

He Tino Whakawa Mana Nui i te Kooti Hupirimi.

NO TE Hatarei no te 14 o te marama nei, i turia ai te whakawa ki te aroaro o Tiati Kirihi, he tono na I [unclear: erare] Rata kia whakawakia ano te kupu i [unclear: whakataua] e Te Pitama [unclear: kai] whakawa tuturu te Komihana mo nga hoko tahae i Nepia, mo nga rihi e rua a [unclear: I or] Kiokio te taane a Te Orera i nga hea o tana wahine i [unclear: Pekapeka] Nama 2, a i Kaokaoroa Poraka.

A koia nei nga [unclear: korero] o taua mea nei. No [unclear: era] tau i [unclear: tuhituhi] ai a Te Orera i tana ingoa ki nga rihi mo aua [unclear: whenua], a [unclear: kahore] i tuhituhia e ia e Hori Kiokio te taane a te Orera ki aua rihi, a no muri iho i mea ai, a i riro ai aua whenua e rua te tuhituhi e etahi o nga tangata i te Karauna Karaati o aua whenua i te mokete me te [unclear: hoko] kia ia kia Tatana, a [unclear: ko] te tikanga o taua mahi, he riro no aua wahi i te hunga no ratou nga ingoa i te Karauna Karaati me nga hapu, a he riro kia Tatana. A te pai o taua mea nei, ahakoa i riro mo te utu iti, a he iti rawa nei te moni, i riro ai te whenua a aua tangata, kihai aua pukapuka mokete me aua hoko i mahia ki te tikau a o te Ture Whenua Maori, na reira i kitea ai he [unclear: era] mo aua whenua i te mahi whakawa, i nga tikanga i mahia ai e te ture te whakawa mo Mangateretere, a koia i mahia ai he mahi mo taua mea nei.

A marama ana te kii nei, e kore e tika te mahi tuku whenua a te wahine marena anake, ma te whakaae o tana taane ka tika ai, koia i kiia ai, no te mea [unclear: kahore] te taane a Te Orera i tuhituhi i aua pukapuka tuku i aua wahi, he pukapuka tikanga [unclear: kore] aua mokete me aua hoko. Na reira a Hori Kiokio i tuku pukapuka riiri, rihi kia Henare Rata, o nga hea o tana wahine o aua poraka whenua e rua, a i te wa i kawea ai aua rihi a Hori Kiokio kia Henare Rata ki te aroaro o Te Pitama Kai-whakawa Tuturu te Komihana mo nga whenua hoko tahae, a i whakahe a Te Kemara raua ko Te Takurahi Pakeha ki aua riiri rihi a Hori Kiokio kia Henare Rata, i mea hoki raua, ko raua nga tangata noho tika i aua whenua ki ta te ture tikanga, a he tini noa atu a raua kai tautoko i a raua. A tetahi kupu whakahe a [unclear: aua] kai korero, he mea kahore he [unclear: marona] a Hori Kiokio kia Te Orera, a i mohiotia hoki i wera nga pukapuka tahituhi o nga tamariki i whanau, o nga tangata mate, me nga marena i te wa i takoto tiaki aua pukapuka a Te Wiremu minita o te [unclear: Haahi] i Te Aute, a i mea a Takurahi raua ko Te Hira me a raua roia, e kore rawa e [unclear: taua] te kii tuturu i marenatia a Hori raua ko Te Orera, a i mea a Te [unclear: Rihi] roia, koia hoki te roia mo Henare Rata i taua ra, e hara te kupu a te ture i te kupu, kia ahua ke te rapu rapu a te Komihana i te tikanga ke, engari hei te tikanga o nga riiri rihi i kawea atu nei ki aia, o te [unclear: rihi] a Hori Kiokio kia Henare Rata, a i mea a Te [unclear: Pitama] te Komihana, he mea tika ki tana [unclear: titiro], me rapurapu eia nga tikanga o aua rihi a Henare Rata, a me rapurapu ano hoki eia nga tikanga o nga rihi katoa o aua wahi i mua atu o era, a Te Orera te wahine a Hori Kiokio, a me rapurapu hoki eia nga tikanga e mohiotia ponotia ai, he [unclear: mea] marena a Hori Kiokio raua ko Te Orera. A i tae ano a Renata Kawepo, a Te Harawira Tatere ma, me etahi rangatira Maori ki te korero, a [unclear: i] penei a ratou kupu, i tae ano ratou ki te Awapuni i te wa i marenatia ai a Hori Kiokio raua ko Te Orera e Te Koroneho minita o te Haahi. A i mea a Te Koronehe minita kahore kau ana mahara ki te marenatanga a Hori raua ko Te Orera, a i mea aia e hara a Hori Kiokio i te hunga hei taunga mo te korero, a i te mea he nama a raua i aia, e, kua mea raua, e kore raua e utu.

A no etahi ra i muri iho ka kii a Te Pitama te Komihana, e kore aia e tuhituhi whakaae ki aua rihi a Henare Rata ia Hori Kiokio, i te mea e he ana ki ta te tika me ta te hinengaro i mohio ai

A tonoa ana e Henare Rata te tono whakawa ano mo taua mea ki te Kooti Hupirimi. A he nui noa atu nga korero a Te Rihi te roia o taua ra mo Henare Rata, a he nui ano hoki te korero a Te Katara te roia mo Te Takurahi, a Karaera te roia mo Te Kemara.

Ka whakataua e te Tiati [unclear: Kirihi], ka mea, kahore kau he take tika, e uiui ai te Komihana i nga tikanga ki etahi tangata ke atu, me n a tikanga e pehia ai ranei i aua rihi, a ki te mea kahore he kupu penei na, he waipiro etahi o nga utu, he paura, he pu, a kahore he whenua ke atu e [unclear: noho] ai aua Maori, a he iti ranei, he he ranei te utu o te rihi o aua whenua, penei, mehemea kahore he kupu pera a etahi tangata, e kore e tika kia whakakahore te Komihana i taua kupu whakaae mo aua rihi a Hori Kiokio kia Henare Rata, a ahakoa tuhituhia te whakaae a taua Komihana ki aua rihi, kahore kau ona ahaa ki aua rihi, hoe ano te take, ko te tae o aua rihi ki te Tari tuhituhi rihi, ki reira mahi taura ai aua rihi, a e mahia ai aua rihi i te Kooti Hupirimi. A kahore kau hoki he take e whakakahore ai te Komihana i taua kupu whekae mo aua rihi, ko nga kupu anake kua kiia i runga ake nei, i te mea hoki, mei kiia he tika taua whakaaro a taua Komihana, penei he [unclear: mahi] nui ke ake tera i ta te Kooti Hupirimi e kii ai, e kore ai e tae te aro o te iwi ki te Kooti Hupirimi whakawa ai. A ki te mea e kore e tuhituhia [unclear: tauratia] te rihi, penei e kore te rihi e tae ki te Hupirimi Kooti, a e kore te rihi e taea te tehituhi taura ana kore te tehituhi whakaae a te Komihana ki taua rihi.

A i mea te kupu a Tiati [unclear: Kaihi], ko te kupu whakataunga a nga [unclear: Komihana] i [unclear:

mua] atu, he kupu he ki ta te [unclear: ture] i kii ai, a ko te kupu i kiia nei mo Tiati [unclear: Henikara] i te whakawa a [unclear: Aihi] i te tau 1872, he kupu kau, a e he ana, i te mea kahore ano te tino mea o te whakawa a Ariki i [unclear: kiia] i te [unclear: aroaro] a Tiati Komihana, a na [unclear: reira] aia i kore ai e mohio ki ta te ture tikanga mo taua mea.

He nui te [unclear: nui] o te whakawa nei ma Henare Rata ratou ko nga Moari, he mea hoki kua tautini e mahia ana te tika kia [unclear: puta], i nga tangata i aro ki te Kawanatanga tawhito, a he iti no ta matou wahi, koia i kiia ai, hei a [unclear: tera] putanga o TE WANANGA ka [unclear: korero] ai ano matou i a matou kupu, mo [unclear: Ngatihokohe] ma i te mea hoki kahore a [unclear: Takerehi] ma i meakia mahia [unclear: paitia] a raua mea i te Tari Maori i Nepia, i aro ai raua ki te [unclear: kun] a i poraru ai raua.

Important Decision of the Supreme Court.

ON Saturday. 14th inst., Judge Gillies heard an appraisal by the Hon. H. R. Russell from the decision of Mr Beetham, late R. M. and Frauds Commissioner at Napier, in the matter of two leases by Hori Kiokio husband of Te Orora, of his wife's share in pekapeka No. 2, and of his share in Kaokaoroa Block

The circumstances of these cases are shortly as follows. Some years ago Te Orora signed leases of these blocks without her husband's signature, and Mr. Sutton afterwards got the most of the grantees to sign mortgages and sales to him of the two blocks, the effect of which was to transfer all real interest in the land from the grantees and their hapus to himself. Fortunately for the Natives, most of these deeds by which they were quietly, and for trifling consideration of which money formed a very infinitesimal part, deprived of their lands, were not executed according to the requirements of the Native Land Act. Hence there was then a chance of their recovery by legal proceedings, founded on the law as laid down in the Mangateretere case, and steps have been taken with that object.

It is perfectly clear that no wife can alienate her property without her husband's consent, and so Te Orora's deeds not having her husband's signature also, are null and void. He accordingly made a deed of lease to Mr. Russell of his wife's shares in the two blocks. When brought before Beetham the the Frauds Commissioner, the leases were objected to by Mr. Hugh Campbell, and Mr. W. Douglas who claimed to be lawful tenants of the blocks. They were supported by an army of counsel, and among other objections, and one upon which the greatest stress was laid, was the denial of Hori Kiokio's marriage. Unfortunately the register of Native births, deaths, and marriages was burnt when in the custody of the Rev. Samuel Williams at Te Aute, and it was considered by Messrs Douglas and Hill and their lawyers that it would be impossible to prove the marriage, Mr. Beetham, the Commissioner, although Mr. Rees for Mr. Russell and for the Natives, argued that it was not the intention of the Act to confer on the Commissioner power to go beyond the immediate deed before him, namely the lease between Hori Kiokio and Mr. Russell, decided that he was entitled to take into consideration not only those leases, but also any former leases by Te Orora, the wife, and further to require proof that Hori Kiokio and Te Orora were married. Several influential Native chiefs, among them Renata Kawepo and Te Harawira Tatere, gave evidence that they were present at the marriage at Awapuni, when the Rev. Mr. Colenso officiated. That rev gentleman, however declared that he had no recollection of the marriage, and went out of his way to say that neither Hori Kiokio nor Harawira were persons worthy of credit, "as they owed him money for goods, and had refused to pay it."

Mr Beetham, the Commissioner, after an interval of some days, refused the certificate on the ground that it was contrary to equity and good conscience.

An appeal was made by Mr. Russell to the Supreme Court, and the case was fully argued by Mr. Rees for Mr. Russell, and Mr. McDonald, supported by Mr. Cotterell, for Mr. Douglas, and Mr. Carlile for Mr. Campbell.

Judge Gillies decided that the Frauds Commissioner had no right to take into consideration any third parties, or what interests might be affected by the leases, and if no objection was made that there was an illegal consideration, such as the supply of grog, ammunition, or spirits, and that the Native had no other lands to live on, or that the rent and other terms of the lease were unfair to the Natives, the Commissioner had no alternative but to grant the certificate. Such certificate neither made the deed better nor worse; it simply enabled it to be registered, and to fight its way in the Supreme Court against all other previous deeds. The Frauds Commissioner, who was generally a mere layman, had no power to refuse a certificate on any other grounds than those just stated. Were it otherwise it simply came to this, that he exercised a power which even the Supreme Court itself did not possess, and prevented the parties to the deed from asserting their rights before the Supreme Court. Unless the deed was registered it could not be produced in a Court of Law, and was of no value whatever, and no deed could be registered without the Fraud Commissioner's certificate.

Judge Gillies declared that the decisions of former Commissioners were against the clear instructions of the

Act, and remarked that the asserted decision of Judge Johnston in Arihi's case in 1872 was a mere dictum, and altogether wrong, and that in fact the case of Arihi had never been brought properly before Judge Johnston, who therefore could not decide the law point.

We consider this a great triumph for Mr. Russell and the Natives generally, gained after years of struggling for justice against the influence of interested parties in high positions in the late Government and their obsequious nominees, but as our space is limited, we shall postpone till next issue further remarks on this important victory over the King, by whom, in an evil moment for themselves, Messrs Campbell and Douglas allowed themselves to be seduced into co-operation, instead of separately endeavoring to come to an amicable settlement of their title with the so called Repudiation Office.