him for the payment of his tribal debts at Wanganui, and adjourned the application in order that the persons concerned in the apportionment of the Horowhenua Block should have an opportunity of considering whether Meiha Keepa's request in respect of Section 14, comprising 1,200 acres, being allotted to himself should be complied with."

Then I point out that what they go on to say does not refer to the question.

The Chief Justice: Do I understand you to say that it does not appear from the case that Judge Wilson was professing to act under a voluntary arrangement when he gave the 1,200 acres?

Mr. Bell: That is what I do say. The question is not whether Judge Wilson did proceed on a voluntary arrangement, but whether he said he did.

The Chief Justice: But surely you are bound by what this Court has said on section 3 of the case?

Mr. Bell: I am not going to avoid any difficulty. I am putting this case in order that I may approach the question, when I ask the Court first to arrive at a clear understanding of what the questions mean, so far as I can put them to the Court. There was the Judge proceeding upon a voluntary arrangement, and proceeding manifestly upon a voluntary arrangement. So he said, and so the Appellate Court reports to this Court. But it further reports to this Court that Judge Wilson said that in respect of Block 14 he took certain specific precautions. The question is as to what Judge Wilson said. He says, "I proceeded administratively upon a voluntary arrangement, but with regard to Block 14 I took certain precautions, which are here stated." The Judge therefore proceeded with regard to Block 14 upon a second voluntary arrangement. Nobody can pretend that he proceeded or purported to proceed in respect of Block 14 upon the arrangements of the first day, for the arrangements of the first day had given No. 14 to the descendants of Te Whatanui. Therefore the Judge did act upon what he conceived to be a second voluntary arrangement with regard to No. 14, and he states, with regard to that second voluntary arrangement, that he took certain specific precautions, which appear on the minutes. Now, it is of the utmost importance that, when the Court reads this question, it should consider these facts.

The Chief Justice: The paragraph states that the Judge adjourned the application in order that the persons concerned in the apportionment of the Horowhenua Block should have an opportunity of considering whether Meiha Keepa's request in respect of Section 14, comprising 1,200 acres, being allotted to himself should be complied with.

Mr. Bell: Yes, your Honour. That means that he adjourned it in order that the persons concerned in the apportionment of the Horowhenua Block should have an opportunity of considering it, and then he acted after that opportunity had been given.

The Chief Justice: Surely I misunderstand you when you say that was part of the original voluntary arrangement?

Mr. Bell: I mean the original voluntary arrangement gave No. 14 to the Ngatiraukawa, and then something remained to be done. However, it gives you the fact of what Judge Wilson said they did with regard to Block 14. What I am pointing out is that it is not suggested that it was in the original voluntary arrangement to give No. 14 to Kemp. That is obviously so. Nor did Judge Wilson say so. But what he did say was that on the 2nd December Kemp applied for it himself, and he awarded it to Kemp for himself. If he had acted in pursuance of the original voluntary arrangement it would be entirely different. Your Honours will see that this is a statement of fact, and what those express words "voluntary arrangement" mean when applied to No. 14 is important. It must mean a second arrangement made, of the existence of which Judge Wilson was satisfied, rightly or wrongly.

The Chief Justice: So far as I can see, that is borne out by the minutes.

Mr. Bell: Now I come to this question approached from that point of view. The Judge says, "I acted administratively when I was satisfied that the voluntary arrangement existed." Who is to determine whether or not there was a voluntary arrangement? Not this Court, not the Appellate Court, but the Judge. I submit there are authorities to show that. There are two ways in which the Court can proceed upon a partition. It may proceed upon what the Natives submit to it as a reasonable method of partition, or, if it does not so proceed, it must take evidence as to each particular block, and upon oath determine the answer. What, then, is it which entitles the Court to proceed on in the first way? Its procedure is empirical; but who is to determine whether there is a voluntary arrangement or not? The Judge of the Court. Now, as to the case of Hapuku *v.* Smith (12, N.Z. Law Reports, page 155), there is a distinction between that case and the present one. The Judge said, although the Natives strenuously denied it, that he had actually satisfied himself of the propriety of what was suggested to be a voluntary arrangement; but the question of the absence of people from the Court is dealt with in that judgment, and it is pointed out—and this I emphasize; this is my point—that the Native Land Court can proceed on any evidence it chooses to think sufficient. It could proceed by telegraphing to Parihaka. That is emphasized by the Judge in Hapuku *v.* Smith. In "The Native Land Court Act, 1880," section 23, there is a power relating to partition: "After such facts have been established to the satisfaction of the Court, it shall proceed to ascertain, by such evidence as it shall think fit (whether admissible in a Court of ordinary jurisdiction or not), the title of the applicant and of other Natives to the land, whether appearing in Court or not." And that section is carried into partition by the Native Land Division Act of 1882, section 3: "In carrying this Act into execution the Court may proceed in manner prescribed by 'The Native Land Court Act, 1880,' with reference to Native land, and may exercise all the powers therein contained. This Act shall be read subject to the interpretations contained in the said Act." Now, there is no doubt, therefore, that this Court, on partition, had power to satisfy itself as to the existence of an agreement by all the Natives, whether they were in Court or not; we submit, and for all anybody knows—or, at all events, if it was within his jurisdiction that he ascertained that—everybody was agreed. The absence of some of the people does not affect his right to determine that question. Everybody who was there had come to determine it, and if he determined it, who can now question the validity of