

SUBDIVISION No. 12.

In 1886 this block was vested in Ihaia Taueki as a trustee for the tribe. It is bush-covered mountainous country of comparatively little value. It has not been dealt with, and forms part of the tribal lands, and, so far as we can ascertain, belongs to the same persons as are entitled to subdivision No. 11, with the addition of certain names set out in the fifth schedule hereto attached in equal shares.

SUBDIVISION No. 14.

This was cut off in 1886 for the purpose of being given to the Ngatiraukawa in fulfilment of Kemp's agreement with Sir Donald McLean. It was originally marked off to the eastward of the railway line and subsequently, but by what authority we are unable to discover, its boundaries were altered so that its western boundary included the Waiwiri Lake. A certificate of title was issued in Kemp's name, but nothing took place in the Courts of 1873 and 1886, to show that Kemp held this land upon any different conditions to that on which he held the rest of the tribal lands.

Kemp now alleges that this subdivision is his own absolute property. We are of opinion that he has not the least right to support his assertions. He gives three different accounts of how it became his: By descent from his ancestors; by gift from another Native, Noa; and that it was set aside for him by the tribe in 1886. We venture to assert that no land held by a Maori by virtue of ancestral title was ever laid off by the Natives with boundaries as this piece has been, and if the land were Kemp's by descent, he could have named its boundaries. He was pressed to do this, but would not do so. Moreover, if his title by descent is good, of what virtue are the alleged gifts from Noa and the tribe? In addition to this there is the evidence of five leading Natives of Kemp's party of the tribe who were called to prove the land to be his, each of whom proved conclusively, if their evidence is to be believed, that it was not so. A deed of release prepared on Kemp's behalf was taken from the Natives in 1892. This deed contains no statement or reference to this being Kemp's private property, and does not refer to it in any way apart from the tribal lands. In our opinion, there is no doubt that this land forms part of the tribal estate. Kemp stated to us that when he made the agreement with Sir Donald McLean, he intended to give the Ngatiraukawa 1,200 acres of his own land. But he has given 1,200 acres of the tribe's land, and if his statement be correct, this subdivision should go to replace that which he has taken from the tribe. Kemp, holding the land under certificate of title under the Land Transfer Act, was in a position to grant transfers, mortgages, or leases which would hold good against the tribe in the absence of notice to the transferee, mortgagee, or lessee, that the property was subject to a trust.

Sir Walter Buller has purchased part of this subdivision, and taken the remainder on lease. On the 20th May, 1892, Kemp, in consideration of the sum of £40, transferred 2 acres 1 rood to Sir W. Buller. The piece of land transferred was a small block cut off by Lake Waiwiri from the remainder of Subdivision No. 14, and the price paid was the full value of the land.

On 20th May, 1892, the date of the above-mentioned transfer, Kemp executed a lease to Sir Walter Buller of 581 acres 2 roods 16 perches, being all that portion of Block No. XIV., which lies to the westward of the railway line, for the period of 21 years, at a yearly rental of £60 per annum, payable half-yearly in advance. This lease contains no covenants or powers beyond those implied by the Land Transfer Act, except that a right is reserved to Kemp to enter the land for the purpose of catching eels.

On 31st October, 1892, Kemp, by transfer, transferred 8 acres 3 roods 20 perches, being a small area cut off from the rest of the block by a deep and almost impassable gully, to Sir Walter Buller, in consideration of the sum of £87 10s. In this case, as in the case of the former transfer, the price paid seems to be the full value of the land.

On the same date (31st October, 1892) Kemp leased a piece of the subdivision on the eastern side of the railway, for the term of six years, from the