

1881.

NEW ZEALAND.

POLICE PROSECUTIONS IN CRIMINAL CASES
(CORRESPONDENCE RESPECTING).*Return to an Order of the House of Representatives, dated 25th August, 1881.*

“That the correspondence between the Government (settlers at Gisborne and the mover relative to police prosecutions in criminal cases) be laid before this House, and ordered to be printed.”—(*Mr. De Lautour.*)

No. 1.

Mr. TUCKER to the Hon. the MINISTER of JUSTICE.

SIR,—

Gisborne, 20th December, 1880.

I have the honor to inform you that, about a year ago, a solicitor here named E. ff. Ward, jun., was prosecuted for the forgery of the signature of the late Dr. Nesbitt, as Trust Commissioner to a deed, under such circumstances as left no doubt in the minds of a majority of the public that a forgery had been committed by some one, and that the deed had been uttered, by placing on the register, by E. ff. Ward.

The charge of forgery was, after a very protracted hearing, dismissed by Mr. Price—a Magistrate who boasts that he never commits but a conviction ensues—but in his remarks at the close of the case on the shuffling and abortive attempts to avoid producing the deed in evidence, he said very significantly to the counsel for the defence, “You must be responsible for the production of the deed, as the police will probably require it;” and the counsel for the defence undertook, in reply, that the police should have it when they required it.

That same day I was informed by Sergeant Kidd, in charge of the police here, that the police were satisfied that a forgery had been committed, and that they would immediately prosecute the utterer, and so discover, if possible, the forger; and, as the detection of crime appeared to me to be one of the functions of the police, I interfered in no way, but rested satisfied that justice would be done. So alarmed were the suspected persons that the police would proceed in an investigation of the crime, that E. ff. Ward, jun., personally threatened Sergeant Kidd, and, in the extremity of his trepidation, so far forgot himself as to address a letter to Mr. Price on the subject, deprecating any further inquiry into the matter, which letter Mr. Price very properly declined to treat as private, and read it from the Bench the next day.

Permit me, for one moment, to institute a parallel. Let us change the social position of the criminals. May I ask you to imagine Bill Sykes suggesting to the Police Magistrate that the police are always dogging him about, and that he wishes the propriety would be seen of issuing instructions to drop any further steps as regards that last crime of which he was suspected. Really the cases are exactly on all fours. The Wards, perceiving that they cannot affect Mr. Price, through the father, appeal by a letter marked, “Private and confidential,” to Mr. Shearman, a person having some authority over the police. He, I am informed, is so far affected by Mr. Ward senior’s letter that he, without obtaining any report on the case by the police here, peremptorily instructs, either directly or through Colonel Reader, the police here to take no steps in the matter, and the crime remains to this day a palpable forgery, and the police paralyzed in their first movement towards its detection.

It may be argued, if one think a forgery has been committed let him lay an information. That is very well; but, as we pay police, it is only fair to expect *them* to be custodians of the public interest, and the direct means of punishing crime. It is quite time when the police are of the opinion that no crime has been committed, and that there is nothing to punish, for a civilian to undertake their duties. I have every reason to believe that the police, both here and in Napier, are of the clear opinion that both forgery and uttering have been committed, and that they could put their hands on both the forger and the utterer; but, as I have said, they were paralyzed.

I would now ask you, Sir, most respectfully, and as one probably unacquainted with the wheels within wheels which were exerted and set in motion to shield a criminal, whoever he may be, from detection, whether the local police are not the best judges as to whether they should or not attempt to bring an offender to justice; and, if they are no longer fitted to judge in so simple a matter, if they should not be renovated, or changed, or educated until they are. I would most respectfully submit to you, Sir, that, if persons in any capacity—aye, even Ministers themselves, except in the most open manner and for the most obvious reasons—are allowed on the receipt of private or public letters from the relatives of the criminals to arrest the strong arm of the law, and shield the wrong-doer from even inquiry, then we are in a most unsafe and even dangerous position; for the same hand which for fear,

favour, or affection, stays the hand of justice and shields a criminal may, for a like motive, cause an innocent person to be wantonly harassed.

I would suggest to you, Sir, with great deference the propriety of causing the police to report to you as to the alleged forgery, and why they have taken no steps to punish the forger or the utterer; and I ask you to be good enough to let me have a copy of their reply as soon as possible, for delay makes detection the more difficult.

The Hon. the Minister for Justice.

I have, &c.,

W. H. TUCKER.

P.S.—Since writing the above, I find that the police in March last reported the forgery and the name of the suspected person, but the report was suppressed, and does not appear in the *Police Gazette* in due course, as it ought.

No. 2.

Mr. HURREY to the Hon. the MINISTER of JUSTICE.

SIR,—

Gisborne, 20th December, 1880.

I have the honor to inform you that the police of this district are not allowed to exercise the functions appertaining to their office—viz., that of detecting crime and prosecuting criminals. I have been informed by the police here that in one case, although they believed both committal and conviction would ensue if they were allowed to prosecute, still they could not do so—in fact that their hands were tied. Still we have a case of “justice” shielding a criminal emanating from the act of a Mr. Shearman, who, some ten months ago, instructed or caused instructions to be given to the police that in the case of E. ff. Ward, jun. solicitor, they were not to prosecute him for uttering a certain deed to which the late Dr. Nesbitt's signature as Trust Commissioner had been forged. A charge of forgery was preferred against E. ff. Ward, but was dismissed: however, the evidence and circumstances surrounding the case were such that both the public and police were certain that a forgery had been committed by some one, and also that E. ff. Ward had uttered the deed by placing or causing the deed to be placed on the register.

I would therefore respectfully request that you would cause the police to be allowed to fulfil the duties for which they are paid, and also to furnish you with a full report of E. ff. Ward's case; and might I respectfully, and with great deference, suggest to you the advisability of your becoming acquainted with the reasons that caused Mr. Shearman or others to instruct the police not to prosecute in the case of E. ff. Ward, jun., solicitor, for uttering a deed to which the late Dr. Nesbitt's signature as Trust Commissioner had been forged.

I have, &c.,

The Hon. the Minister of Justice.

JOHN R. HURREY.

No. 3.

Mr. TUCKER to the Hon. the NATIVE MINISTER.

SIR,—

Gisborne, 23rd December, 1880.

I am requested by certain Natives—viz., Tamati Tiwha Tiwha, Hone Meihana, Hone Niwa, Rota Waipara, and others who are interested—to report to you that several years ago they signed a deed to G. E. Read. That when brought before the Trust Commissioner, the late Dr. Nesbitt, for his certificate, circumstances were disclosed which prevented his granting his certificate. That some eleven months after Mr. Read's death his properties were sold. That notice was publicly given at the sale in January, 1879, of the non-certification of the deed in question, and objection was made on that score to the sale of the Matawhero B property. That E. ff. Ward, jun., was solicitor to the estate of G. E. Read, and was present at the sale. That he did not contradict the assertion that Dr. Nesbitt had refused to certify the deed. That the property in consequence of the flaws in the title did not reach the limit, and was withdrawn. That subsequently it was bought by the said E. ff. Ward, who within one week of the sale had an interview with me about the deed, and requested me to obtain a certificate for it. That I declined to do so, or even to have anything to do with it. That about November, 1879, E. ff. Ward commenced a partition suit in the Supreme Court; but, apparently unwilling to go to trial, made many unsuccessful attempts at obtaining a submission by the Native grantees to arbitration. That, on the service of the writ for partition on the grantees, it was perceived that the very deed which remained uncertified at the time of Dr. Nesbitt's death in August, 1877, was now bearing his certificate, and was placed on the register by E. ff. Ward in February, 1879, shortly after he bought the property. That the said E. ff. Ward was informed against by one of the grantees for the forgery and subsequent uttering. That, on the hearing of the information, it was sworn by Mr. Greenwood, the late Dr. Nesbitt's clerk, that the signature was not his; and Mr. Woon, Court interpreter, Mr. F. G. Skipworth, formerly clerk to Dr. Nesbitt, and other gentlemen well acquainted with the late Dr. Nesbitt's signature, and of known standing and truthfulness, gave similar evidence. That the Magistrate, although he considered the charge of forgery not proven and dismissed it, yet required the counsel for the defence to be responsible for the production of the deed (about which there had been much shuffling by the defendant) to the police when required, showing that he thought the police should take steps to detect the criminal. That the sergeant of police here did report the crime some time in March last to Napier and Wellington, but such report was by some one in Wellington suppressed from the *Police Gazette*. That the said E. ff. Ward wrote a letter to the Resident Magistrate here deprecating any further steps being taken by the police. That the father of the said E. ff. Ward wrote a letter marked “Private and confidential” to Mr. Shearman, then, unfortunately, Commissioner of Police, who it is said gave instructions that the police should take no further steps towards the detection and punishment of this crime; and the police have since been perfectly passive, no doubt to the great satisfaction of the criminal, and now decline, although they admit knowledge of the crime and strong

evidence against the criminal, to move until the fetters imposed on them by Mr. Shearman be loosed. That such a state of things is very degrading to public morality, and is calculated to lead to the increase of crimes by persons who may possess a little indirect influence with Mr Under-Secretary's under-secretary

And I have the honor, by request of these Natives, to say that they hope you will see the propriety of allowing the police to proceed according to their ordinary method of detecting crime in this matter, in which the Natives are the injured parties, as you would if Europeans were the injured parties; and, if you perceive that propriety, that your innate fairness and love of justice will cause you to interest yourself to cause the shield held over a criminal to be withdrawn, by the police here being instructed that they may do their duty, in the due exercise of which they were, in my opinion, most unwarrantably and dangerously interfered with by Mr. Shearman. The property in question has been bought by the Natives from Read's trustees, so the question of interest as a motive for prosecution is entirely done away with; there remains now no motive whatever to actuate any one but the detection, punishment, and chiefly the prevention of crime.

I do not ask that the police may be ordered to prosecute, but merely that they may be allowed to resume their suspended functions and perform their obvious duty without any interference. If they cannot be trusted to perform their duty, then I think you will admit, Sir, there must be something radically wrong with them.

I beg you to pardon the length of this letter; but the subject is a grave one, and I think you will perhaps be pleased that I should directly inform members of the Government of irregularities and wrongs of which they are doubtless ignorant, to making the same public before rectification is sought in the manner it is now respectfully asked.

I have, &c.,

W H. TUCKER,

The Hon. the Native Minister.

Licensed Interpreter and a Justice of the Peace.

No. 4.

Mr. TUCKER to the Hon. the MINISTER of JUSTICE.

(Telegram.)

Gisborne, 25th January, 1881.

MAY I request favour of answer to my letters *re* forgery case, and subsequent interference with police?

The Hon. the Minister of Justice, Wellington.

W H. TUCKER.

No. 5.

Mr. HURREY to the MINISTER of JUSTICE.

(Telegram.)

Gisborne, 4th February, 1881.

PLEASE reply to my letter *re* forgery case.

Minister of Justice, Wellington.

J R. HURREY.

No. 6.

The COMMISSIONER, New Zealand Constabulary, to Mr. TUCKER.

New Zealand Constabulary (Commissioner's Office ,

SIR,—

Wellington, 21st February, 1881.

Under instructions from the Hon. the Premier, the police have been directed to make further inquiries on the subject of the forgery case, and report the result.

I have, &c.,

H. E. READER,

Commissioner

W H. Tucker, Esq., Gisborne.

No. 7.

The COMMISSIONER, New Zealand Constabulary, to Mr TUCKER.

New Zealand Constabulary (Commissioner's Office)

SIR,—

Wellington, 22nd April, 1881.

Referring to your letters and telegrams on the subject of the charge of forgery and uttering against E. ff. Ward, jun., of Gisborne, I am instructed by the Hon. the Premier to say that inquiries have now been made into the circumstances referred to, and, if a prosecution is instituted, the police will render every assistance without taking charge of the case.

I have, &c.,

H. E. READER,

Commissioner.

W H. Tucker, Esq., Gisborne.

No. 8.

Mr. TUCKER to Colonel READER.

(Telegram.)

Gisborne, 4th May, 1881.

I HAVE the honor to apply for copy of Inspector Scully's report *re* forgery case.

Colonel Reader, Wellington.

W H. TUCKER.

No. 9.

Mr. Fox to Mr. TUCKER.

(Telegram.)

Government Buildings, 6th May, 1881.

AM instructed by the Hon. the Premier to say, in reply to your telegram of the 4th, that Inspector Scully's report, being of a confidential nature, for the information of the Government, cannot be communicated to you.

JAMES G. FOX,

(for Commissioner, A.C.).

W H. Tucker, Esq., Gisborne.

No. 10.

Mr. TUCKER to the Hon. the PREMIER.

SIR,—

Gisborne, 6th May, 1881.

I have the honor to acknowledge the receipt of a letter from the Commissioner of the Constabulary, dated the 23rd. April, 1881, in which I am told that inquiries have been made *re* forgery case, and that the police will give me every assistance without taking charge of the case. Why the police should be moved at all, and yet leave me to bear the expense and trouble of detecting and prosecuting crime, I have not yet discovered; but I will refer to that question again. Having then been informed that the inquiries had been made by the police, and that the police would give me *every* assistance, I naturally concluded that I should receive the benefit of the assistance of their inquiries and opinions, and I therefore applied to the Inspector of the district for the same. He referred me to the Commissioner for authority. Then I made application to the Commissioner for a copy of the report. To-day I have the honor to receive a wire from the Commissioner declining me the very assistance which I ask. I regret very much that the Government think it their duty to instruct the police in this case to hold their hands, which appears to me to be so serious an interference with them as to render possible the subservience of their functions to the will of an individual; and I shall do myself the honor to address you further on the subject next mail.

The Hon. the Premier.

I have, &c.,

W H. TUCKER.

No. 11.

Mr. HURREY to the Hon. the MINISTER of JUSTICE.

SIR,—

Gisborne, 13th May, 1881.

I have the honor to address you again on the subject of the forgery of the late Dr. Nesbitt's name to a deed of conveyance dated in 1871, and uttered by E. ff. Ward, jun., in 1879; the certificate to which Dr. Nesbitt's name was forged being dated November, 1877, though, in fact, I believe the name was not forged till February, 1879. Several persons swear it is not Dr. Nesbitt's signature; and I was present with Ward, jun., and others, in 1879, when it was stated in his presence, and not contradicted by him that it wanted the doctor's certificate. There are also witnesses who state that they saw the deed early in 1879, and it was then uncertified. I may be allowed to state that I have not the least hesitation in accusing Ward of the uttering with a guilty knowledge.

The police reported the offence last year, and Ward as the suspected person; but I am informed that one Shearman, then Commissioner, exercised some influence which paralyzed them. Since then the Inspector of the district has visited this place and reported to the Government as to the offence and the suspected person; but Ward, smelling a rat, visited Wellington, and now the Hon. the Premier instructs the police to render every assistance in case of a prosecution, but not to take charge of the case.

Now, Sir, I would respectfully ask, of what use are the police of a district if they do not follow up, detect, and prosecute a crime which they have already reported? Are their functions to end there? Is a civilian to be saddled with the costs of a prosecution to which the police are to lend *every assistance*, whatever that may mean? Why, Sir, of what use are the police if crime is to be prosecuted and punished by private individuals, and at their own cost and charges? If we have police let them do their duty, whether that be acceptable to certain persons or not.

There are not ten sane persons in Gisborne who doubt that the doctor's name was forged. There cannot be one sane person who doubts that Ward uttered the forgery, for that is a fact by his placing it on the registry and claiming title under it. The forgery, and the manner in which the police have been affected by the Government, is the matter of town talk, and will presently find a vent in the newspapers. It is a matter of regret that a Government apparently anxious to do what is right and doing it, as in Whitelaw's case, and getting the credit for it, should in the present instance have been made the shield for a criminal by some underhand influence, which will hereafter appear. This second attempt to divert justice is of so serious a nature, and discloses so dangerous a state of things when Ministers interfere with the police, that the matter cannot rest here.

The Hon. the Minister of Justice, Wellington.

I have, &c.,

JOHN R. HURREY.

No. 12.

The UNDER-SECRETARY for JUSTICE to Mr. HURREY

SIR,—

Department of Justice, Wellington, 21st May, 1881.

I have the honor, by direction of Mr. Dick, to acknowledge the receipt of your letter of the

13th instant, in reference to the forgery of the late Dr. Nesbitt's name to a deed of conveyance, and in reply to inform you that the matter has already been decided by the Government.

I have, &c.,

R. G. FOUNTAIN,
Under-Secretary

J. R. Hurrey, Esq., Gisborne.

No. 13.

PETITION

To the Hon. the Minister of Justice.

THE humble petition of the undersigned respectfully sheweth,—

1. That the certificate of the late Dr. Nesbitt as Trust Commissioner was, about the year 1879, forged to a certain deed of conveyance of Matawhero B.

2. That the deed was, on the 9th of February, 1879, uttered by being placed on the register of deeds by one E. ff. Ward, jun., who subsequently claimed and demanded property under the said deed of Matawhero B Block.

3. That he was prosecuted for forgery and uttering of the said deed. The prosecution being a private one, it was ultimately dismissed, the Magistrate remarking that the police would require the deed.

4. That a second information was about to have been laid for uttering, by William Henry Tucker, one of your petitioners, but he was stopped by the officer in charge of the police, who informed him that the police were satisfied of the forgery, and that they would prosecute the utterer, which they now considered it their duty to do.

5. That thereupon the matter was left entirely to the police, in the natural expectation that they would perform their duty

6. That, after considerable delay and many inquiries, which were fenced, your petitioners discovered that the father of the accused had been in correspondence with one Commissioner Shearman, with the result that the police did not prosecute, though they had already reported the crime and the person suspected.

7 That letters were then addressed to the Hon. the Minister of Justice and the Hon. the Native Minister in about February last; and, after further delay, it was promised that the Inspector of the district should visit the district, make inquiries, and report; and this was done last March.

8. That in April one of your petitioners was informed by wire that the police were instructed to render him every assistance in case of a prosecution, but they were not to take charge of the case.

9. That he thereon waited on Sergeant Bullen to ascertain the amount of assistance on which he could rely, and found that the police would do no more than serve subpoenas on witnesses, to do which is, in any case, their bare duty; and, as some of the witnesses are out of this district now, something more than mere service of subpoenas would be required to secure their attendance.

10. That he subsequently received a letter, by direction of the Hon. Mr. Hall, informing him that the police had been instructed to give him every assistance, but not to take charge of the case.

11. That he thereupon formally applied to the Government for a copy of the Inspector's report to assist him in the prosecution of the criminal, but was informed, by direction of the Hon. the Premier, that he could not have it, as it was of a confidential nature.

12. That he therefore decided, after much reflection, that since he had been met at the very first step by a refusal to do anything more than the police might have been compelled to do, namely, serve summonses; and at the second request—for the assistance of a copy of the report—by a flat refusal, not to undertake the duties of the police during their comatose state, but to bring the whole matter under the notice of the authorities, with the hope, in which we join, that the police may be permitted to pursue their functions without further interruption.

Your petitioners, therefore, beg that you will take such steps as will allow the police to resume their functions, and detect and punish the criminal or criminals. And your petitioners, as in duty bound, will ever pray

W. H. TUCKER.
JOHN R. HURREY,
Trustee for Mereana Paraone.
KATARAINA KAHUTIA.
WI PARAONE.
TAMATI TIWHA TIWHA.
HONE MEIHANA TAWHANA.
HONE NIWA.
ROTA X WAIPARA.
HOKOKAI X.
NOA WAKAATERE.
RIPERATA KAHUTIA.

As grantees and purchasers in the Matawhero B Block.

No. 14.

The Hon. Mr. DICK to Mr. DE LAUTOUR.

SIR,—

Department of Justice, Wellington, 21st June, 1881.

I have the honor to acknowledge the receipt of a petition signed by certain grantees and purchasers in the Matawhero B Block, the certificate to the deed of conveyance of which property was forged by one E. ff. Ward, praying that Government may take such steps as will allow the police to prosecute in the case.

In reply, I have to state that the prosecution of Mr. Ward was not undertaken by the Government in the first instance, and that there does not now seem sufficient reason for Government stepping in and instituting a public prosecution; but that, as formerly stated, the police will give every assistance in the matter.

C. A. DeLautour, Esq., M.G.A., Wellington,

I have, &c.,

THOMAS DICK.

No. 15.

Mr. DE LAUTOUR to the Hon. the MINISTER of JUSTICE.

SIR,—

Wellington, 25th June, 1881.

I have the honor to acknowledge the receipt of your letter of the 21st June, in reference to the alleged forgery of the Trust Commissioner's certificate to a deed of conveyance of Matawhero B Block, in which you inform me that "the prosecution of Mr. Ward was not undertaken by the Government in the first instance, and that there does not now seem sufficient reason for the Government stepping in and instituting a public prosecution, but that, as formerly stated, the police will give every assistance in the matter."

I hope you will not consider me persistent when I venture to urge you may still see fit to reconsider your decision.

Although it is true that the prosecution in the Resident Magistrate's Court at Gisborne of Mr. Ward for forgery was instituted by Mr. Tucker on behalf of the Natives, I would remind you that the subsequent prosecution for uttering the deed knowing the certificate to be forged was undertaken by the police until Mr. Commissioner Shearman, upon representations made to him by Mr. Ward's father, interfered with the Inspector in charge of the district and ordered the discontinuance of the prosecution.

I would draw your attention to the following considerations:—(1.) The signature alleged to have been forged is that of a Government officer who has been dead for some years. By the registration of the deed the Government through their officer are made participators in the fraud attempted to be committed against the Natives. (2.) The Natives who were defrauded by the registration of the deed of conveyance with a forged certificate indorsed are not able to conduct a prosecution for wilfully uttering a forged deed, and are by reason of their ignorance peculiarly entitled to the protection of the Crown and the assistance of its officers. (3.) Since Mr. Commissioner Shearman's duties have been confined to the Wellington District a further inquiry has been made, by order of the Government, and a report furnished after personal investigation by the Inspector of Police for the district, and it is since this last inquiry has been made and report furnished that the Government has arrived at the decision not to allow the police to prosecute the person accused, upon the ground that the original prosecution was a private one. I need hardly point out to you that if a private prosecution were now commenced it would be at once suggested that the report furnished to the Government did not sustain the supposition that a *prima facie* case could be shown to exist against the accused, for it would not be thought that the Government had decided that an inquiry should be made and yet that it could not allow its officers to take action whatever the result of that inquiry might prove to be. (4.) Mr. Tucker, a Justice of the Peace for the colony, who acts as business agent for some of the Natives interested in Matawhero B, is placed at a very serious disadvantage if he is compelled to prosecute Mr. Ward, because it has transpired in the Magistrate's Court at Gisborne that Mr. Ward has publicly assaulted him in the streets in consequence of his expressed determination to proceed in this matter, and it could not therefore be supposed that he could approach a prosecution without being unduly biassed against the accused.

All that I understand has been asked by the memorialists is that Mr. Inspector Scully, the officer in charge of the district, who is one of the most efficient and experienced officers in the Government service, should, if he is of opinion that a crime has been committed in his district, be allowed to use his own judgment in deciding whether or not Mr. Ward should be prosecuted by the police.

I would suggest for your consideration that the public confidence in the conduct of the Police Department will be much shaken if the inspectors or sergeants in charge of districts are not allowed, without a previous reference to Ministers, to prosecute persons accused of high crimes and misdemeanours when upon inquiry they have satisfied themselves that strong cases have been made out by the persons bringing such alleged crimes under their notice.

While no doubt Ministers will invariably be guided by the opinion of their Law Advisers, they will have to take the responsibility in each case of serious crime of authorizing prosecutions, or of issuing instructions to police officers to hold their hand. Would not the recognition of such a system being established induce accused persons to surround the Government of the day with pressure, which, but for such system, there would be no temptation to exert? At the same time, as if to make the position more embarrassing, the Attorney-General is, as a rule, a political officer holding office only during the existence of the Government. No doubt a police officer may be exposed to the same pressure in a different form, but he will yield to it at the risk of summary dismissal from his office.

I readily recognize that you have stated that "the police will give every assistance in the matter:" yet it is extremely difficult to understand what such assistance would amount to. Mr. Tucker, after consultation with the local police, has arrived at an interpretation of it which must obviously not be that which the Government would put upon their instructions. I presume that it is intended, if the Government adhere to their determination not to allow the police to take charge of the case, that Mr. Inspector Scully and his sergeant of police at Gisborne would be expected to personally give all the information in their possession to Mr. Tucker, and lend him their aid at Gisborne in preparing the evidence and producing all necessary witnesses at the trial. I cannot say that, even if so aided, Mr. Tucker, having brought the crime under the notice of the police and of the Government, would feel bound to take upon himself for the second time the invidious task of instituting a prosecution against a public offender; but it would be satisfactory to know to what extent I am correct in my presumption of what would be the District Inspector's duty under your instructions.

Allow me to hope that you will see your way to authorize Mr. Inspector Scully to prosecute Mr. Ward if he is satisfied that he has been guilty of a crime against the Natives for his own personal benefit.

The Hon. the Minister of Justice, Wellington.

I have, &c.,

C. A. DE LAUTOUR.

No. 16.

The Hon. Mr. ROLLESTON to Mr. DE LAUTOUR.

SIR,—

Wellington, 27th July, 1881.

Your letter of the 25th June, addressed to the Hon. the Minister of Justice, regarding the case of Mr. E. ff. Ward, jun., against whom proceedings have been taken at Gisborne, first for forging a signature to a deed, and then for uttering the deed knowing that signature to be a forgery, has been considered very carefully

2. In that letter you state fully your reasons for urging the Government to reconsider their decision not to intervene as prosecutor of Mr. Ward on the charge of uttering the deed, and why the officer of police in charge of the district should be allowed to prosecute should he think the evidence to warrant the belief that the offence alleged against Mr. Ward has been committed.

3. A review of all the facts at the command of the Government has led them to the conclusion that they ought not to give up the position that, the first prosecution having been a private one, the Government ought not now to interfere.

4. I cannot see upon the face of the papers any evidence that the police commenced any proceedings in the case. The letter of Mr. Tucker dated the 10th June, 1880, in which he stated that if the police did not prosecute on the forgery charge, he would do so on behalf of the Natives interested, was, it seems to me, fairly regarded as a distinct undertaking on Mr. Tucker's part to become the prosecutor. The system of criminal prosecutions in New Zealand allows a private prosecutor to take proceedings the costs of which shall be defrayed by the colony; but when this has been done, and failure has resulted, it appears to me to be unreasonable to expect the Government to step in and take the onus of fresh proceedings.

5. I need not, I think, combat views put forward in support of your contention, with which I do agree, nor will I enter upon the question to what extent proceedings that have been taken tend to show that a grave crime has been committed. It seems to me, as I have said, that the Government have not taken the position of prosecutors in the matter; that those who are privately interested are in every way capable of continuing the prosecution commenced by them, should they now be so advised; and that it is no part of the duty of the Government so to act as to enable those persons to escape possible consequences should the second prosecution also fail. All such aid as the police in the ordinary course of duty may be able to give in collecting evidence or otherwise will, it is to be assumed, be readily given; but, for the reasons I have stated, the Government cannot recede from their decision that those who were or might have been sufferers from the alleged crime must initiate, and be responsible for, any further proceedings.

I have, &c.,

C. A. De Lautour, Esq., M.H.R.

W ROLLESTON.

No. 17

Mr. WARD to the Hon. the MINISTER of JUSTICE.

SIR,—

Wellington Club, Wellington, 9th August, 1881.

I have the honor to inform you that it has come to my knowledge of certain correspondence having passed between the New Zealand Government and persons resident in Gisborne regarding an information laid against me by Riperata Kahutia, a Native woman, for whom William Henry Tucker, Native interpreter, a Justice of the Peace, and clerk to one William Lee Rees, acts as agent, charging me with having forged the signature of a Trust Commissioner (Dr. Nesbitt) to a deed affecting portion of the Matawhero B Block, situate in the District of Poverty Bay, since purchased by Mr. W. L. Rees and Riperata Kahutia from the trustees of the late Captain Read's will, which property is now in the occupation of Mr. Rees.

I have to ask permission to see and peruse the correspondence and papers which are in the possession of the Government respecting the charge referred to.

I may mention the charge as made against me, about eighteen months ago, was duly heard, and, after a long and patient hearing, dismissed by Mr. Price, R.M., a gentleman of long experience and capable of fully understanding the nature of the charge, upon dismissing which he made some forcible remarks anything but favourable to the witnesses called for the prosecution.

The Courts of law are opened to the persons referred to, and I do not think it fair to any person that he should be attacked by way of letters and misrepresentations to the Government.

I have therefore respectfully to ask your permission to see the papers, &c.

I have, &c.,

The Hon. the Minister of Justice, Wellington.

EDWARD FRAS. WARD, jun.

No. 18.

Mr. DE LAUTOUR to the Hon. Mr. ROLLESTON.

SIR,—

Wellington, 8th August, 1881.

I do not purpose to continue the correspondence relative to the refusal of the Government, after full inquiry, to allow the police to proceed with the prosecution of Mr. E. ff. Ward, jun., for an alleged uttering of a deed knowing it to be forged. At the same time, I cannot admit that in your letter of the 27th July you have stated the facts with strict accuracy

The larger question as to whether the Government should direct or forbid criminal prosecutions, which you decide in the affirmative, outweighs altogether the consideration as to whether or not an individual criminal should escape the penalties of an outraged law

Since the centralization of government at Wellington, I am not aware that any attempt has been made to place the relations of political Ministers and the police upon a satisfactory basis.

In order that the subject may be considered this session, I have thought it best to give notice that on going into Committee of Supply I will move for the correspondence which has taken place in reference to this case, believing that it fairly illustrates the position. It is not my intention to raise any debate in moving for these papers, but at a subsequent period I would invite the co-operation of the Government in a reference of the larger question to a special Committee of the House or of the Legislative Council.

I recognize so fully the inexpediency of raising a discussion upon an individual case, which is certain sooner or later to be a matter of judicial inquiry, that, if the Government should decide not to agree to the production of the correspondence, I do not see how justice can be promoted or private liberty protected.

Would you be so good as to inform me as soon as possible if the Government will agree to allow the correspondence to be laid upon the table, in the terms of the motion I have given notice of, a copy of which I attach hereto?

The Hon. W Rolleston, Minister of Defence.

I have, &c.,

C. A. DE LAUTOUR.

No. 19.

The Hon. Mr. ROLLESTON to Mr. DE LAUTOUR.

SIR,—

Wellington, 11th August, 1881.

In reply to your letter of the 8th instant, I have the honor to inform you that there will be no objection to the correspondence you ask for being produced.

C. A. De Lautour, Esq., M.H.R.

I have, &c.,

W ROLLESTON.