

After further argument the Court, having retired for a brief period, ruled that Mr. Bell had no *locus standi*. Sir Walter Buller could not be considered a party to the case. Sir Robert Stout's application for an adjournment was granted in order to ascertain Kemp's successors.

The case was adjourned for six weeks from date.

Case adjourned till the 30th May.

The Court adjourned till the 30th May.

MINUTES OF PROCEEDINGS IN THE NATIVE APPELLATE COURT UNDER THE PROVISIONS OF
"THE HOROWHENUA BLOCK ACT, 1896."

[In continuation of G.—2A.]

SYDNEY STREET SCHOOLROOM, WELLINGTON, 25TH APRIL, 1898.

THE Court opened at 10 a.m.

Present: A. Mackay, Esq., Judge (presiding), and W. J. Butler, Esq., Judge.

Sir Robert Stout appeared for Hetariki Matao and Maata Huikirangi, who claim to have their names included in the list of owners of the block; Mr. Stafford for Wirihana Tarewa and Rihipeti Tamaki; and Mr. H. D. Bell (by leave) for Sir Walter Buller.

Sir Robert Stout moved to have the declaration of beneficial ownership in favour of Keepa te Rangihwinui, delivered on the 14th instant, amended so as to show on its face that it was interlocutory in its nature.

In the course of discussion,

Judge Mackay said there was no order at all; what had been made was simply a declaration. The word "order" was specially excluded.

Mr. Bell said his position there was that he claimed that the Court, which had made its final decision in its jurisdiction under the Horowhenua Block Act in regard to Subdivision 14, should issue its order. With all respect he denied the right of this Court, or of any Court, having pronounced judgment, to say it would defer the order consequent on its judgment.

Judge Mackay said the Court could make an interlocutory order at any stage of the proceedings.

Mr. Bell said the Court, sitting under the Horowhenua Block Act, had delivered its judgment. That being so, he claimed that there should be an order under the seal of the Court on the judgment. He was trying, in respectful language, to state what he conceived to be the right of every litigant. He admitted the right of the Court to defer its judgment until it had agreed upon it; but, as judgment had been delivered, he asserted the right of the successful litigant to have it expressed by an order under the seal of the Court. He now claimed from the Court a sealed order expressing the judgment which it had delivered.

Sir Robert Stout submitted that the terms used in the order must be such as would carry out the intention of the Court. He denied the right of Sir Walter Buller to have a new motion made without notice.

Mr. Bell said he was there as the representative of a successful litigant.

Sir Robert Stout said that Mr. Bell was appearing for a person who was not a litigant at all—who was not before the Horowhenua Court when this question was investigated.

Judge Mackay said the Court must under the circumstances refuse Mr. Bell's application. Mr. Bell said that in justice to the successful side he was entitled to claim a vesting order. Now, there were other parties whose interests the Court had to protect at the present juncture, independent of the interest of Mr. Bell's client. There was a case pending in the Court which the Court did not wish to prevent being heard. If the parties themselves withdrew, that would be another matter. That was the reason why the Court was extremely careful in making its written declaration of its decision. The Court was fully justified in putting the declaration in such a form that it could not possibly be misconstrued. To grant Mr. Bell's application would be to defeat the whole intention of the Court. If the Court had considered it should make a vesting order it would have made it at the time of the delivery of judgment. If the order desired by Mr. Bell were made, his client would have been able to get a Land Transfer certificate, which would have ousted the jurisdiction of the Court.

Mr. Bell mentioned that he was moving by way of *mandamus*.

Judge Mackay: You cannot get a *mandamus* against this Court requiring it to do something which it never intended to do.

Mr. Bell said that a *mandamus* had issued against the District Land Registrar.

Judge Mackay: I am perfectly confident you will not get a *mandamus* against this Court.

The Court decided, with a view to place the matter beyond doubt as to the nature and effect of the instrument issued by it on the 14th instant, inasmuch as the District Land Registrar appeared to have misconceived the intention thereof, to amend the said instrument by adding the following words after the word "owner" in the last paragraph, namely: "Provided, and it is hereby expressly declared, that the foregoing declaration is in the nature of an interlocutory decision, and is not intended as a vesting order under section 5 of 'The Horowhenua Block Act, 1896'"; and it is hereby directed that the aforesaid words shall be so added, and shall be read and construed as part of the aforesaid instrument as if such words had been written therein in the first instance.

The Court adjourned till the 2nd May.

Approximate Cost of Paper.—Preparation, not given: printing (1,455 copies), £2 7s.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1898.

Price, 3d.