

CORRESPONDENCE

RELATIVE TO THE

ACCOUNTS OF THE LATE QUEEN'S BAILIFF AND SHERIFF OF DUNEDIN.

(Return to an Order of the House of Representatives, dated 6th September, 1866.)

THAT there be laid upon the Table of this House—"The following Correspondence relative to the defalcations of Mr. Foreman, late Sheriff, Dunedin, be printed, namely:—Letter: Mr. Fountain to the Worshipful the Mayor of Dunedin, dated the 27th February, 1866; Letter: The Mayor of Dunedin to the Colonial Secretary, dated 8th March, 1866; Letter: Mr. Fountain to the Mayor of Dunedin, dated 28th March, 1866."

WELLINGTON.

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1866.

CORRESPONDENCE RELATIVE TO THE ACCOUNTS OF THE LATE QUEEN'S BAILIFF AND SHERIFF OF DUNEDIN.

No. 1.

Mr. FOUNTAIN to the MAYOR OF DUNEDIN.

(No. 138K.)

Colonial Secretary's Office, (Judicial Branch),
Wellington, 27th February, 1866.

SIR,—

I have the honor, by direction of Mr. Stafford, to inform you that the Government has learnt with great surprise the decision at which you arrived in the case of *Regina v. Forman*, a decision which, in the opinion of the Honorable the Attorney-General, was not in accordance with law.

I have, &c.,

R. G. FOUNTAIN,
(for the Assistant Law Officer.)

The Worshipful the Mayor of Dunedin.

No. 2.

The MAYOR OF DUNEDIN to the Hon. the COLONIAL SECRETARY.

SIR,—

Dunedin, 8th March, 1866.

In answer to a letter from the Judicial Branch of the Colonial Secretary's Office, written by your direction, informing me the Government have heard with great surprise the decision at which I arrived in the case of *Regina v. Forman*, it will be necessary for me to state the circumstances in connection with this decision for your information.

You are aware this case would have been heard by the Resident Magistrate, Mr. Strode, but the necessity of his evidence induced him to request me to hear the case for him.

Mr. Strode and Mr. Logie having given evidence took their seats on the Bench: I had requested Mr. Strode to do so in case any question should arise in which I might require his advice and assistance.

Mr. Wilson, the solicitor who conducted Forman's case, took the objection that application had never been made to his client for the money, and therefore the case must be dismissed.

I consulted with Mr. Strode on this point, and he considered the objection taken by Mr. Wilson fatal, and there was no other course open but to dismiss the prisoner. Mr. Strode's great experience as a Resident Magistrate, and his official knowledge of all the circumstances, removed all doubt from my mind, and as I was acting for him, I did not hesitate to take his advice and dismissed the case.

Immediately after the hearing Mr. Strode furnished Mr. Logie with the amount of defalcation, and advised him to make instant application for the money, that the necessary steps might be taken for the re-committal of Forman.

I have, &c.,

W. MASON,
Mayor.

The Honorable the Colonial Secretary.

No. 3.

Mr. FOUNTAIN to the MAYOR OF DUNEDIN.

(No. 198K.)

Colonial Secretary's Office, (Judicial Branch),
Wellington, 28th March, 1866.

SIR,—

I have the honor to acknowledge the receipt of your letter of the eighth March, 1866, and in reply, am directed by Mr. Stafford to state that it is not necessary in a case of felony that previous application should be made for the money. The offence is in the appropriation, and the question for the Magistrate to determine is whether sufficient evidence of this is before him.

If you deemed the evidence before you insufficient to establish the fact of a felony having been committed, you were at liberty to remand the case.

I have, &c.,

R. G. FOUNTAIN,
(for the Assistant Law Officer.)

The Worshipful the Mayor of Dunedin.

