their resolution, together with the original petition, to be returned to the convict, thereby preventing the Bar from pointing out the frauds and falsehood contained in them—frauds and falsehoods so glaring that their exposure must at once and for ever have prevented the scandal of his admission. It appears to me impossible to see how, in the face of that resolution of the Judges, of your letters to Smythies, and of the facts above stated, the Dunedin Bar could regard the proceedings of conference as a mere preliminary inquiry. It is much to be regretted that the English practice with respect to opposed admissions should not have been adhered to in this instance, as far as possible; it is still more to be deplored that if, as you now state, you understood that the whole proceedings in conference were merely preliminary, and that "the whole matter of admission would," in case of opposition, "be reserved to be further considered by all the Judges," you should have addressed such a letter as that of the 10th November, 1865, to Smythies while his application for admission was still pending.

You complain next of my statement that the Judges flinched from a face to face explanation with myself, and declare that they "could not shrink from that which was never offered."

You have stated repeatedly in the course of this correspondence that I had "wronged the Judges," and that "personal explanations were unfortunately rendered necessary by what had occurred." When one man complains that another has wronged him, states that the wrong inflicted renders personal explanations necessary, and subsequently meets the person of whose conduct he complains, and remains on terms of perfect courtesy with him,—without once mentioning his alleged wrong,—during a daily intercourse of four or five weeks; retaining, nevertheless, his pristine sense of injury in full force, and leaving a letter of complaint behind him to be delivered after his departure, he may fairly be said to flinch from a face to face explanation. It is for him who requires such an explanation to demand it; not for him who deems that he has merely discharged his duty to offer it.

There is but one point more in your letter to which I need advert, namely, your statement "that the course I had felt it my duty to adopt prevented the judgment to which my censure was appended from being brought under the review of the Court of Appeal at all."

As a fact, that judgment formed part of the case laid before the Court of Appeal by Smythies. As to the course adopted, it was simply the ordinary one in similar cases. Smythies had been convicted before the Magistrates of an offence against "The Law Practitioners Act Amendment Act, 1866," and had been fined £500, with the alternative of three months' imprisonment in case of non-payment. The rule *nisi* obtained by him for quashing the conviction was discharged, and he asked leave to appeal from my decision. Leave was granted on the usual terms, namely, on his finding security, first for the costs of the appeal in an amount to be fixed by the Registrar; and secondly, for the payment of the penalty, or in default thereof, for his surrendering to undergo his imprisonment, in the amount of the penalty itself. Had I refused leave to appeal, it would have appeared harsh, inasmuch as he would in that case have probably been compelled to pay the fine or to undergo his imprisonment before his appeal could be heard; while to grant such leave without ordering him to find the usual security would have been a most improper and unusual proceeding. Neither his character here, nor his previous conviction for forgery, offered any reason for deviating from the usual course

Having now disposed of the points raised by you in your last letter, I turn to the question of your right to address to me such a communication as the first, dated 15th November last.

When Judges are so unfortunate as to disagree on points connected with the discharge of their official duties, there are two courses open to them, according to English practice and precedent. The first is to settle the dispute by a statement or explanation in open Court;—the course lately taken by Chief Justice Cockburn and Mr. Justice Blackburn, in the recent Jamaica case. The second is to treat the matter as a simple difference between private gentlemen. The fact that my judgment formed part of the case laid before the Court of Appeal by Smythies, offered ample ground for the adoption of the first of these courses. But it is a thing hitherto unheard of, that the Chief Justice, either with or without the concurrence of certain of his juniors, should presume to censure, by an official letter, any Puisne Judge for acts done or words spoken by him in discharge of the duties of his office. I can only regard it as a most improper attempt to restrict that freedom of speech and action which the Legislature has secured to every Judge on the Bench;—as an endeavour to institute a secret tribunal, with yourself as President, for the purpose of overawing by threats of censure, equally unprecedented and unauthorized, any Judge who may venture to express opinions at variance with your own. It is true that the experiment has not proved successful, but that does not palliate its impropriety. I deem it my duty to forward the whole of this correspondence to His Excellency's Ministers, in order that, should they deem it advisable, the Houses of Assembly may have an opportunity of expressing their views on the subject.

I have, &c.,
C. D. R. Ward,
Acting Puisne Judge.

His Honor the Chief Justice.

Sub-Enclosure 1 to Enclosure 4 in No. 1.

Dear Mr. Smythies,— Auckland, 6th May, 1864.

I have only time at present to assure you that the original documents sent by post from yourself to me are safe, and that I will give them my earliest attention, with every disposition to assist you.

I am,
Yours faithfully,
G. A. Arney.

Henry Smythies, Esq., Dunedin.