That is, the Equitable Owners Act is to apply to these provisions. Now, the recital of the Equitable Owners Act is this: it says,—

"Whereas under 'The Native Lands Act, 1865,' certificates of title to, and Crown grants of, certain lands were made in favour of or to Natives nominally as absolute owners: And whereas in many cases such Natives are only entitled and were only intended to be clothed with title as trustees for themselves and others, members of their tribe or hapu or otherwise."

Then, it says in clause 2,—

"Upon the application of any Native claiming to be beneficially interested in any land as aforesaid, the Native Land Court of New Zealand may make inquiry into the nature of the title to such land, and into the existence of any intended trust affecting the title thereto."

Into two things they have to make, first, an inquiry into the nature of the title to such lands. Now, let us go back to section 4 of the Horowhenua Block Act of 1896:—

"In exercising jurisdiction under this section the Court shall deal with the claims of the forty-eight persons named in the Second Schedule as if their names had been included in the list of persons registered under the provisions of the seventeenth section of 'The Native Lands Act, 1867,' as specified in Schedule Six hereto, as the owners of the said block, and may also limit the interest of, or wholly omit from any order made under the provisions of this Act the name of, any person who, having been found to be a trustee, has, to the prejudice of the interests of the other owners, or any of them, assumed the position of an absolute owner in respect to any former sale or disposition of any portion or portions of the said block, or for any other sufficient reason."

Now, I submit this cannot read as the Equitable Owners Act reads. It says that the forty-eight persons are to be put in the list of persons registered as the owners of the said block. How can they be registered as owners of the said block if there is no trust?

Mr. Bell: That is not Block 14.

Sir R. Stout: It includes Block 14, because it is dealing with certain portions of the said block —namely, Divisions 6, 11, 12, and 14.

Mr. Justice Denniston: If it turns out to be a trust it would bring in these forty-eight; but you say it assumes the existence of a trust.

Sir R. Stout: Because it says, "and may also limit the interest of or wholly omit from any order made under the provisions of this Act." I say that these two parties have been found by the Supreme Court, as well as by the Royal Commission, to be trustees. "Having been found" means having been found by the Supreme Court prior to the passing of this Act. Can the Court say that it is left to the Appellate Court to say whether there is a trust in Block 11 or not? That has already been found. Has the Appellate Court jurisdiction to inquire whether the Supreme Court and Court of Appeal are correct? Block 11, it says, is trust land, and the Appellate Court is only to find out who are the beneficiaries. I say "having been found" implies the question of that trust, nor is there anything saying that the Appellate Court—nor has it been attempted to be set up by any of the parties that the Appellate Court—should sit and determine the ownership of this block. Section 14 of the Horowhenua Block Act says, "All Orders in Council, judgments, decrees, or orders whatsoever now or at any time heretofore affecting the said block shall, so far as they conflict with the provisions of this Act, be void and of no effect."

Mr. Justice Denniston: Does the Equitable Owners Act apply to Block 11?

Sir R. Stout: Only so far as to find the beneficial owners. It will apply except as controlled by this statute.

The Chief Justice: It is curious that the Legislature should have been so careful to put in this provision that the report of the Royal Commission should be acted upon, but should not go on to say, "Of course you are bound by its conclusions."

Sir R. Stout: The conclusions of the Royal Commission are not taken on certain things. The Commission dealt with relative shares, which this Court was not to listen to. I come now to section 5, which says,—

"Any order made in pursuance of proceedings under this Act declaring the persons beneficially entitled to the said Divisions Six, Eleven (in part), and Fourteen, or any of them"—that is again, I submit, an assumption of a trust—"shall have the effect of vesting such land in the persons so declared respectively to be entitled for an estate of freehold in fee-simple as tenants in common in such relative shares or interests as are specified in, and as from the date of the making of, each such order, anything in any Act now in force to the contrary notwithstanding; and such persons, and the successors of such of them that are deceased, shall, on the production of such order to the Registrar, be entitled to be registered as proprietors, and to have issued to them a Land Transfer certificate in respect of the land comprised therein."

And then it says, "and any existing Land Transfer certificate, and all registrations of dealings thereon in respect of any such land, shall, subject to reregistration of dealings found not to be invalid as hereinafter provided, be deemed to be null and void as from the date of the passing of this Act."

You will see that all the land transfers are set aside. It is not left to the Appellate Court to set the title aside, but the title is gone. What is the title which is left? My friend opened by assuming that the title is gone, and then assumes there is a title in Kemp.

Mr. Bell: The Act requires upon partition that the Crown grant shall be cancelled before partition.

Sir R. Stout: That is a very different thing.

Mr. Justice Williams: The Act clearly contemplates the issue of separate certificates.

Sir R. Stout: No doubt; I am coming to that. There is no title left in Kemp except the Native title.

The Chief Justice: You say it sweeps away the Native Land Court certificates. Go back to the Native Land Court orders made in 1886. I do not see anything here which says that all these have to be treated as nullified.