

(3.) Again, there is McDonald's evidence before the Supreme Court (Horowhenua Commission evidence, page 79, questions 428 and 429): "Somewhere about this time Mr. Lewis, the Under-Secretary, arrived at Palmerston. He took a very active part in the matter on behalf of the descendants of Whatanui. Kemp fully admitted that he had promised the 1,200 acres in addition to the 100 acres, and a piece of 1,200 acres was marked off on No. 1 tracing for that purpose; but it transpired through Mr. Lewis that they did not want the 1,200 acres marked on the tracing; that they were not satisfied with it; and, after a great discussion, it was ultimately agreed to give them 1,200 acres adjoining or surrounding the 100 acres which was on the western side of the railway. That was transferred to No. 1 tracing, and then arose a discussion as to who of the Ngatiraukawa were to be included."

These words are an important admission to the effect that Muaupoko, at the partition of 1886, decided, as they were entitled to do (without waiting to ascertain the *uri* of Te Whatanui and ask the consent of each of them) what subdivision they were willing to give those descendants. No. 9 was first decided on and put on a tracing, and then the question who were to share it was discussed.

It will be observed that when this evidence is put to McDonald at the Royal Commission, while not venturing to unsay it, he attempts to travesty it (answer 429). To definitely decide on the subdivision without waiting to consult those who might share in it, is not the same thing as to "Wait and see if any one would say 'We will take that.'" Yet the words, "That is quite true," implied that the two things are the same.

It should be noticed generally in reference to McDonald's evidence previous to 1896 that he has insufficiently explained why he never till that year suggested that No. 14 was a trust subdivision. In these previous cases, his evidence at which is now being quoted, he was admittedly the chief witness called in opposition to Kemp; and counsel opposed to Kemp were briefed upon the information of McDonald as to what took place at the partition of 1886. How comes it then that—although Kemp, on each occasion, is questioned minutely on cross-examination as to his alleged frauds upon the tribe—that which would have been the greatest fraud of all is never flung in his teeth?

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