

No. 7.

Mr. G. E. BARTON to the Hon. the COLONIAL SECRETARY.

SIR,—

Brandon Street, Wellington, 16th December, 1878.

I can hardly express my surprise at receiving from the Government, in answer to my demand for inquiry into the conduct of the Judges, a document consisting of twenty-six closely printed blue-book pages, professing to deal with the whole of my charges and to refute them exhaustively, and informing me that, although the Government has decided to refuse me an inquiry, they have themselves made a "searching inquiry" without having "thought it necessary to communicate with any of the Judges, or to submit a copy of [my] letter of 5th November for their consideration."

Thus I am asked to believe that the Government have evolved this elaborate defence of the Judges out of their own "inner consciousness," without reference either to the accuser or the accused.

Before making any observations on the contents of this printed document, I complain that the Government should have printed a whole edition of it without prefixing the letters containing my charges. I complain also that this document was withheld from me till a sackful (out of which the messenger handed me my copy) was ready for distribution over the colony. I further complain that, on the same day it was delivered to me, it was, with indecent haste, delivered also to the Wellington Press, for publication, all this being done in the interest of the Judges, and, doubtless, to make an impression in their favour before I should have time to expose your mis-statements. Such conduct is the conduct of partisans rather than of persons sincerely desirous of doing right between the contending parties.

On reading this document I find that not only it is not an exhaustive refutation as it professes to be, for it entirely suppresses all those charges that have most stirred the public mind, and the mind of Parliament, but it grossly garbles and mis-states the twelve subsidiary charges which alone it undertakes to answer. It refutes not the charges made by me, but charges invented by the writer for refutation. I confess it is inexplicable to me, if the Cabinet did actually spend, as you assert they have spent, the six weeks between the date of my letter and the date of your reply in making "a searching inquiry," that Ministers should have passed by in utter silence my month's imprisonment "without special instructions as to diet or otherwise," and the obviously malicious intention with which that imprisonment was inflicted—viz., that of ruining my business and of crushing, in my person, freedom of advocacy except in cases where it suits the Judge's purpose to permit it. It also passes my comprehension how Ministers could have left out of their consideration (and refutation) the following, viz. :—

1. The infliction of £50 fine upon me, because I strove to compel the Court to declare whether it was deciding in *Spencer v. Pearson* with or without jurisdiction, their refusal to do which afterwards caused such indignant remonstrances by my principals, Messrs. Sievwright and Stout, and such embarrassment to them and to the Supreme Court at Dunedin, as I proved before Parliament by reading Mr. Stout's own telegrams and letters to me on the subject. 2. Judge Richmond's misconduct in corruptly sheltering Gillon's opponents and refusing protection to Gillon, while those opponents were "spiriting away" the whole property of the subject-matter of the litigation, thus converting that litigation into a "hollow mockery," and the decree, when he afterwards made it, into a "Dead Sea apple." 3. Judge Richmond's misconduct in corruptly making Gillon a bankrupt, while he kept back in the hollow of his hand the decree by which he on the same day pronounced Gillon's creditors in the bankruptcy proceedings his debtors, for at least forty times the amount of their bankruptcy debt. 4. The corrupt refusal of both Judges to accede to my request that they should send for their notes to correct their own misstatements, and their equally corrupt pretence that in my persistent attempts to compel them to do so I was guilty of "disobeying the repeated orders of the Court to cease from interrupting its proceedings, and to sit down." The monstrosity of thus silencing counsel, who is present in Court for the express purpose of thus "interrupting its proceedings," so struck Sir George Grey, that in his speech he thus refers to it (*Hansard*, page 458): "It was monstrous that a barrister pleading for his client, arguing nothing for himself, and only doing his duty to the person who employed him, should be subjected to imprisonment in the common gaol for one month. . . . It is the first time in six hundred years that the right has been exercised by the Judges of imprisoning an advocate for the manner in which he pleaded the cause of a client in their Court." Mr. Macandrew was also so struck with it that he said (*Hansard*, page 456): "I know nothing to compare to it since the days of the Star Chamber."

Not one of these important matters is even alluded to in your "exhaustive" reply, and yet you assert that the "long delay in replying to [my] letter was occasioned mainly by the Government making searching inquiry into [my] charges, and by the time that was necessarily spent in obtaining the documents and papers relating to them."

Your statement that the Cabinet has been making "searching inquiry" during the six weeks' interval between the date of my letter and the date of your reply, carries its own refutation, when compared with the notorious fact that the majority of the members of the Cabinet have been, some continuously, others almost continuously, away from Wellington, and from each other: Sir George Grey went to Kawau more than a month ago; Mr. Sheehan has been away in Dunedin and Taranaki; Mr. Macandrew in Dunedin and Auckland; Mr. Fisher in the South ill. During that six weeks Mr. Ballance and Mr. Stout have alone been constantly in Wellington, and yet your letter pledges itself that the Cabinet has made "searching inquiry." And you add, with unnecessary offensiveness, "I have now dealt with the various charges I have made, and, after a careful and calm review, regret that you should have made those charges;" and you sneeringly tell me that you "feel assured that I will yet acknowledge that they were made either under some temporary irritation, or without due consideration." Sir, they are made after Mr. Justice Richmond had twice ruined me, and driven me from practice in the Courts.

Your twenty-six pages of letter and Appendix may be briefly summed up as follows :—

1. The decisions you have impugned, Mr. Barton, were all strictly legal, and could not have been appealed from. Your remedy was by appeal: why did you not appeal? We have set out all the judgments in the Appendix that you may see how legal they are, and how impossible it would be to appeal against them.