

No. 9.

His Honour Mr. Justice WILLIAMS to the Hon the MINISTER of JUSTICE.

SIR,—

Judge's Chambers, Dunedin, 22nd September, 1885.

In reply to your letter of the 11th instant, I have the honour to enclose a memorandum on the subject of shorthand reporting. I should have written earlier, but I have been much engaged the last few days, and, as I noticed the proposed Bill had been postponed, an immediate reply seemed unnecessary.

I have, &c.,

The Hon. the Minister of Justice, Wellington.

JOSHUA STRANGE WILLIAMS.

Enclosure in No. 9.

MEMORANDUM on Supreme Court Reporting Bill.

THE main object of the suggested employment of shorthand reporters in Courts of justice appears to be to take down the evidence, the reporting of other proceedings being of secondary importance. It is asserted that by taking the evidence in shorthand time will be saved, a complete and accurate record of the evidence obtained, and, as the Judge will be relieved from the labour of taking notes, that he will be able to give his whole attention to the case before him. The saving of time, and the consequent decrease of inconvenience to all persons attending the Court, and the diminishing of expense to suitors, is one of the chief benefits which, it is asserted, will accrue from the proposed change.

Now, in a case of any length or importance it is absolutely necessary, and in any case it may be necessary, that the Judge should have before him, when he sums up to the jury, the evidence given by the witnesses. At present his notes contain the evidence. If the evidence is to be taken down in shorthand, provision would have to be made for a sufficient staff so that the evidence transcribed in longhand could always, if required, be in the hands of the Judge before he summed up. Such a staff would be exceedingly costly.

In America, where a large sum is spent on reporting, it may be possible to have the notes so transcribed, especially as there is reason to believe that trials there are frequently spun out by objections and discussions on evidence to a much greater length than with us. I have before me an account, written by an American for Americans, of a celebrated trial at the Central Criminal Court in London. The author remarks that, although the Judge took down the evidence in longhand, yet, owing to the absence of objections to evidence and discussions on points of law, the trial got on as fast as in America, where the evidence is taken in shorthand.

I think, therefore, that no great saving of time will be effected by taking the evidence in shorthand, except at a cost which the Government would be unlikely to assent to. A complete shorthand report of the evidence by a competent reporter would, however, be of considerable value, as it would certainly be more full and probably more accurate than notes in longhand made by the Judge. In a shorthand report the evidence would appear in the form of question and answer, and the very words of the question and of the answer would be given. Judges' notes are and must be taken, unless at an inordinate expenditure of time and labour, in the form of a narrative given by the witness. It is only if at the moment the precise words of a question appear to the Judge to be important that he writes down the question and the answer verbatim. I think, also, that, if a shorthand reporter were employed, the labour of the Judge would be to some extent lightened, and, perhaps, time saved, even if the notes were not transcribed in longhand before the summing-up. The Judge would still have to take pretty full notes of the evidence to enable him to sum up, but the knowledge that he had at his elbow a person to whom he could refer in case of doubt for the precise words used, and that his notes were no longer necessary as a record of the proceedings, would enable him in many cases to curtail them. A good deal of the evidence elicited on cross-examination could probably be omitted or very briefly noted. If this were so it would allow the cross-examining counsel to proceed more quickly with the examination, and so give a dishonest witness less time to shape his answers.

To what extent a Judge could curtail his notes would, however, depend much on the nature of the evidence in the particular case and much upon practice. I do not, however, imagine that, under the most favourable circumstances, the duration of a trial would be diminished to the extent anticipated by some of the advocates of shorthand reporting. Evidence taken by a Commission for use before another tribunal could no doubt, as suggested in the memorandum of the Hon. the Minister of Justice, be taken with great rapidity by shorthand. Where, however, the tribunal which hears the evidence has to decide upon it it is necessary that it be taken with such deliberation as will allow the Judge and jury to master it. The present practice of the Judge writing the evidence out certainly tends to impress the evidence on the mind of the Judge, and the repetition which this frequently involves has a similar effect on the minds of the jury. So far, therefore, as taking evidence is concerned, I do not think that, for the purposes of the trial, the Judge's notes could be wholly superseded by a shorthand report, unless at a very large expense. As a record, however, and as ancillary to the Judge's notes for the purposes of the trial, a shorthand report would be of considerable value, and might be obtained at a moderate cost.

I think that experiments might well be made to test the efficiency of shorthand reporting, and I should be glad to assist in them as far as I am able. Experience on the subject would be a valuable aid to legislation, if legislation were considered necessary. Premature legislation might lead to mischief. It would be unsafe, for instance, at present to enact, as proposed, that a copy of a transcription of the shorthand notes should be conclusive evidence of the testimony given. If that were so, a person indicted for perjury committed at the trial of a cause would be bound by this copy as to what he said, and would not be able to cross-examine the shorthand writer who took his