

*Mr. Baldwin* explained that in making the remarks he did yesterday he did not intend to say anything offensive to Sir Walter Buller. He had spoken warmly, but without intending to make any reflections on Sir Walter. At the same time he wished it understood that he did not withdraw from the position he took up.

*Sir W. Buller*, before going on with his case, desired to ask for directions from the Court. Mr. Stafford occupied a unique position. He could not act for the Public Trustee; he could only assist Mr. Stevens; and yet, after Major Kemp had been examined, subjected to three cross-examinations, and re-examined, Mr. Stafford cross-examined him again. If Mr. Stafford, acting with Mr. Stevens, had a right to cross-examine in addition to Mr. Stevens, he would claim the same right for his friend Mr. Beddard. Mr. Stafford disregarded all rules of evidence, and asked Kemp what his instructions were to his solicitor, which were privileged. Such a question would not be allowed in any Court of law. [Quotes from Taylor's "Law of Evidence," vol. 1, page 769: "The rigid enforcement of this rule."] He contended it was clear the questions could not be put.

*The Court* asked why Sir Walter Buller did not produce his authorities yesterday, while the matter was before the Court, so that the quotation now made might have been considered before the question was put.

*Sir W. Buller* stated that he was not armed with the authorities at the time.

*The Court* said the questions had been put through the Court.

*Sir W. Buller* contended that it was a cross-examination nevertheless. He contended that Mr. Beddard would argue the question as to whether the money received for Horowhenua could be taken into consideration in this case. He would adhere to his opening, and prove what he had stated there, and stated that after hearing the evidence of the counter-claimants he might consider it necessary to call rebutting evidence.

*Mr. Stafford* stated he had laid down distinctly that he was not acting for the Public Trustee, but that he was advising Mr. Stevens. He had referred to the deed of release as it was a question of law. As to his questions to the witness, Sir Walter had not objected to them, and he contended that the Court was not bound by any rules of evidence. He would continue to act as he had done, and expound questions of law. He had no intention of being offensive to Sir Walter Buller, although Sir Walter irritated his side.

*Sir W. Buller* did not object to Mr. Stafford expounding the law; what he took exception to was Mr. Stafford coming with a fourth cross-examination after he had re-examined.

*The Court* said there was only one point that it was necessary to reply to. It agreed that Sir Walter Buller should have the same privileges extended to him as to other parties.

*Mr. J. M. Fraser* stated that his clients took up the same position in respect to each of the blocks. They did not ask that Kemp's name should be struck out of any subdivision, and were perfectly satisfied with his disposition of the moneys. He spoke for the large majority of the resident Muaupoko, who had met, and retained him to appear for them, and said that the parties opposing consisted of two persons represented by Mr. Stevens, one person represented by Mr. McDonald, two persons represented by Mr. Scannell, and four persons represented by Henare te Apatari. Then there was the Crown with no interest in the block. Paki te Hunga and those with him were the only persons really claiming this block. He asked to put in a written statement. [Statement put in.]

*The Court* said those who had released Kemp could only bind themselves, not others. Those who opposed Kemp must be heard. The result of this must be perceptible—and that is, that those who are satisfied with Kemp's administration will have to bear their share of the responsibility.

*Mr. Fraser* did not claim that his clients bound any but themselves. The fact of many absenting themselves showed that they were satisfied. The other side had been very active.

*Mr. McDonald* said, so far as he was concerned, that statement was incorrect.

*The Court* said all must come before the Court personally and give their consent. Voluntary arrangements that might be disputed would not be accepted.

*Mr. Stevens* contended that there were a number who were not satisfied, and that these people took exception to Kemp's dissipating £32,000.

*Mr. Beddard* urged that Kemp's worst enemy could not say that more than £2,000 was unaccounted for. The Commission said this, and they were hostile to Kemp. He only admitted the accuracy of it for the sake of argument. The Commission recommended that the £2,000 should be made a charge against Kemp's estate, but that was struck out by Parliament. He contended that if Mr. Fraser's statement was correct that the tribe were satisfied the Court would only sequester so much of the £2,000 as the objectors were entitled to.

*The Court* stated that it must go into the whole question.

*Mr. Beddard* contended that every trustee who had properly administered a trust was entitled to a deed of release. A deed of indemnity recited that there had been a breach of trust, and that the beneficiaries gave up their rights. The deed referred to was a deed of release, and he could prove that it was not necessary that the *cestuis que trustent* should be independently represented. The trust recited was the 1873 trust, which was extinguished in 1886. [Reads recitals.] If there had been irregular transactions on the part of Kemp, there would have been a confirmation clause. An ordinary trustee was bound to prove that he had expended all moneys honestly, and produce vouchers for every item. Was Kemp to be treated as if he had embezzled every penny he could not account for, or was he to be allowed a certain discretion owing to the confidence reposed in him by the tribe? [Reads from judgment of Appeal Court, pages 93 and 94, *vide* "Law Reports," part 2, February, 1896.]

*The Court*: Even if Kemp was not liable under the original title to account, he was after the partitions of 1886. Under the Horowhenua Block Act, all judgments and decrees of the Supreme Court that conflict with the Act are set aside; but, notwithstanding that, the Court would give them consideration so far as might be possible.