the Crown. To this doctrine Sir George Grey, the Governor; Sir William Martin, the Chief Justice; and Bishop Selwyn offered strenuous opposition. The Governor suspended the proposed Constitution, and Earl Grey and the Imperial Parliament reconsidered the position and indorsed his action. It was the fear of this claim already hinted at that had inspired Hone Heke's hatred to the flagstaff at Kororareka, and driven that chief and Kawiti into war.

See Mr. Carroll's note as to pre-emptive right.

The Constitution Act of 1852 followed the Treaty of Waitangi, and tacitly acknowledged the rights of the Maoris in all their territories, while it set out the pre-emptive right of the Crown. This right, abandoned by the Act of 1862, was partially resumed by Parliament in 1884. So far as the King-country is concerned, the pre-emptive right of the Crown was re-asserted by the Restriction Act of 1884, and still prevails.

There are four parties to be considered—the Natives, the Crown, the Parliament, and the people. So far as the Natives are concerned, it is clear that the rights assured to them are contained in the Treaty of Waitangi and the Constitution Act. In both these the pre-emptive right of the Crown to purchase the lands of the Maori is absolute. The Natives can in no sense claim the abandonment by Parliament of this right as abrogating the provisions of the Treaty and the Constitution. The same power which enacted the abandonment can again place pre-emption upon the statute-book. The question is beyond dispute. In the King-country it has already been done.

The Crown, believing that it was consenting to legislation for the benefit of the colony, waived its right. If the Parliament of the colony, seeing that the new system has broken down, legislates upon the old lines, and returns to the pre-emptive right, the Crown can undoubtedly consent. The Maoris have no claim to bar the Crown from purchase. Parliament may prohibit private subjects from purchase; but the Maori, in the presence of the Treaty of Waitangi and Constitution Act, cannot prohibit the Crown. Free use and enjoyment of their lands, only controlled by just laws—this the Natives can indeed claim. The right to sell to whom they please is contrary to the treaty by which New Zealand became part of the Empire. The right to lease still under wise laws they may urge as proper. Upon this middle ground between occupation and sale Parliament may well act.

In the interest of the Natives, of the Crown, and of the whole people, for the fulfilment of the Treaty and the Constitution, the right of purchase should still be vested in the Crown, and in the Crown only.

In the case of Wi Parata *v.* the Bishop of Wellington, N.Z. Jur., N.S. 3 S.C. 72, it was decided by the Supreme Court that all Maori lands were waste lands of the Crown, subject to the rights of the Natives. That judgment is clear, but the facts and the law warrant even a broader utterance. By the law of nations, English occupation vested the ultimate title to all lands in the Crown. The Maoris at the moment of annexation became tenants; but they did not hold the highest form of tenancy—that of a simple fee. The Maori title is that of occupation, but occupation by an indefeasible right.

Parliament can legislate regarding the future administration of the Maori lands and the resumption by the Crown of the pre-emptive right. Parliament has both claimed and exercised extensive powers. It has confiscated Native lands. It has vested them in trust. It has prescribed ways and methods of alienation. It has appointed Commissioners, created Courts, and decided titles. There are no limits to its jurisdiction. In truth the Maoris were never the owners of the legal estate since the Treaty of Waitangi: they were the beneficiaries, and could not deal with their lands without the consent of the Crown and Parliament.

While the rights of the Crown and of the Natives, and the authority of Parliament, claim attention, the rights of the general public must not be forgotten. The land of the Maori is untaxed. While the European population are called upon to pay heavy interest on loans partly spent in improving the value of the Native lands, and partly in Native wars, the Native people pay comparatively little taxation; while local rating falls with great weight upon the European, but not to the same extent on the Native. In this context, however, it is but just to refer to the abnormally heavy stamp duty levied upon Maori lands.

Immense areas of idle territory existing while an industrious population are leaving the colony because they cannot get land to settle on is an injury to New Zealand and to its people.

And, finally, the public as a whole claim the right to participate in any advantages to be derived from the opening of the Native lands, and are strongly adverse to any state of the law which may restrict such advantages to a small class.

Still more forcibly does the legal authority and the duty of Parliament appear regarding the unhappy confusion and contentions which surround the former dealings with Native land.