of the Act can be reconciled. I say the very fact that they are limited to six months proves that they are not to wait for the decision of the Appellate Court. There is no limit within which they are to make application to the Native Appellate Court.

Mr. Bell: Our construction of section 10 in the Supreme Court proceedings was this: that Sir Walter Buller was intended by the statute not to be bound by the Appellate Court. Our contention all along was that section 10 conferred upon Sir Walter Buller the right to stand out of the Appellate Court, and to have his right to appeal to the ordinary Supreme Court.

Mr. Justice Williams: Section 10 only refers to the alienation of section 14.

Sir R. Stout: They admitted that he had no notice of the trust.

Mr. Justice Williams: Then, section 10 has been suspended.

Sir R. Stout: I am using the argument for the purpose of showing that this section 10 and subsection (*f*) are not understandable unless on the assumption that the Legislature has conceded that they are beneficiaries. If they are not beneficiaries, then the section ought not to have been in this form. But if the Appellate Court finds them to be beneficiaries, the Public Trustee can attack Sir Walter Buller's title. I suggest that it is a recommendation of the Commission that this is tribal land, and if it is tribal land it is Native land, and the Legislature has assumed that. The recommendation is this: We suggest that the tribal estate be vested in the Public Trustee. What do they mean by "tribal estate"? It means Block 14. The Court must understand that the Legislature had authorised the Commission to settle this question—to find a trust or no trust. "The Horowhenua Block Act, 1895," says: "The Governor in Council shall appoint a Royal Commission to inquire into the circumstances connected with the sales or dispositions by the Natives of any or the whole of the blocks contained in the Horowhenua Block." And the Legislature has chosen to appoint a tribunal for that purpose.

Mr. Bell: If it had a judicial function, and came to a judicial conclusion, and the Court is satisfied that that is so, we shall certainly not contest that position.

Sir R. Stout: The Legislature has said this: that the Governor in Council shall appoint a Royal Commission to inquire into the circumstances, and as to what trusts, if any, the same respectively were subject to. I submit it is just the same as if they had appointed a Native Land Court. They are to inquire "as to what trusts, if any, the same respectively were subject to; and the costs and expenses of such Commission shall be charged upon such of the lands as the Commission may determine."

Mr. Justice Williams: Apart from the Act of 1896, no one is bound by the report.

Sir R. Stout: Yes, that is so; but when the Legislature was passing the legislation of 1896 it was giving effect to the provisions of the statute passed in 1895. The position is this: I submit that the Legislature has started by appointing a body to inquire into the existence of trusts. It gets its report, that report finds trusts, and the Legislature then proceeds to give effect to its recommendations, and a recommendation is that the tribal estate, which includes Block 14, should be vested in the Public Trustee.

Mr. Justice Denniston: When the Act uses the words "tribal estate" you say that the Act reads into it the findings of the Royal Commission?

Sir R. Stout: I say the Act does this: it is just the same as if the Act recited the full report of the Commission.

Mr. Justice Denniston: Where is the section which speaks of the "tribal estate"?

Sir R. Stout: That is in section 16 of the report. As to how the preamble is to be read, I might refer to a late case. It is part of the judgment of one of the Lord Justices—Powell against The Kempton Park Racecourse Company (68 Law Journal, Q.B., page 617). What was the object of the passing of this Act? It is inconceivable that the sections would have been framed in this way if it had not been meant that they were to be treated as declaring that a trust exists. Assuming that the Appellate Court has to find a trust or no trust, they are not to start with any root of title and build up a trust from that. They have to look at the whole matter. Surely they would have sufficient power as a Supreme Court to find whether there was a trust or no trust. They are not confined within the four corners of the Equitable Owners Act, although it is true that Act is incorporated with the Horowhenua Block Act. I ask the Court to note that under the Equitable Owners Act they have power to inquire into the titles of land, and in section 15 of "The Horowhenua Block Act, 1896," it says,—

"For the purpose of carrying out the provisions of this Act, the Court shall have and may exercise, as the nature of the case requires, in addition to the special powers hereby conferred, all the powers and jurisdiction of the Court under 'The Native Land Court Act, 1894,' and 'The Native Land Laws Amendment Act, 1895.'"

That means that they were to have all the powers of the Native Land Court as well as all the powers of the Appellate Court; so that the Court will notice that the jurisdiction is extensive. Your Honour asked me what would happen in the case of a mortgage of lease. That is provided for by the Act of 1884, section 58. I want further to point out what jurisdiction this Appellate Court had. Suppose I could show that now the Land Transfer certificate of title has been removed, and that the orders of the Court are made without jurisdiction—we will assume that the Land Transfer certificates are set aside, and what was left were the orders of the Court—could I not have gone on behalf of these people to the Supreme Court and asked for *certiorari?*

The Chief Justice: If you were proceeding under the Equitable Owners Act, Mr. Bell assumed you could not. You must look to what could be done under the Equitable Owners Act, and what could be done under that could be done by the Horowhenua Block Act.

Sir R. Stout: The Equitable Owners Act, it is true, was incorporated with the Horowhenua Block Act, but we are not limited. Supposing the Supreme Court had power, they would not have the power under the Equitable Owners Act. Supposing it was in existence, and there was no Land Transfer certificate, but only the certificate of the Court, could not I apply for *certiorari*, as in the Mangaohane case? I submit I could, and contend that my friend could not maintain the