

His Honour the CHIEF JUSTICE to the Right Hon. the PRIME MINISTER.

Judge's Chambers, Wellington, 22nd October, 1910.

SIR,—

I have the honour to acknowledge the receipt of your letter, dated the 20th October, which I received yesterday afternoon, in regard to certain proceedings in Parliament. I understand the charges mentioned are all the charges regarding which an inquiry is desired to be made. Charges 1, 2, 3, 4 deal with the conduct of citizens who were members of the last Parliament, and who are not now representatives of the people. So far as charges 1 and 2 are concerned, they are charges that two members of Parliament acted as land agents on the sale of land to the Government. They did not act as agents for the Government. Assuming that these charges are true, no law has been violated. They do not come within the provisions of the Legislature Act, 1908. If a member acted as a servant of the Crown the case would have been different, as that would have subjected him to a disability.

So far as charge 3 is concerned, that is a grave charge, and in Australia, I believe, more than one member of Parliament has been expelled for acting in a similar way. The person charged is not now a member, and I am not aware of any law under which he could be subjected to punishment.

Charge 4 is the reproduction of the babblement of an election contest, and if the threats mentioned were uttered, they are of a class that have not, so far as I know, been made the subject of parliamentary inquiry. The person making the threat was not at the time a member of Parliament.

Regarding the fifth charge, if true, no violation of any law is charged, and the same must be said of the sixth charge. I assume that both members acted as land agents for persons selling land to the Government. If the Parliament thinks such agency should not be permitted, then a law should be passed on the subject.

None of the charges are charges of corruption, although charge 3 is one of improper conduct. In none of the other charges is there any suggestion of any corrupt bargaining.

You are doubtless aware that the Court of Appeal decided, in 1909, and in my absence, in the case of *Cock v. The Attorney-General* (28 N.Z.L.R. 405),—(1) That a Royal Commission to investigate whether a crime has or has not been committed was illegal; and (2) that the appointment of such a Commission to investigate action that was not criminal would be to create a new offence, and would be void and *ultra vires* of the Governor. The Crown acquiesced in that decision, for there has been no appeal to the Privy Council against it.

It appears to me that, even if legislation were passed reversing the decision referred to, the charges stated are not such as should be investigated by Judges. If any present member of Parliament has acted in a way derogatory to his membership of Parliament, the Parliament alone should deal with him. To deal with persons not members, and who have been guilty of no violation of any law, is to proceed contrary to the customs, if not the laws, of our Empire.

I hope, therefore, the House of Representatives will withdraw its request for the Judges to investigate these charges. The Judges are ever anxious to assist in everything that may tend to the good government of the Dominion, but I hope it will be seen that the inquiry proposed is not of the class on which the judicial officers of the State should enter. I may add that my brother Judges approve of this my reply to your letter.

I have, &c.

ROBERT STOUT.

The Right Hon. Sir J. G. Ward, K.C.M.G., Prime Minister, Wellington.

The Right Hon. the PRIME MINISTER to His Honour the CHIEF JUSTICE.

Prime Minister's Office, Wellington, 27th October, 1910.

SIR,—

I have the honour to acknowledge the receipt of your letter of the 22nd October, for which I thank you.

In view of the expression of opinion contained therein on behalf of yourself and their Honours the Judges, I have adopted the course recommended, and the resolutions which I conveyed to you in my letter of the 20th October have been rescinded by the House, and have been referred to two Select Committees, one from each branch of the Legislature.

I have, &c.,

J. G. WARD,

Prime Minister.

His Honour the Chief Justice, Wellington.

*Approximate cost of paper.—Preparation, not given; printing (1,500 copies), £1 10s.*

By Authority : JOHN MACKAY, Government Printer, Wellington.—1910.

Price 3d.]