

REPORT

OF THE

JUDGES OF THE SUPREME COURT

RESPECTING

CRIMINAL PROSECUTIONS AND JUSTICES OF THE PEACE.

AUCKLAND.

1859.

CROWN CRIMINAL PROSECUTIONS.

REPORT.

THE Judges of the Supreme Court, assembled in conference at Auckland, desire to call your Excellency's attention to the following matters connected with the administration of criminal justice.

1. They regret to find that, from the insufficiency of the Provincial prisons for the purposes of Convict establishments, the sentences of the Supreme Court cannot be carried out with that strictness and precision, with those distinctions as to classes of persons imprisoned, their character and offences, and with those provisions as to employment, instruction and discipline, which are either essential, or at all events, of great importance for rendering punishments effectual and useful to society.

2. The insufficiency of some of the prisons in the Colony and of the *surveillance* over the prisoners, has led to numerous breaches of prison and escapes, sometimes accompanied with much violence,—to the great prejudice of justice, to the hardening of the offenders, and the disquietude of society.

3. In some parts of the Colony frequent failures of justice arise, and are likely to arise, from the circumstance that no official or professional person is charged with the duty of conducting prosecutions in their earlier stages, and preparing the case for the Supreme Court, or of transmitting parties committed to the gaoler of the Province in which the trial is to take place, or of directing the witnesses bound over to proceed to the place of trial, or of obtaining the attendance of other important witnesses, or of providing funds for the travelling expenses of witnesses, or of appearing as, or instructing, counsel for the Crown at the trial.

At present, it would appear, the English practice as to prosecution, is the only one existing, *by law*, in the Colony; and that the private person bound over to prosecute, is the only person responsible for the conduct of the prosecution; but this practice, obviously, is quite unfit for, and inappropriate to the circumstances of the Colony, and tends to produce great hardship and failure of justice, in cases where the party bound over, is living in a neighbourhood where there are no Attorneys resident, to whom he could entrust the care of the prosecution.

4. We have had our attention drawn by many Justices of the Peace, to the want of some simple manual for instructing Justices not professionally educated, who may be called upon to act by themselves, as to the more ordinary cases likely to arise within their jurisdiction, and the modes of proceeding in respect thereof. We are of opinion that it is very desirable that some such manual should be prepared, and furnished to all the Justices of the Peace in the Colony.

GEORGE ALFRED ARNEY, CH. J.,
ALEXANDER J. JOHNSTON,
H. B. GRESSON.

To His Excellency
Colonel THOMAS GORE BROWNE, C.B.,
&c., &c., &c.