

The COMMISSIONER of POLICE to the Hon. Sir W. Fox.

SIR,— Police Department, Commissioner's Office, Wellington, 27th September, 1889.  
I am directed by the Hon. the Defence Minister to acknowledge the receipt of your letter of the 17th instant, respecting the administration of the licensing laws throughout the colony, and, in reply, to inform you that the matter will receive attention.

The Hon. Sir William Fox,  
President of the New Zealand Alliance, Auckland.

I have, &c.,  
JAMES G. FOX,  
(For Commissioner.)

The COMMISSIONER of POLICE, Wellington, to the Hon. Sir W. Fox.

SIR,— Police Department, Commissioner's Office, Wellington, 17th October, 1889.  
With reference to your letter of the 17th instant, and my reply of the 27th ultimo, regarding the administration of the licensing laws, I am now instructed by the Hon. the Defence Minister to say it does not appear to be within the province of the police to dispute the legality of a license issued by competent authority. It is open to any person or body to test the question in the Supreme Court, and this seems to him the proper course to pursue in such cases as those to which you have drawn attention.

The Hon. Sir William Fox,  
President of the New Zealand Alliance, Auckland.

I have, &c.,  
W. E. GUDGEON, Commissioner.

The Hon. Sir W. Fox to the Hon. the MINISTER of JUSTICE.

New Zealand Alliance Office, 320, Victoria Arcade, Auckland,  
26th October, 1889.

SIR,— Referring to the correspondence noted in the margin (Nos. 269 and 308), in the last letter of which I am informed by Commissioner Gudgeon that he is directed by you to say "That it does not appear to be within the province of the police to dispute the legality of a license, and that it is open to any person to test the question in the Supreme Court, and that such appears to be the proper course to pursue in such cases as those in which your intervention was requested," as no reasons are assigned for the decision arrived at, I have respectfully to request that you will reconsider the subject, and will give consideration to the reasons set forth in the enclosed memorandum, and which have influenced the Alliance in their opinion that it is the duty of the police to intervene in such cases.

The Hon. the Minister of Justice, Wellington.

I have, &c.,  
WILLIAM FOX,  
President, New Zealand Alliance.

#### MEMORANDUM.

1. THAT the Licensing Acts are essentially and intrinsically public Acts, passed for the protection of the public, and not for the benefit of any individual. They constitute and prohibit a very large number of offences which are the outcome of the sale of intoxicating drinks, and they provide remedies for a great number of things which might injuriously affect the public welfare. It has been found necessary to place the liquor traffic, "from the mash-tub to the prison," under the superintendence and control of the Justices of the Peace and the police. Provision is made in the colonial Acts, in a large number of specified cases, for the punishment of offenders by Justices of the Peace on the prosecution of the police, without the intervention of any private persons. By section 178 of the Act of 1881 it is expressly enacted that "It shall be the duties of the inspectors to enforce and superintend the carrying-out of this Act in every respect." The Government has never yet appointed such special inspectors as the Act certainly contemplated; but the Act also declared that, independently of these special inspectors, "Every chief police officer and every officer of police not below the grade of sergeant shall, by virtue of his office, be an inspector." It is clearly the duty of such officers to initiate and conduct all prosecutions under that Act. By another section (195) it is further enacted "That every offence under the Act shall be prosecuted, and every penalty enforced by the summary jurisdiction of Justices of the Peace, and that no conviction of a lower Court shall be removed by *certiorari* into any superior Court." It is clearly intended that the police should prosecute and the Justices of the Peace decide on every offence against the Act. In the cases specified in my previous letter the prosecutions would be for selling without a license. On production by the defendant of the spurious license, why should not the Justices decide on the evidence, whether it was spurious or not? What possible reason could there be for referring the complainant to the Supreme Court? The probable result would be that the Court would refuse to hear the cases, and tell the prosecutor to go to the tribunal appointed by the Act, "to carry it out in every respect," and if the prosecutor were, as you suggest, a private party, he would no doubt have to pay the costs of his unsuccessful appeal to the Supreme Court.

2. It is believed that the police have laid it down as a rule, when a license is produced, "not to go behind it," as the phrase is—that is, not to contest its validity, however apparent its defects may be; and it is believed that some Justices of the Peace have followed the same rule. There seems no reason for any such arbitrary rule. The two cases referred to in my previous letter of the extension of time at Newmarket, and the holding of a license by a married woman under a false name, are exactly in point. The facts of the illegality were quite apparent, and the proof in each case was in the hands of the police. In the one case the alleged extension was, on the face of it, *ultra vires*, and in the other the police had the woman's own confession to prove her coverture and false name. Why should not they prosecute, and the Justices of the Peace convict? The