

4. You do not know whether it was suggested by Cabinet?—No, I do not. It went through the course which I believe is quite usual, whichever Government is in office, of sending it to the Cabinet table and then sending it to the Minister to save time. I had hoped it would have been left entirely to the Solicitor-General and a letter would have been written. I think the Government really want as a basis or justification the finding of a Committee like this, and I have no doubt from what Mr. Herdman and Mr. Allen told me they would be glad to get the opportunity of clearing this man if the Committee's report says they should.

5. *Mr. Fletcher.*] This man was sentenced by an Imperial military tribunal?—Yes.

6. What is the power of the New Zealand Government: have the New Zealand Courts got jurisdiction?—Yes; that is the question that came up previously when we were before the Court. We litigated that before His Honour the Chief Justice and Mr. Justice Edwards. The Court recognized it had jurisdiction provided Samoa was not at the time in a state of war. If Samoa was at the time in a state of war, then the law is entirely superseded and the military authority takes its place. But it was not contended at all that the Courts had jurisdiction. This petition, however, is entirely within the jurisdiction of the House.

7. The reason I ask is that any work this Committee might do in reporting to Parliament, if there is no jurisdiction, would be a waste of time?—But see how completely this country has regarded these matters as under its control! You passed an Act in which you gave your own Minister of Defence power to remit any sentence passed by a Military Court, and it was under the power given by your own statute that the Minister of Justice reduced this sentence from five years to six months, so that you see it has been treated both by legislation and by the law-courts as entirely within our jurisdiction.

8. The position now is that although his sentence has been remitted he is still a traitor?—Yes, that is the point. It does not touch the administration. The Minister of Defence has the power to do this man justice, and to declare that he was no more guilty of treason in the sense used in the war-book of a designed attempt to assist the enemy than you and I are.

9. The letter you spoke of having received from the Solicitor-General was the strongest piece of evidence you gave to the Committee?—It is not marked "Confidential," but marked "Personal."

10. You would have to get the consent of the Solicitor-General to produce it?—Yes. I feel sure he would give me that consent. I do not think we are entitled to deal with the Solicitor-General or any other public officer under obligations of secrecy. I quite agree I ought to ask his consent. I will ask him and submit the letter if I may. May I point out that the chief offenders in connection with these letters would be the Germans who sought Mr. Gaudin's intermediary to send the letters to their friends here. You will understand, if I am an alien enemy and I seek to get a treasonous letter through some one's medium to a fellow-enemy, I am the principal offender, and so each of those Germans who gave Mr. Gaudin a letter should have been treated as the principal offender, and should have been punished if the letters were treasonous, and yet no proceedings of any kind have ever been suggested against the principal offender. The man who took the letter is treated as the principal offender.

11. *Mr. Payne.*] The clear issue you ask this Committee to decide is whether, in our opinion, the petitioner was guilty of any act of treason, and you put that purely with the object of clearing him of the charge of treason?—Yes. He admitted and we admit that because he broke a war regulation he deserved some punishment; but to convict a man of war treason and sentence him to five years' imprisonment and leave a stain upon his character for life because he broke a war regulation which under our regulations to-day he could only be fined £100 for is not in accordance with British justice to-day.

12. He has served seven months of that sentence?—Yes.

13. A favourable report from this Committee is not required for the commencement of a civil action?—I am ready to give my assurance to Mr. Allen that all we seek is an acquittal from this charge. It is indeed the invariable rule at the close of nearly every war in which England has been engaged to pass a law called a Statute of Indemnity. There are always a lot of illegal things done under the stress of military operations, and there is usually passed a Statute of Indemnity indemnifying every person who has acted in connection with the military authorities from any civil action of any kind whatever. I expect that you gentlemen will have to pass such a law as soon as the war is over.

THURSDAY, 23RD SEPTEMBER, 1915

Colonel JOHN RANKEN REED, K.C., examined. (No. 7.)

1. *The Chairman.*] What is your position?—I am a Colonel on the Reserve, and Judge-Advocate-General for New Zealand.

2. And your address?—Auckland. I want, first of all, to explain my position in reference to this matter. I am not appearing in any sense as an advocate, or as counsel on behalf of any one. My position really is that I have been instructed by the Hon. Minister of Defence to attend this Committee, and, if possible, to assist you in your deliberations on this case. My position as Judge-Advocate-General is defined in the regulations under the Defence Act, as follows: "The Judge-Advocate-General is appointed by the Minister of Defence. He superintends the administration of military law in the Dominion, gives advice on matters leading up to the convening of Courts-martial, and reviews the proceedings with a view to seeing whether they have been regular and legal. In the event of it being necessary to quash the proceedings he makes recommendations to the Minister of Defence with this object." Now, if these particular proceedings in connection with Mr. Gaudin had been heard in New Zealand the matter would have come before me before