

*The Chairman:* I do not want to shorten your remarks, but I have to say that the Committee—as I intimated at the beginning of the proceedings—was set up merely to inquire and report on the question as to the publication of the letter sent by Mr. Sinclair to Mr. Carr. We are not going into the matter of whether a breach of privilege has been committed or not, because the House has already decided that.

*Mr. Sinclair:* That is surely hanging a man before his trial.

*The Chairman:* Before punishment is administered.

*Mr. Sinclair:* I desire to be heard somewhere before any censure is passed upon me—as a matter of law.

*The Chairman:* You would have that opportunity. You would have to appear before the House and show why you should not be punished. It was done in the matter of Sir Walter Buller. Our function is solely confined to inquiring into and reporting on the publication of this letter. It is for the House after we have reported to take action in the matter.

*Mr. Sinclair:* All I ask is that before the matter is dealt with I shall be heard in my defence. You have given me that assurance—

*The Chairman:* I cannot give you an assurance. There is the constitutional practice, and I take it that that will be followed.

*Mr. Lee:* We can report that Mr. Sinclair be heard.

*Mr. Sinclair:* Yes.

*The Chairman:* Do you make that request?

*Mr. Sinclair:* I do, sir.

*Mr. Skerrett:* I may be pardoned for saying that Mr. Sinclair has not put his case on the best ground, and the Hon. Mr. Fraser has indicated the proper ground, which is quite consistent with the order of reference. The order of reference is merely to report as to publication, and that necessarily involves the question of privilege which Mr. Sinclair desires to raise. It would be very objectionable that Mr. Sinclair should not have an opportunity of saying what appears to him to be pertinent to the inquiry to ascertain under what circumstances the publication took place.

*Mr. Sinclair:* The position I take up is that as a matter of law there is no publication, but I do not know when I shall have the opportunity to be heard. If the Committee do not wish to be wearied with what I have to say, then I wish to ask the House to hear me. The first point I wish to submit is this: that no portion of that letter is a libel on the honourable member for Wairau; that the statements were made with regard to Mr. McCallum as a candidate and not as a member of Parliament. That is abundantly clear if you consider for one moment what the Election Court was investigating at Blenheim. On the 18th March the Court sat, and it was investigating only Mr. McCallum's conduct as a candidate: it was not investigating his conduct as a member of Parliament.

*The Chairman:* You are quite aware, Mr. Sinclair, that it is not necessary for a letter to be a libel in order to constitute a breach of privilege under certain conditions?

*Mr. Sinclair:* Anything disrespectful, I know, is sufficient, but it must touch the person as a member. I will briefly read my authorities.

*Mr. Lee:* I rise to a point of order. It seems to me that we are now going outside the scope of the order of reference. Mr. Sinclair is endeavouring to justify the allegations. It is not for us to inquire into that. I do not say as a matter of justice that the question should not come before the House, but it is not for this Committee. Mr. Sinclair's remarks should be confined strictly to the issue of publication.

*Mr. Sinclair:* I do not propose to justify the allegations: I propose merely to state the law to show that on the admitted facts it is not a breach of privilege. That is my main defence, apart from publication altogether.

*The Chairman:* I think Mr. Lee's objection is sound, and I must uphold it.

*Mr. Sinclair:* Then, I am denied the opportunity of showing that this is not a breach of privilege?

*The Chairman:* From the point of view that you were dealing with two or three minutes ago. We are not going into the truth or otherwise of these allegations.

*Mr. Sinclair:* I do not propose to go into that, but I propose to say, taking the document as it stands, that it does not constitute a breach of privilege, because it does not refer to the conduct of the honourable member for Wairau: it refers to the conduct of Mr. Richard McCallum as a candidate. Surely I have a right to say that in my defence.

*Mr. Lee:* The House has said that it is a breach of privilege.

*Mr. Sinclair:* Without hearing me.

*The Chairman:* I have already indicated that Mr. Sinclair must confine his arguments to the question of publication.

*Mr. Sinclair:* If that be so, I will confine my argument at this stage to publication, reserving to myself the right—if I have it—of arguing before the House that it is not a breach of privilege. With regard to publication, what I do say is that, so far as the letter written by myself to Mr. Carr is concerned, that, of course, is privileged. I was acting as solicitor to Mr. Carr and two other gentlemen. I had conducted the case for the petitioners at Blenheim, and when the judgment of the Court was given I conceived it to be my duty as counsel to report to my clients the legal aspects of the judgment. I addressed Mr. Carr, because he was the one of the petitioners who was residing in town. Mr. Carr was probably the most active of the three petitioners. But it may be taken that that letter was really directed to the three petitioners, and, therefore, being from myself as solicitor, I submit the legal position is perfectly clear—that it was privileged, and there could be no breach of privilege. With regard to the publication of the letter to Mr. Veitch, what I say is that there was no publication because the letter was marked "Private and con-