

t appears in the minute-book would not make me believe it. Neither the Judge nor the Clerk understood Maori, and it is possible a mistake may have been made in the interpretation. I cannot conceive his giving such evidence, as he has always informed me that No. 14 was his own, and that he held No. 11 as trustee."

The case has, unfortunately, been mixed up too much with subsequent events, in which the unfortunate quarrel between Kemp and the Hunia family has mingled too largely; but what the Court has to do for the purpose of determining the question at issue is to go back to the time of the subdivision of 1886 and view it dispassionately at that period, before any of these disturbing elements had been introduced into the matter.

It has been urged that the reason why the question was referred to the Native Land Court was so that the equity of the case might be considered free from legal technicalities; but, even reviewing it from that standpoint, the Court, with a full knowledge of the rights of the people, and the relative position that Major Kemp occupied amongst the registered owners, is unable to perceive that he has been allotted a disproportionately unequal share of the block at the subdivision of 1886, as it cannot be gainsaid that he was not only entitled through ancestral right, supported by other additional claims, to a superior position amongst the *bona fide* owners of the Horowhenua Block, but he was also entitled to further consideration for the benefit conferred on the tribe, through the successful efforts made by himself and others on their behalf in securing a larger area of land for them than they probably would have received under other circumstances.

Kemp's superior claim is admitted by even those who are the most strongly opposed to him, in proof of which the evidence of Mr. Donald Fraser before the Royal Commission may be cited, as it is assumed, as attorney for Warena Hunia, he would be fully seized of all the facts in connection with the relative position between his principal and Major Kemp, viewed from their standpoint, a position which had been largely discussed almost from the outset, but at any rate from 1890. Referring to the attempt made to adjust the dispute that existed between Kemp and the Hunia family in 1891 about No. 11, when it was proposed to allot Kemp and the Hunia family 3,500 acres each out of the 15,000 acres, and the tribe 8,000 acres, Mr. Fraser stated in reply to Sir Walter Buller that, even if Kemp had been personally allotted 3,500 acres out of No. 11, notwithstanding he had received large consideration at the hands of the tribe—800 acres to pay his debt to Mr. Sievwright, the 76 acres set apart for the railway-line, and 1,200 acres at Papaitonga (No. 14), besides which he had received large sums for purchase-money and rents—that he considered, under all these circumstances, that it would have been a fair and equitable arrangement to have allotted Kemp 3,500 acres out of No. 11.

This opinion, it will be observed, was expressed at a time long subsequent to the subdivision of 1886, with a full knowledge of all the facts which had taken place, whereas when the division was made in 1886 nothing had occurred to engender hostile views in the minds of the people against Kemp's superior claim for consideration over the majority of the registered owners.

As regards the 800 acres given to Kemp by the tribe to pay his debts, Mr. Fraser stated that he did not think the 800 acres should be taken into account, because that was a voluntary gift to Kemp from the whole of the tribe who had any interest in it. This opinion about the 800 acres appears to be the general one—that it was a voluntary gift to Kemp. That being the acknowledged position, therefore, the question arises: If it is now contended that Kemp was not intended to be the beneficial owner of No. 14, what part of the subdivision was he supposed to get for his personal share? as, although he and Warena were appointed the ostensible owners of No. 11, it is out of the question to suppose that it could have been reasonably considered at the time that they were to be the sole owners of so large a portion of the block to the prejudice of the rights of the resident Muaupoko. This idea only developed itself at a later stage, after being fanned into life by the same process that obtained in other parts of the colony in respect of blocks of land allotted to ten persons. The ten grantees fully believed in the first place that they held the land in trust on behalf of themselves and the other owners, until it was dinned into them by interested persons that they could dispose of the land as their own; this soon led to the land being sold, and all but the ten grantees being despoiled of their tribal estate.

In support of the statement that Kemp was mainly instrumental in obtaining an increased area for the Muaupoko, the following evidence was given by Major Kemp before the Court in 1890 on the subject, describing the action he took in ultimately fixing the southern boundary of the block at Waiwiri: "I proposed a certain boundary extending from thence to the mountains, but Ngatiraukawa objected. I said the boundaries should be shifted to Mahoenui on the southward and Ngatokorua on the northward. I wanted to expel the Ngatiraukawa. I afterwards removed the boundary to Waiwiri. I sent Hoani Puihi to fix a pole. There was no dispute about the boundary after the Court sat."

The boundary at Mahoenui referred to by Major Kemp was the same boundary included in the application made to the Native Land Court in 1872 by some of the Muaupoko (Te Rangirurupuni and others), commencing at the coast at Rakauhamama, thence to Mahoenui, and thence to the Tararua Range to Waiopahu. Had the boundary first proposed by Kemp been accepted by the Ngatiraukawa it would have made a difference of over 17,000 acres in the area of the Horowhenua Block. The Muaupoko, therefore, are the gainers to that extent.

The rights of the Ngatiraukawa up to the boundary at Mahoenui were also recognised by the Government in the arrangement made with them in 1874 by Sir Donald McLean, at the final adjustment of the disputes between them and the Muaupoko, and the final extinguishment of all their claims to the tract of country between the present southern boundary of the Horowhenua Block and the boundary Kemp proposed to fix between them and the Muaupoko, before he shifted the boundary to Waiwiri.