to point out this salient point, as, judging from the Native Appellate Court's case, the Judges there seemed to pay considerable attention to this view of the matter.

The question whether the Natives who agreed to the voluntary arrangement intended that Major Kemp should have Block 14 for himself, or whether he should hold it as a chief for the tribe, or as a trustee for the tribe, I express no opinion upon. That, no doubt, will come before the Committee.

I may add that I have picked out this point about voluntary arrangement because, as I repeat, the Native Appellate Court seems to pay great attention to it; and because it seems to me that those who were not parties to the arrangement may consider that they have been aggrieved.

No doubt so-called voluntary arrangements have, in hundreds of cases, been given effect to, though all the registered owners did not concur in the arrangement. In such cases, however, the Native Land Court acted on its own views of the matter, and not, as here, as a mere administrator, taking the voluntary arrangement no doubt as evidence of what was proper or right to do. In this case, unfortunately, the Court did not, the Native Appellate Court says, so proceed.

9th December, 1897. ROBERT STOUT.

EXHIBIT C.

MONDAY, 13TH DECEMBER, 1897.

Mr. Seddon: I will give the Committee a brief account of what has happened, and state what has induced the Government to ask that clause 3 should be in the Bill, and the proceedings in the Supreme Court set aside, or simply held in abeyance. By the Act of last session it was decreed that a Native Appellate Court should be set up, and that this Court should decide on the facts in this matter, and in equity and according to Native custom—that is, so far as the dealings with the block or blocks mentioned in the Act itself are concerned. There was a question of English law as affecting the trusts, or of a person dealing with one of the blocks—Division 14 being a trust, or which might possibly be found by the Appellate Court to be a trust, and I wish members to mark that—and if upon such finding it was found to be a trust, then the Supreme Court was to decide in accordance with English law whether or not Sir Walter Buller, who had had dealings with one of the trustees or the trustee, had had notice of such trust. The Native Appellate Court, set up to decide the question whether there was a trust or not, sat and took evidence, and then, instead of finding whether it was or not, sent a large number of questions to the Supreme Court to be answered for the guidance of the Appellate Court. In the meantime, as by Act the Public Trustee had to initiate proceedings within a certain time, these proceedings had been initiated, but application was made to the Supreme Court to adjourn the matter until the finding of the Appeal Court was given. The Chief Justice, I think, committed an error of judgment and refused to grant the adjournment. Without the Appellate Court having found on the facts it was futile to deal with the contention as to whether Sir Walter Buller had had notice of a trust or not, because there was nothing before the Court to show there was a trust except the Supreme Court finding previously given at Wanganui, which said there was a trust between one of the blocks, and that Kemp and Hunia were trustees of it. What happened was this: The Public Trustee—you have heard it said in the House that the Minister of Lands was practically the principal and the Public Trustee was simply the agent; but, unfortunately for all concerned and Parliament, we did not say so, but left it entirely to the Public Trustee, who, against the Minister's desire, and the adjournment having been refused, decided, on the advice of counsel, to accept the finding of the Court, with the result, as you know, that the Public Trustee practically gave consent to the finding which under the Bill is sought to be voided; and immediately upon this the flood-gates were let loose about costs and putting in the bailiff in the Public Trustee's office. As far as the Government are concerned, we wish to have the will of Parliament, as originally expressed by the Act, given effect to; that there should be a finding first by the Appellate Court, and after that that the Supreme Court should deal with the case with respect to this Block 14 and Sir Walter Buller's position. Matters must remain in abeyance until the Appellate Court has decided whether there is a trust or no trust. No title can be issued, and the whole thing is hung up, like Mahomet's coffin—no title can issue and no title can be set aside, unless the Appellate Court finds there was no trust at all, and that would complicate matters more than ever. Therefore, this clause was intended to go back to the original position—namely, that the Appellate Court must first find as to dealings with this land, and whether there was a trust or there was not a trust, and then let it go to the Supreme Court.

Mr. Field: But if the Appellate Court found there was no trust, no action could lie.

Mr. Seddon: That is so: as matters now stand it is the cart before the horse.

Mr. Heke: Do you not think that was intended by the Legislature last year?

Mr. Seddon: Certainly not. The Supreme Court has practically said to the Native Appellate Court, "You have no right to reserve for our decision questions of fact which you must decide for yourselves," and sent the questions back. The Appellate Court having received them back, it would be wrong if, owing to the state of things on the part of the Appellate Court, you were to say that that was what was intended by Parliament.

Mr. Monk: But can we determine that the action of the Supreme Court was wrong?

Mr. Seddon: The Appellate Court was to find on the facts first, because, until it was found it was a trust, how could they say anything about the dealings with the land? This clause 3 is a suspensory clause pending the finding of the Appellate Court.

Mr. Heke: Clause 4 renders that nugatory altogether. It orders another hearing and brings on another case. As far as I understand from you, the case for the Appellate Court is referred back by the Supreme Court to it for consideration; and, if that is the position, why should we interfere? The Appellate Court can sit and bring the matter forward for its decision, and then, after that is done, action can be taken in the Supreme Court if necessary.