



IN THE MATTER of The Status of
Children Act 1969
AND

IN THE MATTER of the Estate of
BRENT IAN MACKAY
late of Kinohaku,
Parks Board
Employee, Deceased

BETWEEN HENRY of
Otorohanga; Femme Sole
Plaintiff

AND TONY GEORGE MACKAY of
Kinohaku, Farmer and GAYNOR
DIANE MACKAY of Hamilton,
Kennels Proprietor
Defendants

Hearing: 5 March 1987

Counsel: J.L. Millar for the Plaintiff
G.S. MacAskill for the Defendants

Judgment: 5 March 1987

ORAL JUDGMENT OF DOOGUE J

This is an application by the Plaintiff for an order that the evidence of two witnesses be taken on oath at Dunedin.

The proceedings relate to the paternity of a child. The witnesses speak in affidavits in support of the proceedings as to the relationship between the mother of the child and the person alleged to be the father of the child.

The affidavits in support of the application show some possible inconvenience if the witnesses were required to attend the trial at Hamilton. There is nothing within them, however, which indicates that it is at all impractical for the witnesses to attend the trial at Hamilton. They may incur some cost in attending such a trial. Correspondingly, however, if their evidence is taken in Dunedin, the parties will incur other costs which could well, in rough and ready terms, equate with the costs of bringing the witnesses to Hamilton. The credibility of the two witnesses could be an issue in the determination of the proceedings, although there is nothing to suggest, at this stage, that that is necessarily the case.

In the circumstances I exercise my discretion and refuse the application. I comment, however, that I think it was appropriately brought for the benefit of the proposed witnesses by the Plaintiff.

I understand that the Plaintiff is legally aided. From my present knowledge of the proceedings, I would have thought it appropriate that the costs of bringing the two witnesses to Hamilton to the trial should be sympathetically considered by the legal aid authorities.

Peocan J.

Solicitors for the Plaintiff: Dix Koretz & Millar
Otorohanga

Solicitors for the Defendants: Tompkins Wake & Co
Hamilton