

*Judge Batham:* I heard the petition read. There are two points that seem to concern me, and about them I wish to speak. One is the fact that claims affecting certain lands on the East Coast have been lodged, and that those claims have not been prosecuted with due diligence. The other point is that the petitioners ask the House to refuse legislation to assist Messrs. Carroll and Wi Pere in prosecuting those claims. Under the present Act the claims had to be lodged by the 31st December of last year. Messrs. Carroll and Wi Pere, finding themselves in a difficult position, and to keep their claims alive, had possibly to lodge more claims than they would be able to substantiate. Very few of their claims, however, have been heard. There has been but one heard since my appointment as Judge, and in reference to that one I came to the conclusion that it was beyond the jurisdiction conferred by the Act. The claimants had the right of appeal within a certain time and on certain conditions.

1. *Mr. Heke.*] Will you mention the name of that particular claim?—It affected the Ngamoe Block. I do not know what were the grounds of the claim, because the merits of the case were not gone into. The question of jurisdiction was raised by Mr. Apirana Ngatu, and on that point the case was thrown out so far as the Validation Court was concerned, the claimants, however, having the right to go to the Court of Appeal.

2. *Mr. Stevens.*] The point was this: that this land was one of those properties upon which the Estates Company had advanced moneys when the land was not clothed with a title?—The grounds were that the title had not been investigated when the contract was entered into. The claimants (Messrs. Carroll and Wi Pere) lodged a notice of appeal within the time allowed, and they furnished security to the extent of £200 for costs in case they were unsuccessful. In that manner the case was kept alive. I have good reason to believe that Messrs. Carroll and Wi Pere are moving, or are likely to move, for legislation to meet this difficulty, so as to obviate the necessity for carrying this case to the Court of Appeal. This decision in regard to Ngamoe affects some sixteen or seventeen other cases.

3. *Mr. Heke.*] Are these others in a similar position to Ngamoe?—Yes; they are on the same lines, and are affected by the same question. Of course, I am not speaking on the merits of the cases, but on the legal position, and as to whether the cases are covered by the Act. Beyond those cases there are some thirty-six others not affected by this question; in regard to them, although claims have been lodged, no steps have been taken. I take it that this point is one of those touched upon by the petition—that the owners of these blocks are in suspense, and the claims are kept hanging over them without being prosecuted. It is my opinion that the Validation Court cannot force the claimants to prosecute their claims. Whether the Validation Court should have that power, of course, it is not for me to say; but it is a matter well worthy of consideration.

4. That the Court should have what power?—To compel the claimants to prosecute their claims within a definite time or abandon them. In that respect the Validation Court is in the position of the Supreme Court in civil matters. It is left to the parties themselves to take whatever action they like, either to delay or to expedite the proceedings. I was furnished with a long list of these cases which the trustees intended to abandon, but no formal abandonment was ever put in. The trustees occupied a position between the mortgagees, the Native owners of the blocks affected, and the Native owners of the other blocks that had been mixed up in the trust. It appeared to me that the trustees wished to withdraw these claims, but that I ought not to allow them to do so without the consent of the mortgagees, because these claims had been represented as of very great value in support of the security given for those titles that had been either dealt with prior to the Validation Court or were affected by the action of the Court. Ultimately it was agreed to refer the question to the mortgagees in order to obtain their consent. As Mr. Carroll stated, however, the mortgagees demurred to striking off so many claims, because it was on the representation that they were of great value that advances had been made and time given. That is the present position of the matter, except, as intimated by Mr. Carroll, that the trustees themselves are willing to abandon a number of these cases. No formal notice of abandonment, however, was lodged by them, and, as far as the Court is concerned, the cases are still alive. The mortgagees having been induced to make advances, and give time for payment of these moneys, on these securities of title, there would be hesitation in throwing them overboard. One member of the Committee last week referred to the question of the extension of the Act in order to empower the Court to validate invalid titles. Of course, the very nature of the Act demands that the contract to be dealt with must be, in some sense, invalid. The Court of Appeal recently held that a contract entered into by a European with Natives for the purchase of land under absolute restriction from alienation was one of those contracts that could be validated by the Validation Court. That is even a stronger case than the one mentioned by Mr. Monk at a previous sitting of the Committee.

5. *Mr. Heke.*] Was that decision given a long time ago?—It was in the case of Mr. Ransfield, of Otaki, decided during the present year.

6. That was an appeal from the decision of the Validation Court?—Yes, from the decision of the Chief Justice. It was in February, 1892, that the trustees were appointed. I think they took over the whole of the properties, with good or bad titles, from the Estates Company. They were acting as trustees for the Natives, and were getting in the properties for what they were worth, in order to spread the burden over the whole of such properties on the East Coast as were liable.

7. *Mr. Parata.*] You said something about keeping the cases alive: what do you mean by that?—Unless they appealed and found security within a certain time, the case fell to the ground, and was disposed of absolutely.

8. *Mr. Heke.*] I suppose you have really no knowledge as to the relationship between Messrs. Carroll and Wi Pere on the one hand, and the Bank of New Zealand or the Estates Company on the other?—I might explain that the position they are taking up in bringing their claims before the Validation Court is not the position that would be taken up by a trustee—that is, as far as I can understand it. The position taken up by them in lodging their claims is more the position that ought to be taken up by the representatives of the mortgagees. The object of the trustees is to get