle hard to see that every person got his rights, and that justice was done. And justice would be thwarted by following the course proposed by the other side.