Attorney-General's Office, Wellington, 1st May, 1918.

DEAR MR. JUSTICE EDWARDS,

Mr. R. A. Singer, on the 23rd February last, formally wrote to the Council of the Auckland District Law Society complaining of certain observations which you had made upon the trial of one Clark for arson at the criminal sessions at Wanganui on the 4th February last gravely affecting Mr. Singer's character. He further complained of comments made by your Honour upon him when sentencing Clark on the 9th February.

On the 20th March last the President of the Auckland District Law Society wrote me a letter, copy of which I enclose. To that letter I replied on the 22nd March (copy attached).

On the same date I wrote to the Secretary of the New Zealand Law Society a letter (copy attached). I am to-day in receipt of a letter from the President of the New Zealand Law Society (copy attached).

I desire informally to submit the position to your Honour for your consideration, and to inquire whether your Honour has any objection to my more formally submitting to you the precise matter of Mr. Singer's complaint and your comment on his conduct for any observations you may think it right or fitting to make thereon. Severe comment by a Judge upon the conduct of a practitioner does appear, as the Council of the Auckland Law Society points out, to involve a duty on the governing body of the profession either to take proceedings against the practitioner in consequence of the comment, if justified, or to aid the practitioner in asserting his innocence if it should appear that the comment was mistaken.

I have, &c.,

The Hon. Mr. Justice Edwards, Supreme Court, Wellington. F. H. D. BELL.

DEAR MR. ATTORNEY-GENERAL, Judge's Chambers, Wellington, 6th May, 1918.

As the principle involved in the question put by your letter of the 1st May is one which affects the whole of the Judges of the Supreme Court, I have thought it necessary to submit the correspondence to the Judges of the First Division of the Court of Appeal, who are at present the only Judges in Wellington.

The enclosures forwarded with your letter do not show what I am called upon to answer. All the Judges agree with me that before I can say whether I will or will not further reply it is necessary that I should be informed as to this.

Meantime it is proper to say that all the Judges agree that no question should be put to any Judge which may involve a breach of the principle embodied in the rule thus stated by Baron Cleasby in *Duke of Buccleuch* v. *Metropolitan Board of Works* (L.R. 5 H.L. 418, at p. 433): "With respect to those who fill the office of Judge it has been felt that there are grave objections to their conduct being made the subject of cross-examination and comment (to which hardly any limit could be put) in relation to proceedings before them; and, as everything which they can properly prove can be proved by others, the Courts of law discountenance and, I think I may say, prevent them being examined."

All the Judges also agree that the offence of counsel who imputes the guilt of a crime charged against the person whom he defends to another person against whom there is no evidence which could directly or indirectly implicate that person in the crime cannot be punished by any proceeding whatever.

No doubt if that offence were repeated on the same occasion or on a retrial of the person charged, after warning from the Judge, the offender could be punished for contempt of Court, but not otherwise.

There is therefore no check to such an offence save speedy condemnation by the presiding Judge.

If the Judge is afterwards to be called upon, by any tribunal save Parliament, to account for what he has felt it to be his duty to say upon such an occasion it is obvious that the administration of justice must be seriously impeded, and that innocent persons may with impunity be branded before the public by unscrupulous counsel as being themselves the criminals. Even if the Judge's remarks in such a case are admitted or proved, the proposition that any Law Society or other body, upon a perusal of the depositions in the Lower Court, and upon a report from the counsel implicated of what he has done at the trial, can determine whether or not the remarks of the Judge were justified is obviously erroneous.

Notwithstanding the foregoing observations, I am willing in the present case, as being one of first impression and not as a precedent, to say that I did, on the trial of John Benjamin Clark at Wanganui on the 12th February last on a charge of arson, comment with severity upon the conduct of Mr. Singer, who had imputed the crime to ——,* one of the witnesses of the Crown, who was a draper, who occupied the adjoining premises, and who lost many hundreds of pounds by the fire. I did say that there was not a tittle of evidence to justify that imputation or to cast any suspicion upon ——.* I did say that Mr. Singer's conduct in making that imputation against a person whom he must have known to be innocent was an offence against the best traditions of the Bar. I believe that I added that it was in itself infamous. Except that I know that I did refer to the traditions of the Bar, I cannot speak to the exact words used at this lapse of time, but the above is substantially correct.

I do not know that any other question could properly be asked of me in connection with this matter without infringing the principles upon which the Judges have agreed, as I have stated.

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* The name of the person referred to appears in His Honour's letter, but is omitted in this print.