

1874.
NEW ZEALAND.

ON PROPOSED LAW REFORMS.

(CORRESPONDENCE BETWEEN THE GOVERNMENT AND THEIR HONORS SIR G. A. ARNEY, CHIEF JUSTICE, AND MR. JUSTICE JOHNSTON, RELATIVE TO A PROPOSED CONSOLIDATION OF THE STATUTE LAW OF NEW ZEALAND, AND AN AMELIORATION OF THE PRACTICE AND PROCEDURE OF THE SUPREME COURT.)

Presented to both Houses of the General Assembly by command of His Excellency.

No. 1.

His Honor the CHIEF JUSTICE to the Hon. the PREMIER.

(No. 61B.)

SIR,—

Auckland, 1st December, 1873.

In compliance with the wish which you were pleased to express during our recent conversation at Wellington, I brought to the notice of the Judges of the Supreme Court, who met together at the late sitting of the Court of Appeal, those matters connected with what is termed Law Reform, upon which you desired that the Judges should be consulted.

The more prominent of those subjects were the consolidation of the Statute Law of New Zealand, and the amelioration of the practice and procedure of the Supreme Court, with a view to diminish delay and expense to the suitors.

The Judges are ready and anxious to lend to the Government all the assistance which is in their power to afford, in order to facilitate these or any other improvements in the law, although the extent to which any one Judge may be able to assist therein must of course depend upon the degree to which his time may be engrossed by strictly judicial work in his particular Court, or Chambers. His Honor Mr. Justice Johnston has written a full memorandum, expressing his views on the different subjects, which he will forward direct to the Government. His Honor Mr. Justice Gresson did not attend the recent sittings of the Court of Appeal, and could not therefore be consulted; and it was not found practicable for the Judges to pledge themselves respectively to the work which they could either separately or collectively undertake, until they should be informed more specifically what are the views and purposes of the Government. This is especially requisite with reference to the work of consolidation of the Statutes. The consolidation of the entire statute law of New Zealand might prove a more extensive undertaking than the Judges might be able to accomplish, although they might be able, by distributing certain selected classes of Statutes among themselves having reference to particular subjects, each to prepare a Consolidated Act upon one or more particular subject-matter or matters. His Honor Mr. Justice Johnston has already, in his edition of the *Regulæ Generales*, done much of the work preparatory to a consolidation of the Statutes having reference to the constitution, practice, and procedure of the Supreme Court and Court of Appeal; and I believe that learned Judge would not be unwilling to complete the consolidation of that class of enactments. In reference, however, to consolidation generally, I believe the Judges are agreed that upon some subjects consolidation would be at present either needless or premature. In certain classes of Statutes which more directly concern the administration of justice, the General Assembly has already done much, *e.g.* by the Justices of the Peace Acts and those relating to the Resident Magistrates' Courts, as also in the Native Land Act and the Prisons Act of the last Session. In regard to the Bankruptcy Acts, a general impression has for some time prevailed that the Government contemplated the introduction of a new scheme of Bankruptcy Law, to be founded upon more recent Imperial legislation; and if this be so, the consolidation of the existing New Zealand Statutes on this branch of law would involve a waste of time and money. The same may be said of any attempt to consolidate immediately the Statutes connected with another subject, *viz.* the Law of Evidence. We all know, speaking generally, that we take most of our law from England; while the judicial decisions of the Courts at Westminster upon the interpretation and application of that law serve as authorities for the guidance of the people and Courts of the colony. To consolidate even the statute law of Evidence would prove a task of great extent and complexity if it reached beyond the Statutes of New Zealand simply, and if limited to the latter would be of small service. But as there is every reason to anticipate, that a general Act of the kind may be introduced at the next Session of the Imperial Parliament, you will probably agree that we had better wait upon its passing. And, generally, I think the Judges will be able to see their way better in this matter of consolidation when they know to what particular classes of Statutes their attention is more especially invited.