

which the various parties will be put in the matter, we submit that the Court will be adopting the most convenient course if it, once and for all, gives its finding on that fact.

Of course, if the Court finds that No. 14 was beneficially given to Major Kemp, it may be that certain matters of law may have to be considered by the Supreme Court; but the finding of the Court upon the point we mention would obviate, if the finding is in one direction, almost the whole of the questions which have been asked.

Under these circumstances we would ask the Court to very seriously consider whether the course we point out may not be the better one to follow. On our clients' behalf we are very loth indeed to throw away any chance of obviating this very considerable expense. The matter, we are perfectly aware, is one of extreme importance, and we do not wish in any way to run counter to anything the Court considers ought to be done; but, before returning the case altered in the form which we think it should go to the Supreme Court, we feel it our duty to lay these considerations before you. We trust you will consider it desirable to make, and we urge upon you to make, a finding upon the issue whether No. 14 was, as a matter of fact, allotted or awarded to Major Kemp beneficially. By so doing the grave expense and other disadvantages attendant on this submission of questions of law to the Supreme Court will be saved.

We trust we have made the position perfectly clear. We, of course, bow to whatever the Court considers ought to be done. If, after consideration of what we are here urging, the Court still thinks, in view of all the circumstances, that the matter should go to the Supreme Court without any definite finding on the point we mentioned, we shall at once forward to your Honour the case as we have altered it.

Yours, &c.,

E. STAFFORD,

P. E. BALDWIN.

His Honour Judge Mackay, Levin.

DEAR SIR,—

Wellington, 7th May, 1897.

Horowhenua No. 14.—Herewith I return, altered in red ink, the statement of case for the Supreme Court. You will notice that there are several alterations, but in almost every instance they are alterations more of form than of substance.

With regard to 2A, I understand you to say that you would not object to it. The other alterations speak for themselves, with the exception of the alteration made by striking out the five lines at the end of Question 2. We have struck this out, subject to your Honour's approval, for the reason that it is involved in the Question No. 14. Of course, if the Appellate Court is bound by Judge Wilson's evidence, then it will conclude the matter. If not, we submit that it might possibly lead to misapprehension in the Supreme Court, that this Court had conclusively found that such was the finding of this Court with regard to what was done by Judge Wilson in respect to the allotment of No. 14.

I am also forwarding, as requested, a copy of my address, but I beg to point out to the Court that some of the references are not yet complete. The papers in connection with the references are still at Levin, and I shall be unable to officially complete them before I go up there.

In conclusion, I may say that if your Honours think it would be useful or advisable for either Mr. Stafford or myself to go to Levin in connection with any of the suggested alterations by ourselves or by Mr. Bell, that we shall be very happy to fall in with your Honour's wishes. No time will be lost, I may point out, by our not having earlier sent this case forward, inasmuch as his Honour the Chief Justice will not, of course, be available for the lengthy argument which must take place on this case until after the Court of Appeal.

Yours, &c.,

His Honour Judge Mackay, Levin.

P. E. BALDWIN.

DEAR SIR,—

Native Appellate Court, Levin, 8th May, 1897.

Horowhenua, No. 14.—Your joint letter, with Mr. Stafford's, of the 5th instant, and likewise your own of the 7th instant, came duly to hand, with the statement of case as altered.

Touching the alterations, there is no objection to those merely of form, but the Court cannot accept the alterations which import controversial matter into the case of which there is no specific evidence in support thereof.

Touching the new paragraph marked 2A, I considered the circumstance set out therein on the suggestion made by yourself on the 21st ultimo, but came to the conclusion that, as the evidence relative to the matter was very meagre, it was inadvisable to insert any reference to it in the statement. I have, therefore, not accepted the suggested alteration. I think the five lines struck out at the end of the second question had better be allowed to stand, as the other side will probably object to have those altered, as it is the only place in which the particular matter is stated in that form.

In putting the question in that form, the Court does not pronounce any finding in the matter, it merely states that Judge Wilson's evidence is to that effect, which is indisputable. I can hardly suppose that the Supreme Court can misunderstand the matter. The question as put appears perfectly plain—namely, if the consent of the whole of the owners was necessary, and such consent was not obtained, can it be deemed that an order in Kemp's favour for No. 14 effectively vests such parcel of land in him as the sole beneficial owner, considering the position he held formerly as trustee for the whole of his estate under the title of 1873, notwithstanding Judge Wilson's evidence is to the effect that the Court intended that this section should be allotted to Kemp as his share of the block?

The matter resolves itself into this: If the Supreme Court decides that the consent of all the persons is necessary to effectively vest the land in Kemp for himself, the intention of the Court was of no avail.

Many thanks for a copy of your address, which is a very comprehensive one.