

If your Honours decline or feel yourselves unable to give a decision on the question of fact stated above until the questions of law are dealt with, far be it from us to in any way run counter to the Court's decision. In such a case the sooner we have the decision of the Supreme Court on the points of law the better. In any case the answer to the questions of law might, from the considerations above stated, be different in the case sent by the Appellate Court and in the Supreme Court action. We should leave entirely to the Appellate Court what papers it desires to send forward to the Supreme Court.

Yours, &c.,

His Honour, Judge Mackay, Levin.

P. E. BALDWIN.

DEAR SIR,—

Levin, 29th May, 1897.

I was astonished to note, in a letter shown to me yesterday by Mr. A. McDonald from Mr. Stafford, that it was stated "that the case stated by the Appellate Court for the opinion of the Supreme Court upon certain questions of law stated by the Appellate Court will shortly come on for hearing," and asking Wirihauna Hunia to authorise him to appear on his behalf. I was under the impression, from the tenor of your joint letter, that you considered it inadvisable that the Appellate Court case should be proceeded with, both on the score of expense and also that, to a certain extent, the questions proposed to be submitted were extra-judicial.

In my letter of the 8th instant I notified you that I would send copies of the statement of case to Wellington to the Registrar of the Native Land Court, to enable the counsel on both sides to meet and settle any point that either side had suggested, in place of either you or Mr. Stafford coming to Levin, as this appeared the most effective mode of bringing all the parties together and getting the questions determined; and, if both sides could agree, the case could have been typewritten in readiness for reference to the Supreme Court. The case was accordingly sent down to the Registrar on the 8th instant, as indicated, and was returned to me on the 15th, with an intimation that counsel had not been to consult on the matter; consequently, I concluded that there was no intention to proceed with the case, and thereupon relinquished the idea of taking further action therein, more especially as most of the points embodied in the Appellate Court case are also included in the statement of case to be submitted by the Public Trustee, it therefore appeared unnecessary to duplicate the proceedings by going over the same grounds twice.

The Court does not decline to give a decision on the matter before it, but it has held the opinion from the outset that the questions of law could first be dealt with by the only Court which can give an authoritative decision on the matter. The Court in all probability will adjourn on the 5th proximo, as Judge Butler has to join the Chief Judge at the sitting of the Appellate Court appointed for Wellington on the 8th proximo.

From what fell from the Chief Justice in Banco on the argument of counsel relative to the affidavits filed by Sir Walter Buller and the Public Trustee, it would seem that the Supreme Court is not likely to pay any attention to what the Appellate Court may do; consequently, it is immaterial, so far as the proceedings by the Public Trustee against Sir Walter Buller are concerned, whether the Appellate Court gives a decision or not. This being the position, those proceedings need not wait on anything the Appellate Court may do in the premises.

Yours, &c.,

P. E. Baldwin, Esq., Solicitor, Wellington.

A. MACKAY.

DEAR SIR,—

Wellington, 1st June, 1897.

Horowhenua, No. 14.—I am in receipt of yours of the 29th May, and may say I am very much surprised at its contents. I am sorry you should have been under the impression, from any letters written by us, that we considered it inadvisable for the Appellate Court case to be proceeded with. If you will look at our letters you will find that what we have said unmistakably right away through is this: If the Appellate Court can decide the questions of fact without submitting the questions of law, then we submitted that the Appellate Court should, in order to obviate the expense, give its decision on the facts prior to submitting any case.

In my letter to you of the 17th May I wound up by stating, "If your Honours decline or feel yourselves unable to give a decision on the question of fact stated above until the questions of law are dealt with, far be it from us to in any way run counter to the Court's decision. In such a case the sooner we have the decision of the Supreme Court on the points of law the better. In any case, the answers to the questions of law might, from the considerations above stated, be different in the case sent by the Appellate Court and in the Supreme Court action." That is what we are anxious for. The absence of a decision by the Appellate Court is a most cruel hindrance to the Natives in obtaining their rights in the Supreme Court action, and is also hampering the plaintiffs, inasmuch as they are quite in the dark as to what the decision of the Court will be upon the facts.

With regard to the alteration of the case, we were never notified by the Registrar of the Native Land Court that the case was down here. It is improbable that the parties could agree, and we would therefore prefer that the Court would settle this case itself. If I may say so, I was present and took part in the argument before the Chief Justice, and it is incorrect to say that we suggested that the Court would not be bound by the Appellate Court's decision. That is a question of law which will have to be argued hereafter on the merits. I am strongly of opinion that the Supreme Court is bound by the Appellate Court's decision. In any case, however, we are, I must repeat it, extremely anxious to obtain the decision of the Appellate Court, and, seeing that the Appellate Court feels itself unable to come to a satisfactory conclusion without the opinion of the Supreme Court on the law points, we, on our part, must strongly urge that the case should be submitted to the Supreme Court without any delay whatever.

Yours, &c.,

His Honour Judge Mackay, Levin.

P. E. BALDWIN.

P.S.—This letter, you will understand, is from Mr. Stafford and myself as representing Wirihauna Hunia, as was my last letter. I do not suppose there will be any doubt on the matter, but I merely do this to obviate any chance of a misunderstanding.—P.E.B.