

MINUTES OF EVIDENCE.

AUCKLAND, MONDAY, 13TH AUGUST, 1917.

Mr. H. H. Ostler appeared for the Rev. H. Elliott and the Protestant Political Association.

Mr. A. Gray, K.C., appeared for the Department.

The Commissioner read the Commission, dated the 25th July, 1917.

Mr. Ostler: The position is, if your Worship pleases, that as soon as we obtained a copy of the Commission we observed that it was not wide enough to cover the charges made, and I was instructed to immediately communicate with the Right Hon. the Prime Minister asking that the scope of the Commission be enlarged.

His Worship: Are your charges in writing? Have you got them at all? I have never seen them.

Mr. Ostler: I understand your Worship has seen the letter to the Right Hon. the Prime Minister in which the charges are set out.

His Worship: I have seen a copy of it—I did not read it.

Mr. Ostler: At any rate, the charges are in that letter. Late on Saturday night I received a wire from the Right Hon. the Prime Minister saying that Cabinet had received my letter, and that they were quite willing to enlarge the scope of the Commission to include the three charges, subject to certain conditions restrictive to one of the charges. In those circumstances I understand your Worship has had instructions.

His Worship: I have received nothing. I saw a copy of a telegram Mr. Gray showed me from the Hon. Mr. Herdman, inspired, I suppose, as the result of a Cabinet meeting, but nothing further than that.

Mr. Ostler: I presume that would satisfy your Worship?

His Worship: No, it will not, indeed.

Mr. Ostler: You have not listened to what I have to say. I was going to say that if it satisfies your Worship, Government is prepared to enlarge the scope to embrace the three charges. That being so, pending the issue of a new Commission I suggest these charges be heard as if the three charges were in it.

His Worship: I cannot consent to do that, for a reason that must appeal to you: there might be questions asked or evidence tendered that might be influenced by the new extent of the Commission. I should be placed in a very false position.

Mr. Ostler: I quite agree that would be so.

His Worship read the following:—

COPY OF TELEGRAM FROM THE HON. A. L. HERDMAN, Attorney-General, Wellington,
to ALEX. GRAY, Esq., K.C., Auckland, 11th August, 1917.

The following telegram has been forwarded by the Prime Minister to Mr. Ostler, counsel for Rev. Mr. Elliott:—

“*Re* Rev. Howard Elliott’s charges: Your letter has been considered by Cabinet, and it has arrived at the following decisions:—

“First, That Mr. Bishop must proceed with the inquiry, Cabinet being of opinion that a gentleman of his tried ability and long experience as a Magistrate and as a public officer will conduct his investigations with thoroughness and impartiality, and in a manner calculated to inspire public confidence in his findings.

“Second, Cabinet is advised that charges numbered 1 and 2 can be investigated under the present order of reference, but if there is any doubt about the Commissioner’s powers authority will be given him to investigate both charges.

“Third, As to charge numbered 3, this in part relates to the improper detention and to the non-delivery of letters addressed to box 912, and in part it relates to the actions of the Censor. Cabinet has no objection to the Commissioner investigating any charges relating to the improper retention and to the non-delivery of letters to box 912, and relating to the suggestion that a system of censorship had been established over the correspondence addressed to box 912 in the interests of the Roman Catholic Church; but inasmuch as the existence of a state of war has made the establishment of censorship necessary, and as matters connected with and arising out of censorship are, for reasons of State, obviously secret, Cabinet cannot agree to allow the Commissioner to call upon any Censor officer under the control of the Chief Military Censor to do anything more than explain what was done by him with any letters and documents referred to in your charge which may have come into his hands. The Censor officer can give no information and no reasons for censoring any documents or correspondence within New Zealand, or as to the scope and extent of the censorship established in New Zealand upon the outbreak of the war.

“Fourth, The public and the Press will, unless the Commissioner sees any objection, be admitted to the inquiry, which will, I understand, be held in a Courtroom in Auckland.

“W. F. MASSEY.”

You have a copy of Mr. Ostler’s letter.

A. L. HERDMAN.