

1910.
NEW ZEALAND.

ALLEGATIONS BY THE HONOURABLE MEMBER FOR STRATFORD

(CORRESPONDENCE RELATIVE TO).

Laid on the Table of the House of Representatives by Leave.

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

SIR,—

Prime Minister's Office, Wellington, 20th October, 1910.

I have the honour to inform you that during the debate in the House of Representatives on the Financial Statement, the honourable member for Stratford, Mr. J. B. Hine, made certain allegations against members of Parliament in connection with the purchase of private estates by the Crown for the purpose of close settlement. The nature and form of these allegations appear on page 461 of the second volume of *Hansard* for this session, dated the 10th August, 1910. Mr. Hine, on the 12th October, appeared before a special Committee appointed by the House of Representatives to investigate and report on the allegations referred to, and then and there reduced these allegations to the following definite charges:—

“1. That Charles Edwin Major, in or about the year 1904, while a member of Parliament, conducted the sale to the Government of a property of Frederick Bayly at Toko, and received from the said Frederick Bayly a commission or sum of money for so doing.

“2. That Charles Edwin Major and Walter Symes, or one of them, in or about the year 1905, while both members of Parliament, conducted the sale to the Government of a property of Alfred Bayly at Toko, and received from the said Alfred Bayly a commission or sum of money, which the said Charles Edwin Major and Walter Symes divided.

“3. That the said Walter Symes, in or about the year 1906, and again in 1908, while a member of Parliament, charged and received from a number of West Coast lessees of Native lands commissions or sums of money for preparing and conducting petitions in Parliament on their behalf.

“4. That the said Walter Symes, in the year 1905, while a parliamentary election was presently in prospect, in which the said Walter Symes intended to become, and subsequently became, a candidate, and being then actually a member of Parliament, did threaten, or cause to be threatened, a certain newspaper that he would use his influence as a member of Parliament to prevent Government advertisements from being given to the said newspaper unless he received the support of, or was treated to his own satisfaction by, the said newspaper during the said election contest.

“5. That Thomas Kennedy Macdonald, in or about the year 1904, and subsequent years, while a member of the Legislative Council, either alone or in conjunction with his then partner (a land agent) conducted the sale to the Government of the property of one John Motley Leigh at Nainai, and the properties of other persons, and received from the said John Motley Leigh and the vendors of such other properties commissions or other sums of money; or, alternately, the said Thomas Kennedy Macdonald and his said partner received the said commissions or other sums, and divided the same.

“6. That Henare Kaihau, in or about the year 1906, while a member of Parliament, conducted the sale to the Government of a portion of the Te Aka Block, and received from the vendors a commission or other sum of money.”

On the 19th instant this special Committee reported to the House of Representatives that it recommended that the charges so made be referred to two Judges of the Supreme Court, sitting as a Royal Commission, to investigate and report upon the charges so referred to them. The House of Representatives, by resolution carried on the 19th day of October, adopted this report. I have therefore the honour to ask you if you will be good enough to furnish me with the names of two of their Honours Judges of the Supreme Court who are willing to be appointed members of the proposed Royal Commission to investigate and report upon the charges I have already set out in this letter. Should your Honour consider legislation necessary to give validity to the proposed Commission, I shall ask Parliament to pass it at once.

I have, &c.,

J. G. WARD,

Prime Minister.

His Honour the Chief Justice, Wellington.

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.]