

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 biased 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.