

of time of the address to the jury, and it may be equally the duty of the counsel not to enter upon such cross-examination without carefully considering the circumstances, as it is his duty to abstain from raising a similar question in his address to the jury if he has failed in his cross-examination to elicit the anticipated evidence.

I trust the Council will not consider that I have exceeded my functions in thus respectfully commenting upon one of its resolutions.

I cordially agree to the suggestion of the Council that I should send a copy of the correspondence to the Bar Council in England and endeavour to obtain the opinion of that Council on the questions which have arisen.

The Secretary, New Zealand Law Society,
Supreme Court Library, Wellington.

I have, &c.,
F. H. D. BELL.

SIR,

Wellington, 12th July, 1918.

I have the honour to acknowledge receipt of your letter of the 9th instant addressed to the Secretary of the New Zealand Law Society.

I have to thank you on behalf of the Council and myself for your letter. It affords me the opportunity of clearing up what may possibly be left in doubt by the resolution of the Council. In dealing with Mr. Singer's complaint and the correspondence which followed it, the Council were desirous of confining their conclusions as closely as possible to matters arising out of the particular facts of the complaint. The strictures complained of by Mr. Singer apparently related to his address to the jury, and so the formal resolutions of the Council were confined to the obligations in that respect.

But, as you will no doubt have surmised, the discussion which preceded the passing of the resolutions necessarily dealt with the rights and obligations of counsel when cross-examining as well as when summing up the evidence. I am able to inform you that without exception the opinions expressed by members of the Council in relation to the obligations of counsel in cross-examination are in substantial agreement with the views expressed in your letter. Indeed so much might have been inferred from the language of the resolution alone.

As you say, the second paragraph of the second resolution is probably applicable to both the point of time of cross-examination and the point of time of the address to the jury. It was the general view that, in putting questions in cross-examination intended to elicit facts suggestive of the guilt of another, counsel is entitled to have regard to his instructions, and should disregard them only if the line of defence suggested by them is plainly foundationless. It was further pointed out that there is not the same opportunity afforded to the advocate of considering and ascertaining the reasonableness of the imputations during the course of cross-examination as there is at the conclusion of the evidence, when all the facts are elicited.

There are in practice two great safeguards against the abuse of the privilege of counsel. The one is the sense of justice and fair play of the average practitioner, and the other is that a defence suggesting or imputing the crime to another is almost invariably a hazardous defence.

I have, &c.,
C. P. SKERRETT,
President, New Zealand Law Society.

The Hon. the Attorney-General, Wellington.

SIR,

Attorney-General's Office, Wellington, 17th December, 1918.

Herewith I beg to enclose twelve printed copies of certain correspondence which has taken place between myself as Attorney-General for New Zealand, the Judges of the Supreme Court of New Zealand, and the Council of the New Zealand Law Society.

You will observe that the Secretary of the New Zealand Law Society, in his letter to me of the 9th July, 1918, conveys a request from the Council of the New Zealand Law Society that the Bar Council of England should be invited to express an opinion upon both questions raised, each question being a matter affecting the rights and privileges of counsel.

I desire in the first place to refer to what I conceive to be a satisfactory settlement of one question arising for decision in the correspondence—namely, the consent of the Judges of the Supreme Court Bench to allow the Council of the New Zealand Law Society, either directly or through the Attorney-General as leader of the Bar, to submit in writing to a Judge the matter of any grievance which a member of the New Zealand Bar may feel that he has suffered by reason of comment by the Judge on his conduct. It appears to me that this conclusion may be of interest to the Bar Council of England as determining procedure the manner of which has been the subject of considerable diversity of opinion not only in New Zealand but in England.

It is the second matter, however, in which I join with the Council of the New Zealand Law Society in the request for an opinion from the Bar Council of England. You will find the point stated in my letter to Mr. Justice Edwards of the 8th May, and the determination by the Judges of the point in Mr. Justice Edwards's letter to me of the 9th May. You will also see to what extent in my own letter of the 9th May I challenged the precedent for the Judge's ruling, and I specially call attention to the last paragraph of Mr. Justice Edwards's letter of the 10th May as expressing a more than definite conclusion.