

*The Chairman:* You know what constitutes a breach of privilege here, as laid down by works on constitutional privilege of Parliament?

*Mr. Sinclair:* But I have not been allowed to be heard on that point, otherwise I can show that I have not committed a breach of privilege.

*The Chairman:* What you are asking us to do now is to decide whether the contents of that letter and its publication constitute a libel. You are contending that there is no libel contained in the letter.

*Mr. Sinclair:* No. What I am arguing is that the publication was privileged, and that there was no publication. I have not been allowed to argue that it is not a libel. What I am arguing is that there has been no publication, because of privilege between myself as an elector and Mr. Veitch as a member of Parliament. This is the nearest illustration I have been able to get to it: "So the ratepayers of a parish have a common interest in the selection of fit and proper officers to serve in the parish, their salary being paid out of the rates." Now, that, I submit, is on all-fours, because the honourable member for Wairau and all members of Parliament do receive a salary, which, instead of being paid out of the rates, is paid—I suppose—out of the Consolidated Fund; and I say the analogy is there. I am an elector and Mr. Veitch is an elector, and members of Parliament are paid £300 per annum out of the Consolidated Fund. So there it is laid down by Odgers that it is privileged. At page 285 he says, "The defendant in a petition to the House of Commons charged the plaintiff with extortion and oppression, in his office of vicar-general to the Bishop of Lincoln. Copies of the petition were printed and delivered to the members of the Committee appointed by the House to hear and examine grievances, in accordance with the usual order of proceeding in the House. No copy was delivered to any one not a member of Parliament. Held that the petition was privileged, although the matter contained in it was false and scandalous; and so were all the printed copies, for though the printing was a publication to the printers and compositors, still it was the usual course of proceeding in Parliament; and it was not so great a publication as to have so many copies transcribed by several clerks. Every communication made *bona fide* with a view to obtain redress for some injury received, or to prevent or punish some public abuse, is privileged, if it be addressed to some person who has a duty or interest in the matter." That is the point I raise: there was no publication, because it was privileged from an elector to a member of Parliament. "Moreover, in seeking redress the defendant must be careful to apply to some person who has jurisdiction to entertain the complaint, or power to redress the grievance, or some duty or interest in connection with it." That is all I have to say on the question of publication.

*Mr. Skerrett:* I desire to make a few remarks. Even in a Court of law this communication is plainly and clearly without privilege. If you look at the communication you will see that it is, I think I am justified in saying, an abusive and scurrilous attack upon Mr. McCallum. In more than one place it accuses him of committing perjury. The expressions which are used are of an extremely abusive character. "The perjury was so barefaced, brazen, unblushing, and callous as to be incapable of toleration or of being winked at or condoned by honest men."

*Mr. Sinclair:* I submit that my friend is now proceeding on the lines on which I was stopped.

*Mr. Skerrett:* I am referring entirely to the question of privilege, and to that only. The communication continues, "The police will do nothing"—

*Mr. Lee:* It is not speaking of Mr. McCallum there.

*Mr. Skerrett:* That is so. I will pass on to the second paragraph: "You cannot expect—and you do not expect—them to tackle perjurers in high places, and embark on a sea of crime for repression and punishment of perjury as part and parcel of their day's work, for which they get the wages of a common labourer. If such perjury is not to go unpunished, then it remains the solemn and bounden duty of good citizens to take appropriate steps to purge the fountain of justice from the foul and deadly streams of sworn lies and falsehoods poured into it in huge volumes by the witnesses at the trial just terminated. The witnesses who committed wilful and corrupt perjury, and whose prosecution I advise, are—(1) Richard McCallum, who swore he did not know who the directors of the McKenzie Company were—a fact known to every schoolboy in Blenheim," and so on. Then again: "It is to be noted that Kerr is an employee of Edward Parker, who is the arch-conspirator in the case with McCallum. If the letter has been destroyed, then I do not hesitate to say it has been destroyed by Parker, who is, in my opinion, capable of any crime from pitch-and-toss to manslaughter. In all probability McCallum press-copied the letter in his letter-book, as a lawyer would invariably copy every letter he writes. But if it were not so, and the letter had been made away with, and McCallum again commits perjury by swearing he has not got a copy of it," &c. It is, of course, familiar to every one, whether lawyer or layman, that privilege could never be used as a cloak for imputing crime or personal misconduct to any person. Mr. Sinclair is undoubtedly right when he says he has a right to address a temperate and proper letter to a member of Parliament with a view to the redress of a private grievance or a public grievance, or with respect to a reform of some public nature. But there is a wide difference between a communication of that kind and a communication which goes out of its way to charge a man with the actual commission of a gross crime—the crime of perjury. It is quite clear that privilege can only be used for the purpose for which it was intended—namely, to promote, temperately and properly, some private interest, or to promote, temperately and properly, some public interest. It can never be used as a cloak or cover for making charges of crime or of personal misconduct against anybody. I would point out to the Committee that it is perfectly plain that these charges against Mr. McCallum had nothing whatever to do with the main application which Mr. Sinclair now says he was making to the House. He says that the object of his letter was to obtain a statute which would enable the judgment and the notes of evidence to be transmitted to the Privy Council for reconsideration by it. What had the charges of perjury