

*Mr. Seddon*: The functions of the Supreme Court and the Public Trustee are gone unless we pass this clause—they are exhausted. The Public Trustee cannot go on again unless we pass this Bill, because the six months specified in the Act of last year have expired.

*Mr. Stevens*: The Horowhenua Block Act was passed for the purpose of preventing the question being referred to any other Court while the statutory Court was open, and that was the Appellate Court.

*Mr. Seddon*: If you look at the original Act you will find that, though we never expressed it, it was contemplated from the start that there must be a finding on the facts by the Appellate Court. If we had stated in the Act that after the Appellate Court had made its finding the Supreme Court action could be taken we should have had no trouble whatever.

*Mr. Stevens*: The Appellate Court did not find there was a trust, but in the meantime the Public Trustee, in accordance with the Act of last year, was required to issue a writ in the Supreme Court to ascertain whether Sir Walter Buller had any knowledge of the existence of a trust when he dealt with Division 14. The Public Trustee's solicitor practically said, "I will take out the writ and carry it in my pocket—I will carry it twelve months if I think it desirable to do so—because I am going to withhold this writ until the Appellate Court has found upon the facts." But the other side said, "No, we will not allow you to hold the writ"; and they issued a summons compelling the Public Trustee to proceed with the case in the Supreme Court. Now, that is absolutely not what the Legislature intended. I was engaged in the case at one time, but am not now, and I have no other desire than to do what is right as between the parties. The question is: Was it ever contemplated that the Public Trustee should go into the Supreme Court before the Appellate Court had had an opportunity of coming to a decision? That is the whole position; and, if there is any semblance of hardship, I say that Sir Walter Buller and his solicitors have brought it upon themselves by their action. The whole blame rests on the Native Appellate Court. Instead of taking upon themselves the responsibility of giving a decision they submitted these questions to the Supreme Court. They relied on the evidence of Judge Wilson, who was the presiding Judge at the time the so-called voluntary arrangement was made. Judge Wilson came before the Royal Commission which was set up and gave his evidence there. He then came before the Appellate Court and gave evidence there also; and I will show you that Judge Wilson's evidence was as absolutely untrue as any words that ever came out of a man's mouth. The contention of the solicitors for Sir Walter Buller was that the evidence of the presiding Judge must be taken as paramount—that it was quite impossible for any other evidence to do away with the evidence of the Judge; but the Supreme Court here has held differently. It has held that the evidence of Judge Wilson need not be accepted as paramount by the Appellate Court. To put the thing shortly, to my mind the mistake made by Sir Walter Buller and his solicitors was forcing this question into the Supreme Court instead of allowing the Appellate Court the usual time to carry out its functions. They having accepted that position, if there is any kind of hardship they have brought it upon themselves. But there could be no hardship when we only want one thing—that is, to get at the facts. There is not a single member of this House who will look dispassionately at the position and say that it was not a trust. There is overwhelming evidence to that effect, except that of Judge Wilson. Here was a block of land cut off for the purpose of satisfying the claims of the descendants of Te Whatanui. Nicholson, on behalf of the tribe, came into the Court and said, "I will not have the land there. I want the land down at the lake; that is not the land where my grandfather died." In the meantime they cut the land off and put it in Kemp's name. Subsequently they refused to have the land, No. 14, and how did it become Kemp's? There was a meeting, and it was said that the Muaupoko had agreed that Kemp should have it for himself. Nothing of the kind. There was the evidence of one witness only—there was one woman who said that Kemp should have it for himself. Is it reasonable to suppose that one woman in a meeting of fifty or sixty people should be able to bind the others?

*Mr. Monk*: What about Nicholson?

*Mr. Stevens*: Nicholson has taken No. 9—that is for the descendants of Te Whatanui. It was intended that he should not have No. 3, because the first they cut off in the subdivision of the block was for the railway, secondly for the township, and thirdly for the satisfaction of the claims of Te Whatanui; and that was No. 3, but by some device they had written 14 over the top of it. Then, when the survey was made there were 518 acres short, and they took out a piece of No. 11 without it being taken before the Court, because 14 was intended to have been taken out of No. 6. Then there was not sufficient residue in that block for the Rerewaho, and they telescoped it down to near Waiwiri. Then, instead of it being Block 3 on the official plan of the Court, the figures 14 are written over No. 3. To my mind it is perfectly clear that it is necessary to have a proper inquiry in this matter. The action by Sir Walter Buller was for the purpose of burking the decision of the Appellate Court; and getting a judgment of the Supreme Court on a purely technical point of English law.

*Hon. J. Carroll*: The position, as far as I can understand it, is this: In 1895 an Act was passed suspending all operations in respect of the Horowhenua Block and its divisions. Under that Act a Commission was set up to inquire into the whole of the proceedings affecting the Horowhenua Block, of 52,000 acres. As a result of their investigations the Royal Commission reported duly, and found that Subdivision 14 was held under trust by Major Kemp. Legislation was framed upon the Commission's report, which legislation is contained in the Horowhenua Block Act of 1896, referred to now as the principal Act. In section 7 all dealings with the divisions 6, 9, 11, 12, and 14 were prohibited. Then, in section 8 of the same Act, it refers to Division 14 as follows: "A certificate of title for any portion of Division 14 aforesaid of which any valid alienation in fee-simple had been made as aforesaid, in the name of the person or persons entitled by virtue of such alienation: Provided that no certificate of title as last mentioned shall be issued except pursuant to final judgment in the proceedings hereinafter directed to be instituted by the Public Trustee." Then, in section 10 of the principal Act it refers to cancelled dealings, and provides that they may be