

*Mr. Heke* : I was under the impression that Mr. Carroll or the Premier would have the information ready for submission to the Committee.

*Mr. Monk* : The fact is this: I want to do what is right, and do not want my name mixed up with any indifferent action afterwards. I feel that I have now to go and study up the point and I would like two or three days to inform myself, so that I may come to an intelligent opinion regarding the Bill.

*Hon. J. Carroll* : The whole thing is set out in the recital.

*Mr. Heke* : I would like to know the true position of the question referred back by the Supreme Court to the Appellate Court; and I would like to know further the position the Supreme Court took.

*Hon. J. Carroll* : The Supreme Court merely decided that the questions submitted to it by the Appellate Court were matters which ought to be decided by the Appellate Court itself. Mr. Heke wants this Bill postponed so that the decision of the Supreme Court may be obtained. As a matter of fact, the Supreme Court gave no interpretation of the questions placed before it. It would not deal with the matter, and said the Native Appellate Court was the proper tribunal to decide it.

*Mr. Monk* : Sir Robert Stout points out in his memorandum that there was a voluntary arrangement.

*Mr. Stevens* : My contention, and the contention of four-fifths of the witnesses, is that it was not a voluntary arrangement.

*Hon. J. Carroll* : This legislation was passed on the report of the Commission. From then down to the present moment the facts that come into existence are of importance to us.

*Mr. Heke's* motion negatived, and clause 3 agreed to.

Clause 4.

*Mr. Heke* : I want to take the opportunity of widening the scope of the Bill, and propose an amendment to add the following words after the word "division" in the first line—"6, 9, 11, 12, and." The object of my doing this is to enable these divisions of the Horowhenua Block to be declared Native lands. When the Court sat in 1873, an application for rehearing was lodged on behalf of Te Whatanui's descendants. This application was dismissed, although lodged within the time specified by the then law. No reasons were given; and to enable the case to come before the Native Land Court again for investigation, I move that these divisions be declared Native lands. What I maintain is that the descendants of Te Whatanui have a clear right to the Horowhenua Block.

*Hon. J. Carroll* : There would be a difficulty in that. The only division that is under consideration at the present moment and for which this Bill is necessary is division 14.

*Mr. Stevens* : The descendants of Te Whatanui had a right under the principal Act, and they set up their claim before the Appellate Court.

*Mr. Heke* : That was regarding a particular division—No. 9.

*Mr. Stevens* : And also the land south of No. 9.

*Mr. Heke* : But it was not wide enough. It was not equivalent to a new investigation of title.

*Mr. Stevens* : It was, so far as these two blocks are concerned.

*Hon. J. Carroll* : I would also point out that on these divisions referred to by Mr. Heke decisions have been given and titles ordered. The only one not determined by the Appellate Court was this division 14, which is the subject of our investigation now.

*Mr. Heke* : I am not going to press the matter. I am only going to take a vote.

*Mr. Field* : There are two subdivisions as alternative allocations. They decided to take one and leave 14. The consequence was that division 14 reverted to its original position and became part of the block.

*Mr. Heke's* motion negatived by 7 to 3.

Clause 5.

*Mr. Heke* : I desire to move an amendment in line 29 of the page, to strike out the words "Public Trustee," with a view of inserting the words "Attorney-General." I think it is better to move this out of the hands of the Public Trustee, because the Public Trust Office is a business institution with which a lot of private persons and Natives are connected, and if the Public Trustee is placed in the position of prosecuting and getting into litigation there will be an amount of odium attached to the office, and persons who have imposts conducted by or under the institution may be disposed to have nothing to do with it. I think the action should be taken by the Government, and by placing the Attorney-General in the clause instead of the Public Trustee it brings the case into the hands of the Crown, and the Crown has to take action.

*Hon. J. Carroll* : We could put in a proviso to protect the Public Trustee. However, I will take a note of the amendment, and see if there is any particular objection to it.

Clause 6.

*Mr. Monk* : I should like to mention that our position is something extraordinary. This Bill sets aside every decision on this land except the division given by a Commission of laymen.

*Mr. Stevens* : Not a Commission of laymen, because the Commission was presided over by one of the cleverest solicitors in the colony.

*Hon. J. Carroll* : Before any action was taken the Supreme Court had decided that there was a trust.

*Mr. Monk* : Is there a decision that there is a trust? The Supreme Court declares otherwise.

*Hon. J. Carroll* : It declared there was a trust in one of the other divisions, and it ordered that the Native Land Court should define that trust, and when this was set up by the Legislature they thought fit to make it include other sections of the block. Since then the Commissioners reported that Division 14 was also a trust. But this clause 6 lays down the lines on which the Supreme Court should make its investigation. This is only in regard to alienations that have taken place.