

65. It may be said, of course, that the legislation had the approval of at least two, and perhaps three, of the Maori Members of Parliament, because, as we shall show directly, Mr. Tirikatene was also present at the meeting of the Native Affairs Committee, and that it had also the approval, for what it was worth in the circumstances, of the Native Affairs Committee; but from what we have already said, and what we shall say directly, our own view is that the approval of the Maori members and of the Native Affairs Committee was worth nothing. It may also be suggested that the Native Trustee approved and that his duty was to protect the Maoris. That was undoubtedly his duty, and it cannot be too strongly emphasized that the Native Trustee, although a servant of the Government, has just as strict a duty to his *cestui's que trust* as any ordinary trustee in the case of a private trust. In this case the interests of the Maoris were not protected, though in all the circumstances of the case as set out in this report we feel that the blame can hardly be said to lie at the door of the Native Trustee or his deputy.

66. We have already said that Mr. Anderson had prepared a Bill on the 16th October which, with appropriate alterations, would have met the position in a manner fair to both parties. He had also suggested that legislation should not be passed during that session at all except a provision extending the term of the expiring or expired leases for a year or so, in order to enable the whole matter to be properly considered and appropriate legislation prepared and settled. That was the last heard of Mr. Anderson. Both he and his draft Bill and his suggestion for a temporary extension of the term of the expiring or expired leases seem to have been entirely dropped, and, unfortunately, the departmental file does not help us to any extent in ascertaining what was done and what was the actual course of events on and after the 22nd October. That no doubt is due to the fact that the end of the session was at hand and this business was done hurriedly and orally.

67. All we know is that some one prepared a new draft, being the draft which, apparently with some amendments, became the provision that was actually passed as section 19 of the Native Purposes Act. Mr. King is under the impression that the draft clause was prepared by some one on behalf of the lessees, and was then submitted to Mr. Dykes, the office solicitor, for approval. Mr. Houston says that this is not so, and that the draft was prepared by Mr. Dykes and approved by him, Mr. Houston. We are of opinion that Mr. King's recollection on this point is faulty. We think it is most probable that the draft was prepared by Mr. Dykes, but there is no record as to what his instructions were, or how or by whom he came to be instructed. We have endeavoured, through the secretary of the Commission, to ascertain from Mr. Dykes exactly what did happen, but he says that he has no recollection.

68. Probably what happened (though we do not regard this point as material) was that Mr. Houston and Mr. King conferred and that Mr. Houston indicated what terms he required, and finally, these being agreed to, either the two gentleman together, or perhaps Mr. King alone, informed Mr. Dykes of what was required, and Mr. Dykes proceeded to prepare a draft which Mr. Houston approved with some alterations made by himself.

69. That would appear from Mr. Houston's account of these transactions to have been on the 23rd October, and on the same day Mr. Campbell wrote to the Right Hon. the Native Minister as follows: "A further conference has been held with the representatives of the Lessees' Association and their solicitor . . . and they are now agreeable to the following amendments to the existing legislation as set out in the draft clause herewith, which is submitted for inclusion in the Native Purposes Bill, if approved." The Prime Minister, on the same date, minuted the letter: "The Under-Secretary. Include in the Bill. G.W.F. 23/10/35."

70. The Bill was read a first time in the House on the 24th October and a second time *pro forma* and referred to the Native Affairs Committee. At that time the clause relating to the West Coast leases was not in the Bill. The minute-book of the Native