

2. The money was earned at Major Kemp's expense by Sir Walter Buller in defence of Sir Walter Buller's position. Whatever the result of the litigation may be, Major Kemp is left with the very husk of Horowhenua No. 14, a piece of land according to Sir Walter Buller worth less than what it is charged with. Sir Walter Buller has become a secured creditor and an established lessee, and it is to establish him in this position that the whole of Kemp's debt of £6,810 has been incurred.

Summary of the Position.—Summarising the position, we find that the result of the litigation has been to secure Sir Walter Buller's titles, to secure for him thousands of pounds spent, and to entitle him upon the documents to several thousands of pounds, a portion of which is legally due, no doubt, for his personal services, but the great bulk of which was money claimed as due from Major Kemp to Sir Walter Buller to legalise and make safe Sir Walter Buller's own position. The litigation has put into Sir Walter Buller's pockets thousands of pounds, part of which he, no doubt, earned, but all of which was spent in support of his own position and spent at the expense of Kemp's ruin.

If the country were asked merely to indemnify Sir Walter Buller not one farthing could be asked of it. Even Sir Walter Buller's counsel dared not assert that Sir Walter Buller had lost one penny-piece, or would be one penny-piece poorer by this litigation if he were not to receive any part of the £605. The real reason is that Sir Walter Buller having obtained—I do not say wrongly—Kemp's all in Horowhenua, and seeing that it can be advanced that that all will not cover the whole of his costs as fixed by himself, wishes the country to still further enrich him. He therefore asks to be paid two certain sums, one of which is actually secured to him under Major Kemp's mortgage to him, and under the will the other of which is certainly more than covered under the £6,810, which the will irrevocably leaves to him.

Conclusion.—We therefore find it clearly established: (1.) That Sir Walter Buller is himself responsible for incurring almost every penny of these costs. (2.) That Sir Walter Buller has been paid the amount claimed over and over again, and that he cannot show one penny of loss which the country can be asked to recoup him. Under the circumstances he is surely not entitled to ask the country to pay him anything whatever.

CORRESPONDENCE.

DEAR SIR,—

Native Appellate Court, Levin, 23rd April, 1897.

Re Horowhenua No. 14.—Enclosed I send you a copy of the statement of case, &c., prepared for the Supreme Court. Kindly peruse it, and consult Mr. Stafford thereon as to whether it is necessary to superadd any additional matter for the purpose of elucidating the questions of fact and law proposed to be submitted.

A copy of the case has been handed to Sir Walter Buller to be sent to Mr. H. D. Bell for perusal, and, as it is probable that some additional matter may be suggested by Mr. Bell, it seems advisable that the unanimity of action should be arrived at with a view to prevent separate and dissimilar proposals being submitted to the Court in respect of fresh matter to be added to the statement of case as now prepared. It will also be understood that no questions within jurisdiction of the Appellate Court, either of law or of fact, are to form part of any fresh suggestions that may be submitted for consideration.

P. Baldwin, Esq., Solicitor, Wellington.

Yours, &c.,

A. MACKAY.

DEAR SIR,—

Wellington, 5th May, 1897.

Horowhenua No. 14.—The proposed statement of the case for submission to the Supreme Court has been very carefully considered by us conjointly, and we are very much obliged to you for having sent the case to us for perusal. Prior to returning it we are writing to submit to you reasons for urging that the submission of points to the Supreme Court may be unnecessary, and we feel certain that the Court will fully consider what we are writing before finally deciding to send the case to the Supreme Court.

The reasons which make it, as we respectfully submit, undesirable and quite unnecessary that this case should be referred at the present time are as follows:—

In the first place, as you are aware, the questions stated by the various parties interested must involve a considerable amount of argument. Some of them may require the decision of a further tribunal, and in any case the arguments must, in the course of things, last over a considerable period of time. The expense of this to the various parties interested will be very considerable. Besides this, the time which will elapse before we can secure the attendance of his Honour the Chief Justice may be very great. We do not wish to use exaggerated language in the matter, but especially on the score of expense this application to the Supreme Court must be fraught with a grievous disadvantage, at any rate, to our client, and we presume to Sir Walter Buller also.

Of course, if it is inevitable that the case should go on, the expense will have to be faced, and the persons who are unfortunately compelled to pay it will have no option in the matter; but we do respectfully submit to the Court that no such necessity exists at present. We have all along urged that the sole question for this Court's decision is a simple one. Major Kemp has applied for an order declaring that he is the beneficial owner of Section No. 14, and we submit that it is conclusively proved to this Court that Major Kemp has established no such right. If the Court is of the same opinion, it seems to us, with all respect, that the Court by saying so could obviate entirely any necessity for approaching the Supreme Court. And having in view the very grave expense to