

We venture to suggest that Your Excellency's Advisers and the representatives of the dairy industry might consider the position with a view to legislation declaring the agreement to have been *intra vires*, and that the time for making our report be extended so that as soon as the legislation has been passed we may complete our consideration of the question and furnish our report.

We may say that the President of the Commission has called counsel together and informed them of the difficulty. They have undertaken to discuss the matter with their respective principals with a view to seeing whether, and how, the difficulty may be overcome, but in the meantime we think we should report the position to Your Excellency, particularly because we have been charged by Your Excellency's Commission to make our report by the 31st March. We assume that this communication may be taken as an interim report.

We have the honour to be,

Sir,

Your Excellency's obedient servants,

(Sgd.) MICHAEL MYERS.

(Sgd.) R. KENNEDY.

(Sgd.) H. F. JOHNSTON.

His Excellency the Governor-General,

Government House, Wellington.

FINAL REPORT

Chief Justice's Chambers,

Wellington, 29th July, 1946.

MAY IT PLEASE YOUR EXCELLENCY,—

We now have the honour to make our report upon the subject-matter of the Commission dated the 19th January, 1946, into which Your Excellency's predecessor directed us to inquire.

The parties to the controversy are, on the one hand, the Government and, on the other, the New Zealand Dairy Board, as representing the dairy industry of New Zealand and all the producers engaged therein. Both sides were represented by counsel, Mr. Cooke, K.C., and Mr. Cleary for the Government, and Mr. Watson and Mr. Biss for the Dairy Board. The question involved in the controversy being one of interpretation of a written document and therefore a question of law only, the parties did not call oral evidence, but a mass of documentary material was placed before us, and the *viva voce* proceedings consisted of the arguments of counsel, which occupied five days.

On the 14th March we made an interim report to your Excellency's predecessor in which we pointed out a difficulty that had arisen. We questioned whether the agreement that we were directed to interpret was *intra vires* the Government, and we ventured to suggest that His Excellency's Advisers and the representatives of the dairy industry might consider the position with a view to having legislation enacted declaring the agreement to have been *intra vires*. Subsequently, counsel for the parties appeared before us again, and we were informed that an undertaking had been given that, in order to remove any question of the agreement being *ultra vires*, the Government would, as soon as reasonably practicable after the beginning of the then next ensuing session of Parliament, introduce legislation to validate the agreement, and we were asked to proceed to make our final report on the assumption of the agreement being *intra vires*.