

1892.
NEW ZEALAND.

DESPATCHES

FROM THE SECRETARY OF STATE TO THE GOVERNOR OF NEW ZEALAND.

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

No. 1.

(New Zealand, No. 10.)

MY LORD,—

Downing Street, 15th April, 1891.

I communicated to the committee of Lloyd's and to the Board of Trade copies of your Lordship's Despatch No. 8, of the 2nd of February last, relating to the alleged overloading of deck-cargoes on vessels leaving ports in New Zealand, and I have the honour to transmit to you herewith, for communication to your Government, copies of letters received from Lloyd's and the Board of Trade in reply.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

Enclosures.

The BOARD of TRADE to the COLONIAL OFFICE.

SIR,—

Board of Trade (Marine Department), London, S.W., 11th April, 1891.

I am directed by the Board of Trade to acknowledge the receipt of your letter of the 26th ultimo, transmitting copies of a letter from Lloyd's and from the Governor of New Zealand respecting alleged overloading of vessels leaving ports in that colony as to deck-cargoes, and requesting information as to the practice of this Board in such cases.

In reply, I am to state for Lord Knutsford's information that in regard to this matter the Board of Trade can only call attention to the provisions contained in sections 23 and 24 of "The Merchant Shipping Act, 1876," having reference to deck-cargoes.

The Board would also suggest for his Lordship's consideration that a copy of Lord Onslow's letter should be forwarded to the committee of Lloyd's Register.

I have, &c.,

The Under-Secretary of State, Colonial Office.

GEORGE J. SWANSTON.

LLOYD'S to the COLONIAL OFFICE.

SIR,—

Lloyd's, E.C., 1st April, 1891.

I am directed to acknowledge the receipt of your letter of the 26th March with regard to vessels leaving ports in New Zealand with deck-cargoes, and to beg that you will be good enough to express to the Secretary of State for the Colonies the thanks of the Committee of Lloyd's for his Lordship's action in this matter.

I may add that the substance of the communication from the Governor of New Zealand, a copy of which the Secretary of State for the Colonies has been good enough to forward, has been communicated to those who brought this matter under the notice of the Committee of Lloyd's.

I am, &c.,

The Under-Secretary of State for the Colonies.

H. M. HOZIER, Secretary.

No. 2.

(No. 11.)

MY LORD,—

Downing Street, 15th April, 1891.

I have the honour to transmit to your Lordship for the consideration and observations of your Ministers the accompanying extracts from a despatch which has been addressed to me by the High Commissioner for the Western Pacific in reference to the question of the issue of licenses, under the Pacific Islanders' Protection Acts, to masters of vessels to carry native labour.

Assuming the facts to be as reported to Sir J. Thurston, I need scarcely point out the necessity which exists for careful examination into the position and discretion of applicants for licenses before action is taken by the Governor under section 5 of the Act of 1872; and I would draw particular attention to the remarks of the High Commissioner as regards the issue of a license to a vessel of such very small tonnage as the "Myrtle" is shown to have been.

I have, &c.,

KNUTSFORD.

The Right Hon. the Earl of Onslow, &c.

Enclosure.

EXTRACT from a DESPATCH from Sir J. B. THURSTON to Lord KNUTSFORD, dated 22nd February, 1891 (No. 12).

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch No. 52, of the 13th October, transmitting copies of two letters from Mr. J. Arundel respecting the difficulties attendant upon the necessity of procuring licenses under "The Pacific Islanders' Protection Act, 1872," and also copies of the replies which your Lordship has caused to be returned to Mr. Arundel.

In reply to a letter from Mr. Arundel I informed him in August last that I had no authority beyond the limits of this colony, and I added that it occurred to me that the Governors of the Australasian Colonies might find it extremely difficult to grant licenses under the Pacific Islanders' Protection Act, "when the parties at whose instance and for whose benefit the license is issued are not living within the jurisdiction of his Government."

And I might here submit that, while the Act authorises the Governor of a colony to grant a license to a shipmaster for the conveyance of native labourers, the owners of such ships or other persons concerned may reasonably be expected to make application in such time as will permit of inquiry as to the character or general repute of the master to whom the license, if granted, will issue, the sufficiency of the bondsmen, and perhaps as to other points.

An application for a license under the Act referred to ought not, I submit, to be looked upon from either side as a mere form, subsequent to which a license will, as a matter of course, be issued.

It so happens that no applications under the Act have ever been made to me, nor, as I believe, to any of my predecessors. If, however, the charterer of a ship arrived at some distant port of entry in the colony, instead of at the seat of Government, and requested me by letter to furnish him with a license, I trust your Lordship would justify my declining or delaying to do so until I had fully satisfied myself upon all necessary points. This is really what happened in one or more of the cases referred to in Mr. Arundel's correspondence with Lord Onslow.

In the instance adverted to by Mr. Arundel, when, at Auckland, I afforded some little assistance to his partner, Mr. Ellis, I suggested that, as Fiji lay in the track of their stations in the Pacific, they might with convenience call at Suva, where they were well known (at that moment Lord Onslow was at Dunedin, in the south of New Zealand), and where no delay would occur. For some reason, however, it was assumed better to avoid any interruptions or delay when the voyage was once entered upon.

In February, 1890, I was upon a visit to New Zealand, and while at Auckland Mr. Ellis, a gentleman whom I have known for some years, asked me as High Commissioner for a license for the master of the ship "Vivid." Neither the ship "Vivid" nor her master were then in Auckland, and I explained to Mr. Ellis that, apart from this fact, I was beyond the limits of my jurisdiction, and that his proper course was to address Lord Onslow, then daily expected from the South. I, however, promised to write to Mr. Hislop, the Colonial Secretary of New Zealand, asking him to expedite the reply to Mr. Ellis's application; and this I did. But the application, as your Lordship will observe, was made in New Zealand and to the Governor of that colony.

In May, 1890, Captain Davis, of H.M.S. "Royalist" (then at the New Hebrides), in consequence of information received by him, boarded the British schooner "Windward Ho." This vessel carried a license issued under the Act by the Governor of New South Wales to one Donald McLeod, master of such ship; but, although native labourers were on board when Captain Davis inspected her, the vessel was commanded by one George Sonnichsen, and one George Facio was mate. Neither of these men, in fact, were British subjects, McLeod himself—a very well-known person, and one to whom, in my opinion, no license should be granted—being at the time in command of the British cutter "Eleanor Morton," which he had just brought up from Auckland with the object, so Captain Davis understood, of putting her under French colours and employing her in the New Hebrides group.

The complaint against the ship "Windward Ho" was that her master, Sonnichsen, had recruited a number of boys under ten years of age at Pentecost Island, and "traded for these boys with firearms." The charge was proved, and the master fined £20 for breach of the regulations issued by the High Commissioner.

The ship "Windward Ho" formerly belonged to Fiji, but in the year 1885 was sold in Sydney, New South Wales, to Mr. Donald McLeod. I find, from a report furnished to Governor Lord Carrington by the President of the Marine Board of that colony, dated the 11th June, 1890, that a license "to continue to employ twenty-five native labourers for the purpose of procuring *bêche-de-mer* and pearl-shell," was granted on the application of Mr. Donald McLeod from Noumea, New Caledonia (but his actual residence for many years has been at Havannah Harbour, Sandwich Islands), with Mr. D. M. Stewart, of Sydney, as surety.

The President observes, "The points taken by Captain Davis, of H.M.S. 'Royalist,' about the condition in which the vessel's papers were found to be, are certainly valid, and no doubt in antagonism to the provisions of the Merchant Shipping Act; but we have no means of checking this sort of thing after a vessel clears from our port and is engaged in cruising among the South Sea islands." I am unable to say who Mr. D. M. Stewart, of Sydney, is, but, without raising the doubt as to the value, in any sense, of his security, I think, having regard to the fact that Donald McLeod was neither a resident of New South Wales nor a resident within the jurisdiction of any civilised State, and that his character could have been ascertained by reference to the Admiral commanding the station, that it is to be regretted that a license was issued to him.

There are no satisfactory means of controlling the actions of men like McLeod, who are adepts at evasion, and who place their ships occasionally and nominally under the French or American flag. They are not fit men to be licensed under the Acts already quoted.

For some time past the Governors of New South Wales and Victoria have furnished me with copies of all licenses granted by them, and I have found such copies of much use in watching the movements of ships in these seas. I transmit one of the last of such copies from New South Wales, which was no doubt submitted to the Governor in the ordinary way. In this case a license was granted to one Reinhold Frederic Erickson, master of the schooner "Myrtle," of 12 tons register only. The chief officer of this vessel was John Olson; the number of the crew was two (whether natives or white men it is not apparent from the license). The name of the "Myrtle" is not to be found on the list of registered British shipping. She would not, I believe, be registered in New South Wales, but only licensed to sail coastwise. She is, in fact, a big boat, and nothing more. I can hardly think that the provisions of the Pacific Islanders' Protection Acts, 1872 and 1875, in respect of licenses, were intended to be applied to boats of the "Myrtle" description.

The frequent assertion that such vessels are intended to be engaged in copra and *bêche-de-mer* trade is generally mere pretence. Even were it otherwise, the employment of such small craft operates as a temptation or provocation to the savages of the islands among which they move to commit murder and robbery. Generally speaking, these small craft are employed in carrying natives about from place to place as labourers for plantation work. They are seldom seen or heard of unless some missionary reports their illegal proceedings, or a naval officer learns that some unknown white men have been murdered and their vessel seized by some obscure savages in some probably inaccessible place.

While savages are not justified (any more than other people) in robbery or murder because of the smallness of a vessel or the weakness of her crew, I do not think temptation should be put in their way, and I am of opinion that licenses should not be issued to any vessels the registered tonnage of which is under 50 tons. I think it should also be considered whether a license should be issued to the master of a ship where, as in the case of McLeod, the owner is not living under any civilised or recognised Government.

If reference is made to the Mercantile Navy List for 1890, p. 493, it will be observed that the "Magic," of Sydney, New South Wales, and 49 tons register, is owned by Peter Pratt Edmonds, of the "Solomon Islands, South Sea Islands." This person came into the Pacific, I am informed, with the celebrated Marquis de Ray. Naval officers who have inquired into the character of Edmonds give him a very bad one, and I believe correctly so. I am not aware that this man ever possessed a license, but there is no reason to suppose that he would fail in procuring one where McLeod succeeded.

If the vessels commanded by men to whom a license was granted by a Governor were not less than 50 tons register, it would be necessary to employ at least some white seamen; and this would be an advantage. I have known small vessels like the "Myrtle," before referred to, sailing among the islands with a European master and mate only, all the rest of the crew being natives. Not only does this add to the ease with which such ships can be taken by the islanders and plundered, but, as the President of the New South Wales Marine Board says, there is "no means of checking" any of the illegal proceedings after leaving port. The two Europeans have only to swear to the same plausible story, while the unsworn evidence of the natives is taken only "for what it is worth." Nor would I grant a license to any master of a vessel who was not a British subject.

In the case of the enclosed license both master and mate were, judging by their names, Scandinavians. If naturalised in either of the colonies, they could urge, if brought before a British tribunal (as Edmund Pratt Edwards did in a petition recently addressed to the High Commissioner), that they were the subjects of a foreign State.

LICENSE FOR EMPLOYMENT OF NATIVES AT SEA.

REINHOLD FREDERIC ERICKSON, master of the "Myrtle," the vessel more particularly described below, having shown to my satisfaction that he is engaged in the industry of collecting *bêche-de-mer* and other island produce in connection with such vessel, and having given the bond to Her Majesty required by the Pacific Islanders' Protection Acts, 1872 and 1875, I, the Governor of the Colony of

New South Wales, do hereby, in the exercise of the authority for that purpose conferred on me by the said Acts, license the said vessel to employ in the said industry not more than six native labourers from the first day of June, 1890, to the thirty-first day of December, 1893.

Should this vessel be found to answer the subjoined description, and appear to be strictly engaged in the lawful pursuit of the above-mentioned object, it is the direction of Her Majesty's Government that she shall not be obstructed in the prosecution of her present voyage, nor in the shipment, employment, or landing of her native hands.

This license shall not be transferable, and shall be only available for the period aforesaid.

Description of the vessel above referred to.—Tons: 12. Rig: Fore-and-aft schooner. How painted: Black, yellow streak. Name painted on stern: "Myrtle, Sydney." Number of officers and crew (including surgeon, if any): Two. Whether any poop: No. Whether any quarter galleries: No. Whether a top-gallant forecastle: No.

Name of chief officer: John Olson, or whoever may lawfully succeed from time to time as per articles of agreement.

Bound from Sydney to Solomon group, and intending to call at Stewart Island and adjacent group.

To the respective flag officers, captains, and commanding officers of Her Majesty's ships, and to all others whom it may concern.

Given under my hand and seal at Sydney, New South Wales, this thirty-first day of May, 1890.

CARRINGTON, Governor.

No. 3.

(Circular. New Zealand, No. 14.)

MY LORD,—

Downing Street, 20th April, 1891.

A.—1, 1891, Sess.
II., No. 8.

I have the honour to acknowledge the receipt of your Despatch No. 12, of the 7th February, transmitting a copy of a message which you addressed to the Premier of New Zealand, arising immediately out of the commutation of the death-sentence passed on a Native named Mahi Kai, together with a copy of Mr. Ballance's memorandum in reply.

The question of exercise of the prerogative of pardon in capital cases was, as your Lordship is aware, fully discussed at the Colonial Conference in 1887, and considerable difference of opinion was found to exist on the subject among the Australian delegates. Having regard, however, to the representation now made by your Advisers, Her Majesty's Government will consider whether and how far it would be right and desirable, in the case of New Zealand, to substitute for the present instruction on this subject an instruction similar to that now given to the Governor-General of Canada, and whether there would be inconvenience in making this change applicable to only one Australasian Colony.

I am not aware whether this point was discussed at the recent Convention in Sydney, and, having regard to the probability that this question may have to be dealt with in connection with federation, it will be desirable that I should await a full record of the debates of the Federation Conference before inviting Her Majesty's Government to come to a final decision upon it.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 4.

(New Zealand, No. 17.)

MY LORD,—

Downing Street, 9th May, 1891.

A.—1, 1891, Sess.
II., No. 12.

I have the honour to acknowledge the receipt of your Despatch No. 16, of the 11th of March, forwarding copies of a petition from the New Zealand Alliance for the Suppression of the Liquor Traffic respecting the liquor traffic in the Cook Islands, together with copies of correspondence on the subject.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 5.

(New Zealand, No. 18.)

MY LORD,—

Downing Street, 12th May, 1891.

A.—1, 1891, Sess.
II., No. 11.

I have the honour to acknowledge the receipt of your Despatch No. 15, of the 10th of March last, reporting the appointment of Mr. Frederick James

Moss as British Resident in the Cook Islands, and enclosing, with other documents, copies of the instructions which you had given to Mr. Moss after consultation with your Advisers.

These instructions appear to me to be carefully framed, and to define clearly the duties which the Resident will be called upon to perform.

I have to convey to you the appreciation entertained by Her Majesty's Government of the gift of Queen Makea of a site for a residency in Rarotonga.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 6.

(Circular.)

MY LORD,—

Downing Street, 13th May, 1891.

I have the honour to acquaint you, for the information of your Government, that at the International Railway Congress which met in Paris in 1889 it was decided to fix St. Petersburg for the next meeting, which is to take place in 1892. As the International Committee of the Congress sits in Brussels, the Belgian Government has addressed invitations to foreign Governments to send representatives to the assembly of the Congress at St. Petersburg next year; and a note has now been received by the Secretary of State for Foreign Affairs from the Russian Ambassador at this Court expressing the concurrence of the Russian Government in this action, and formally inviting Her Majesty's Government and the British colonies to send representatives to the Congress.

I have to request that you will inform me whether your Government accepts the invitation, and in that case by whom it will be represented, together with the full names and designation of the delegate.

The actual date in 1892 which may be fixed by the Russian Government for the meeting of the Congress will be communicated to you as soon as it is made known to me.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

No. 7.

(New Zealand, No. 20.)

MY LORD,—

Downing Street, 4th June, 1891.

I have the honour to acknowledge the receipt of your Lordship's Despatch No. 26, of the 17th April, transmitting a copy of a resolution passed at a recent meeting of the General Assembly of the Presbyterian Church in New Zealand, urging the propriety of strengthening the hands of Mr. Moss with the view of providing means for the total prohibition of the drink traffic in Rarotonga, and representing the desirability of the suppression of the traffic generally among the natives of the South Seas.

I request that you will cause the Assembly to be informed that the resolution was duly forwarded in accordance with their request, and that it has been received in this department.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 8.

(New Zealand, No. 21.)

MY LORD,—

Downing Street, 4th June, 1891.

I have the honour to acknowledge the receipt of your Despatch No. 22, of the 4th April, respecting your visit to the country occupied by the Tuhoe or Uriwera Tribe.

I have read your Lordship's account with much interest.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

(Circular.)

No. 9.

MY LORD,—

Downing Street, 8th June, 1891.

At the request of the Royal Commission on Labour, I have the honour to request that you will be good enough to procure and transmit, with as little delay as possible, copies of any books, pamphlets, or other works bearing on the questions into which that Commission is about to inquire, and which are shown in the enclosed copy of a report by the Procedure Committee of the Commission. The works desired are practical books relating to existing labour questions, excluding theoretical works relating to past phases of such questions. The collection should, if possible, include copies of the reports for two years, at least, of any Labour Bureaux, Boards of Arbitration, and analogous bodies, as also copies of the reports, if published, of any Government departments, such as reports of factory and mining inspectors, reports of official inquiries into strikes or into the condition of labour generally. Official or private publications treating of labour in other countries than the country of issue would be of value, more especially those on labour in the United Kingdom; and in cases where labour associations have deputed any of their members to investigate the condition of labour in foreign countries the reports giving the results of such investigations would be useful.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

No. 10.

(New Zealand, No. 22.)

MY LORD,—

Downing Street, 9th June, 1891.

I have received, through the Secretary of State for Foreign Affairs, a letter, with an enclosure, of which a copy is enclosed, from the President of the New Zealand Alliance for the Suppression of the Liquor Traffic, with reference to the question of the maintenance of the prohibitory law formerly existing in Rarotonga.

A. 1, 1891, Sess.
II., No. 11.Enclosure to
A.-1, 1891, Sess.
II., No. 11.

I gather from the correspondence laid before the New Zealand Legislature, enclosed in your Despatch No. 15, of the 10th March, and particularly from Mr. Moss's report, printed at pages 13-16 of that paper, and from the instructions which you addressed to that officer on the 25th February, that the difficulty of the maintenance of the law referred to has arisen as much from the opposition of the native chiefs themselves as from the inefficiency of the European staff, as at present constituted, to enforce it.

I request that your Lordship will cause Sir William Fox to be made acquainted with the state of the case, and of the reasons which influenced Mr. Moss in adopting a permit system. He will then see that the action taken by Mr. Moss was based upon the belief that total prohibition would fail, and that therefore it would be desirable to endeavour to check the traffic by strict regulation. Should, however, the system fail it would be possible to recur to total prohibition.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

Enclosure.

Sir WILLIAM FOX to the Marquis of SALISBURY.

MY LORD,—

Auckland, New Zealand, 24th January, 1891.

A.-1, 1891, Sess.
II., No. 12.

On behalf of the New Zealand Alliance for the Suppression of the Liquor Traffic I have the honour to forward to your Lordship, through His Excellency the Governor of this colony, a statement in reference to the action of the lately-appointed Resident at Rarotonga, in the Cook Islands group, in the South Pacific, Mr. F. J. Moss. The excuse for the interference of the Alliance in this matter is that the Queen of Rarotonga has quite recently appealed to it to assist her Government in the maintenance of a prohibitory law, which forms part of the national Constitution of the islanders, and which it appears to be Mr. Moss's desire to get them to repeal, substituting for it a system of licensing similar to that which has worked so disastrously elsewhere. As it is understood that Mr. Moss is under the control of your Lordship's department, the Alliance has thought it right to bring under your Lordship's notice the facts of the case.

I have, &c.,

WM. FOX, K.C.M.G.,

President of the New Zealand Alliance.

The Most Noble the Marquis of Salisbury, &c.,

Her Majesty's Secretary of State for Foreign Affairs.

No. 11.

(New Zealand. Circular.)

MY LORD,—

Downing Street, 11th June, 1891.

I have the honour to transmit to you, for communication to your Government, a copy of a letter from the War Office respecting candidates from colonial universities for commissions in the Imperial army.

I should be glad to be favoured with the views of your Government with regard to the suggestion made by the War Office that such candidates should be required, before receiving their commissions, to undergo military training with a Militia or Volunteer corps, and to pass a qualifying military examination.

I have, &c.,

The Right. Hon. the Earl of Onslow, &c.

KNUTSFORD.

Enclosure.

The WAR OFFICE to the COLONIAL OFFICE.

SIR,—

War Office, Pall Mall, 21st May, 1891.

It having been decided to lengthen the course of instruction at the Royal Military College, and also to lower the upper limit of age for those candidates who enter by open competition, it has been deemed advisable that the candidates who have hitherto entered the College from universities in the United Kingdom shall no longer be instructed at the College, but shall receive their military training under other conditions before joining the army.

It has therefore become necessary to consider how best to deal with those who are admitted from colonial chartered universities under paragraph 2 (c) of the enclosed regulations.

It is observed that since the regulation offering cadetships to students from colonial universities was first adopted in 1881 the number who have availed themselves of the offer has been very small, not exceeding an average of one a year from the whole combined. On the other hand, commissions in the British army have been offered to a certain number of officers of the colonial military forces, and this source has furnished a much larger number of candidates for British commissions.

I am to state that the candidates from British universities will hereafter be required, before receiving their commissions, to undergo training with a Militia or Volunteer corps, and to pass a qualifying military examination instead of that formerly passed by them at the Royal Military College. It is therefore proposed, should the Secretary of State for the Colonies see no objection, to make a similar rule as regards colonial university candidates, so that they might, in fact, be merged in the candidates who obtain their commissions from the colonial local military forces.

I have, &c.,

The Under-Secretary of State for the Colonies.

BROWNLOW.

No. 12.

(Circular.)

MY LORD,—

Downing Street, 23rd June, 1891.

The Government of the Netherlands has requested to be informed as to the laws and regulations relating to the liability of foreigners generally, and particularly of the consular representatives of foreign Powers who are subjects of the countries which they represent, to serve on juries in the British colonies. I shall therefore be glad if you will be good enough to furnish me with the information desired as regards the colony under your Government, for transmission to the Netherlands Minister at this Court.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

No. 13.

(Circular.)

MY LORD,—

Downing Street, 25th June, 1891.

I have the honour to transmit to you, for communication to your Ministers, a copy of a letter from the Lords Commissioners of the Admiralty requesting that copies of all maps relating to the Australasian Colonies, issued from the Surveyor-General's Department, of land bordering on the sea, or containing information which might be of use in amending the Admiralty charts, may be supplied to the Hydrographic Department of the Admiralty as soon as published.

I shall be glad if directions can be given for meeting the wishes of their Lordships, so far as the colony under your Government is concerned, and if copies of the latest coast-maps that have hitherto been issued can be forwarded at an early date.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

Enclosure.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,—

Admiralty, 10th June, 1891.

I am commanded by the Lords Commissioners of the Admiralty to acquaint you that, as many of the maps published by the several Surveyors-General of the Australian Colonies contain information which can be used to improve the Admiralty charts, such as the positions and details of hills, more accurate features of the coast-line, and addition of railways and piers, I am to request that you will move the Secretary of State for the Colonies to forward a request to the various colonial Governments for the Surveyor-General of each of the Australian Colonies and New Zealand to send to the Hydrographic Department of the Admiralty, as soon as published, all maps issued by them of land bordering on the sea, or containing any information which may be of use for amending the Admiralty charts.

I am, &c.,

The Under-Secretary of State, Colonial Office.

EVAN MACGREGOR.

No. 14.

(New Zealand, No. 23.)

MY LORD,—

Downing Street, 26th June, 1891.

I am directed by the Secretary of State for the Colonies to acquaint you that an application has been received from the German Ambassador at this Court on the subject of the appointment of Mr. John Hamann as Acting German Consul at Dunedin, in succession to Mr. Henry Houghton, deceased.

I am to request you to report whether you are aware or not of any objection to this appointment; and if not you will recognise Mr. Hamann in that capacity.

I have, &c.,

ROBERT G. W. HERBERT.

The Officer Administering the Government of New Zealand.

No. 15.

(New Zealand, No. 24.)

MY LORD,—

Downing Street, 3rd July, 1891.

I have the honour to acknowledge the receipt of your Despatch No. 29, of the 8th May, respecting the position of New Zealand as regards Australasian federation.

I have to convey to you my thanks for your Lordship's valuable and interesting observations on this subject.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.,

KNUTSFORD.

No. 16.

(New Zealand, No. 25.)

MY LORD,—

Downing Street, 3rd July, 1891.

I have the honour to acknowledge the receipt of your Lordship's Despatch No. 23, of the 15th April, transmitting copies of your Instructions to Mr. Moss, and of the Proclamation which he was directed to read in the islands of the Cook group, with the exception of Aitutaki.

I approve your action in respect of the affairs of the group, as reported in this despatch.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 17.

(Circular.)

MY LORD,—

Downing Street, 23rd July, 1891.

I have the honour to inform you, by command of the Queen, that Her Majesty has observed that in certain recent cases names have been conferred upon colonial regiments without having been previously submitted to Her Majesty for approval; and it is the Queen's desire that in all cases (and not only when it is desired that a regiment shall be styled "Royal," or bear the name of a member of the Royal Family) the proposed designation may be submitted in the first instance for Her Majesty's sanction.

In all cases the application should be made by the Governor to the Secretary of State for the Colonies, who will take the Queen's pleasure if, after consulting the Secretary of State for War, there appears to be no objection to the adoption of the title.

It is to be understood that this rule does not apply to any designations which it may be necessary to give, provisionally or otherwise to regiments embodied for service under circumstances which preclude previous reference to this country.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

No. 18.

(New Zealand, No. 30.)

MY LORD,—

Downing Street, 28th July, 1891.

I have the honour to acknowledge the receipt of your Despatch No. 39, A.—1, 1892, No. 1. of the 30th May, respecting the training of colonial naval officers on board Her Majesty's ships.

In reply, I have to refer you to my Despatch No. 56, of the 4th December last, from which your Lordship will see that the arrangement made with Victoria applies to all the Australasian Colonies.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 19.

(New Zealand, No. 33.)

MY LORD,—

Downing Street, 6th August, 1891.

I have the honour to acknowledge the receipt of your Despatch No. 38, A.—1, 1891, Sess. II., No. 26. of the 29th May, drawing attention to the form in which bills of lading are made out by the London Shipowners' Association.

I caused a copy of your despatch and its enclosures to be referred to the Board of Trade, and I have the honour to transmit to you, for the information of your Ministers, a copy of the reply which has been received from that department.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

Enclosure.

The BOARD of TRADE to the COLONIAL OFFICE.

SIR,—

Board of Trade (Marine Department), London, S.W., 31st July, 1891.

I am directed by the Board of Trade to acknowledge the receipt of your letter of the 16th instant, enclosing a despatch from the Governor of New Zealand making a representation on behalf of his Government in regard to the form in which bills of lading are made out by the shipping companies and shipowners of the Shipowners' Association, which, it is stated, exempt them from all responsibility as to the condition of goods on delivery.

In reply, I am to state, for the information of Lord Knutsford, that it does not appear to the Board that the stipulations on the bill of lading adopted by the New Zealand Shipping Company are illegal, and that the Board do not feel called upon to interfere between the shipowners and merchants in the matter. The bill of lading is returned herein.

I have, &c.,

The Under-Secretary of State, Colonial Office.

C. CECIL TREVOR.

No. 20.

(New Zealand, No. 34.)

MY LORD,—

Downing Street, 8th August, 1891.

I have the honour to transmit to your Lordship, for the information of your Government, a copy of a letter from the officer commanding Her Majesty's ship "Goldfinch" to the Admiral on the Australian Station, reporting his proceedings while conveying Mr. Moss, the New Zealand Resident, to various islands in the Cook group.

I have, &c.,

ROBERT G. W. HERBERT,

(For the Secretary of State.)

The Right Hon. the Earl of Onslow, &c.

Enclosure.

REPORT OF PROCEEDINGS.

MY LORD,—

H.M.S. "Goldfinch," Suva, Fiji, 3rd June, 1891.

I have the honour to report that I left Rarotonga at 5.45 p.m. on the 29th April, having embarked Mr. Frederick J. Moss, the British Resident for the Cook group.

2. The course was shaped for Mangaia, the windward island of the group. On getting into open found a very heavy swell from eastward, with fresh breeze from east to east-north-east.

3. On the 30th, weather thick, with frequent rain-squalls. Sun obscured during whole day, so that no observations for latitude or longitude were obtained, and I eased engines, thinking it possible ship might run past Mangaia. The weather cleared on the evening of the 30th, and on the 1st May we found by observation that ship had set forty miles southward since 6 p.m. on the 29th—a most astonishing result of an easterly wind. Mangaia was sighted during the afternoon of the 1st, and I lay off and on under sail for the night.

4. The British Resident landed on the morning of the 2nd, and held a general meeting of the people, with the result of which he was much pleased. There is nothing to add to the remarks in the sailing-directions about Mangaia. The people appeared healthy, prosperous, and happy. The scene from the ship as we steamed up to the reef was one of great beauty. I left Mangaia at 5 p.m. on the 2nd May, for Mauki. The weather had entirely broken, and a very light easterly breeze was experienced.

5. Mauki was reached on the afternoon of the 3rd at about 3 p.m., and it was only after firing guns and blowing our whistle that we could see any indication of the island being inhabited, the village being at least a mile and a half from the landing. There is nothing to add to the remarks in the sailing-directions about Mauki.

6. The Resident landed at 3.20, and re-embarked at 6 p.m., having held a satisfactory meeting of the people. I lay-to off Mauki until 3 a.m. of the 4th, and then made sail for Mitiero, reaching there at 9 a.m. The Resident landed, and called a meeting, which, like the others, was very satisfactory. The Island of Mitiero was suffering from the effects of a hurricane of past season, and the people were badly off, and were busy repairing their houses, &c.

7. I left Mitiero at noon on the 4th, and arrived off Atiu at 5.10 p.m. of same day. The village being some distance from landing, I landed, myself, to see the Arikis and to manage a meeting next day for the Resident. Here the people, having more time, collected presents of fruit, pigs, and vegetables; and in return I invited them to visit the ship, which they appreciated very much, coming off in hundreds, and taking the greatest interest in everything we had to show them. An epidemic of dysentery visited the island a few months previously, and over seventy lives were lost. A number of people here looked unhealthy, especially the children.

8. I left Atiu at 5 p.m. on the 5th, and arrived at Aitutaki at 2.25 p.m. on the 6th. The Resident landed, and, having satisfactorily concluded his business, I determined to leave for Rarotonga that night, and not to wait until the following day, as had previously been arranged. My reasons for cutting short the visit were, glass showed signs of a change, and I had only 20 tons of coal left, which, if a fresh southerly breeze had sprung up, would have left me in an awkward predicament. Leaving Aitutaki at 7 p.m. on the 6th, reached Rarotonga on the 8th, at 7 p.m., and disembarked the British Resident. At 9.30 I proceeded into Avatiu Harbour, and secured ship to await arrival of schooner with coal.

9. On the 11th the schooner "Hausman," with coal, came into harbour after a passage of twenty-one days from Auckland, and having a large cargo of sundries and lumber to discharge. This took them until Saturday, the 16th, as they could not get the natives to work, the presence of one of Her Majesty's ships being sufficient excuse for a holiday. Accordingly, I commenced coaling on Monday, the 18th, and on Tuesday coaling was impracticable for part of the day on account of the very heavy rain. In the afternoon, weather looking very dirty, and glass falling, I stopped coaling and got ready to clear out of the harbour; but in the evening the wind shifted to south-east, off the land, and after some more heavy rain weather quite cleared up, and we completed coaling on Wednesday morning, and in the afternoon prepared for sea, and left the harbour on Thursday morning, the 20th. I then steamed round the island and made a running survey.

10. The reception by the natives of Her Majesty's ship under my command was one that will not be forgotten by an officer or man of the ship. Kindness can hardly express their treatment of us: from the moment of our arrival until we left we were overwhelmed with presents of fruit, fowls, pigs, and vegetables. From Mr. Exham, the late British Consul, we experienced the greatest assistance in mooring, he acting as interpreter. I may mention that Mr. Exham kindly lent me a large whaleboat suitable for landing on reefs while visiting the group, for which purpose our boats are almost useless.

11. I visited the Arikis, three in number—Makea, of Avarua and Avatiu; Pa, of Ngatangia, Mitivera, and Titikaveka; and Tinomona, of Arorangi—and invited them and their people to visit the ship, arranging separate days. This they did in state, Makea coming on Tuesday, the 12th, with all her people, and boatloads of fruit, vegetables, pigs, and fowls. At least four hundred people must have come off—a very pretty scene.

(a.) On the evening of the 13th I gave a dance on board to the Arikis and principal natives of Avarua and Avatiu, and, if one can believe all they said of their entertainment, I may flatter myself that I have been in some way instrumental in fostering the loyal and kindly feeling the natives have for the British flag.

(b.) On the 14th, Pa, Ariki of Ngatangia, Mitivera, and Titikaveka, visited the ship, coming in state with all her people, and loaded with presents of coffee, fruit, &c.

(c.) On the 15th, Tinomona, Ariki of Arorangi, visited the ship with all the people, as the others, overwhelming us with presents, among which a bullock. All of them expressed the most loyal and

affectionate feeling for Her Majesty the Queen. In addition to this, the officers and myself were specially invited to their respective villages to see them dance and hear them sing.

(d.) We were also well entertained by the Chief Magistrate and by the foreign residents.

On Tuesday, the 19th, came the crowning feast of all, given by Makea at her palace. It consisted of a native feast, with dances and singing, most of the songs being composed for the occasion in our honour. The decorations, the crowds of well-looking natives, men and women, pretty native girls with flowers and wreaths and their nice gentle manners, cannot but be remembered by us all.

(e.) Mr. Moss, the British Resident, expressed himself as much pleased that we should have detained a little, and assured me that our visit had been of great advantage to him and his work. Certainly it has been a very pleasant duty to perform.

12. On the 21st, after completing the running survey of the island, and taking on board fresh meat, &c., I left Rarotonga at 3.30 p.m. for Palmerston Island, doing quarterly passage-trial, and hove-to off Palmerston at 5.50 p.m. on the 22nd.

13. Anchored off the reef at Palmerston Island at 7.30 a.m. on the 23rd May, and landed and communicated with Mr. Masters, the licensee of the island, and arranged with him about the rent of the island, as requested by the late British Consul at Rarotonga, who had been instructed on the subject by His Excellency the High Commissioner for the Pacific in Fiji. Found a very good anchorage with wind anywhere between north-north-east and south-south-east.

Palmerston is worked by Mr. Masters and his family, no other labour being employed. Copra is the sole product. Mr. Masters has lived for over thirty years on the island, having in that long time been away but twice, each time to Aitutaki. He is a fine hearty old Englishman, a native of Birmingham. His family are all well grown and strong, numbering fifteen, and they, with the sons' wives and daughters' husbands and one or two children, make up the total population of thirty-two souls. They all speak English, and are carefully brought up by Mr. Masters himself, English being the only language spoken among themselves. There are thirteen islands in all on the reef, and they are growing eventually to form one ring-island round a deep lagoon. There are about 230,000 cocoanut-trees planted.

14. I left Palmerston at 4 p.m. on the 23rd, and shaped course for Niue or Savage Island, it being on our course for Tonga. Experienced light to moderate trade on passage, and arrived under lee of Niue at 4.30 p.m. of the 25th. Exercised at target-practice. I landed in the evening for an hour, and found everything quiet, and the people prosperous. Mr. Lawes, the missionary of the place, told me that he had a strong suspicion that leprosy had appeared among the natives, one man having died, and two of his family showed signs of the disease. I waited at Niue until after dark, wishing to do the night practice with 2 F. and machine-guns. Having dropped the target, and while waiting to get proper distance, a heavy rain-squall came down on us, the electric search-light was bearing on target short-circuited, and the result was that target was lost, and I proceeded for Tongatabou.

15. Experienced fine weather, with light to moderate trade, until arrival at Tonga on the 27th at 3 p.m.

On the 28th H.M.S. "Cordelia" arrived with His Excellency the High Commissioner on board. I left Nukualofa, Tonga, at 8 a.m. on the 31st, and arrived here at 11.30 p.m. on the 2nd instant. Experienced fine weather on passage, with light to moderate trade-winds. I propose cleaning boilers, overhauling engines, after quarterly passage-trial, and leaving here on the 12th instant for Noumea.

I have, &c.,

C. L. KINGSMILL, Lieutenant-Commander.

Rear-Admiral Lord C. T. M. D. Scott, C.B.

No. 21.

(New Zealand, No. 37.)

MY LORD,—

Downing Street, 17th August, 1891.

I am directed by the Secretary of State to transmit to you, for the information of your Government, the document specified in the annexed schedule, on the subject of the appeal of Donnelly and others *v.* Broughton, from the Court of Appeal of New Zealand.

I have, &c.,

ROBERT G. W. HERBERT.

The Officer Administering the Government of New Zealand.

Date.	Description of Document.
4th July	Judgment of the Judicial Committee of the Privy Council.

Enclosure.

JUDGMENT of the LORDS of the JUDICIAL COMMITTEE of the PRIVY COUNCIL on the Appeal of Donnelly and Others v. Broughton, from the Court of Appeal of New Zealand (District of Wellington); delivered 4th July, 1891.

Present: Lord Watson, Lord Hobhouse, Lord Morris, Sir Richard Clough, Mr. Shand (Lord Shand).
[Delivered by Lord Watson.]

THIS is a competition for the right of succession to the estates, real and personal, of Renata Kawepo, a Maori chief, who resided at Omahu, in the District of Hawke's Bay and Colony of New Zealand, and died there childless, at an advanced age, on the 14th April, 1888. His principal wife predeceased him; but he was survived by two spouses of inferior rank, whose precise legal status has not been explained.

The appellants, defendants in the original suit, are Mrs. Airini Donnelly, who is of pure Maori blood, her infant daughter Maud Donnelly, her two Maori brothers and their infant children, and her sisters. Mrs. Donnelly is the grandniece of the deceased, by descent from his sister-uterine; and, according to Native custom, is the legal successor to his property and tribal position. She was brought up by him in a manner befitting her rank, and had the management of his household until the year 1878, when she was married to her present husband, George Prior Donnelly. Her intermarriage with a foreigner gave great offence to the old chief, and led to an estrangement, which was aggravated by Mrs. Donnelly appearing in the Land Court as a rival claimant of unsettled territory which Renata was desirous of having adjudged to himself. In the beginning of the year 1888 Mrs. Donnelly consented to withdraw her opposition to her granduncle's claim; and in consequence of that concession a reconciliation took place about a month before his death.

The respondent, William Muhunga Broughton, plaintiff in the Court below, is a distant relation of the deceased, being the half-caste son of Te Oiroa, the great-granddaughter of the sister of Renata's maternal great-grandfather. After the marriage of Mrs. Donnelly he lived with the chief until his decease, and took an active part in the management of his property and affairs.

The respondent, on the 24th April, 1888, filed a summons in the Supreme Court of New Zealand, in order to obtain probate of a will executed by Renata on the 24th January, 1887. By the terms of that instrument the deceased appointed the respondent to be his sole executor, and declared that all his property, real and personal, should absolutely belong to the respondent, subject always to the trusts and directions therein expressed. One of these is a direction to realise and invest a sum of money sufficient to yield a clear annual income of £450 sterling, to be held by the respondent in trust, as regarded three ninth-parts, for payment of annuities of £100 and £50 respectively to the testator's two wives, and, as regarded the remaining six ninth-parts, for behoof of three of the testator's relatives in life-rent, and their lawful issue in fee. Another direction is that the executor shall "well, carefully, and faithfully see to the welfare and well-being of my hapu and people, and reserve such of my lands for their use and occupation, and make such provision therefor, as to him shall seem fit." The instrument was prepared by a solicitor, with the assistance of counsel, and was signed and duly executed by the deceased, who thereafter formally acknowledged it to be his last will before a Justice of the Peace.

The application for probate was resisted by the appellants, who, by their counter-claim, propounded as the last will and testament of the deceased a writing bearing date the 12th April, 1888, in these terms: "The persons for my will are Airini and her younger brothers and sisters and their children." At the foot of the document is the signature "Renata x Kawepo," with a cross or mark between the two words; and there are also the signatures of two persons as attesting witnesses, one of them being Te Teira, an uncle of Mrs. Donnelly, and the other Te Roera, who is related to Te Teira, but in what degree does not appear. It is not a matter of dispute that the body of the document, and also the words of the signature "Renata Kawepo," are in the handwriting of Mrs. Donnelly. The appellants allege, but the respondent does not admit, that the interjected cross or mark was made by the deceased.

The appellants do not dispute the genuineness of the will propounded by the respondent, their case being that it has been revoked by the later will in their favour.

Both Courts below were of opinion that the terms of the second will, if it was duly executed by the deceased, are sufficient to carry to Mrs. Donnelly and the other persons therein named the whole estate of the deceased, whether real or personal, which was bequeathed to the respondent by the will of 1887. But the main question submitted for decision was whether the writing of the 12th April, 1888, was duly executed by the late Renata Kawepo as his last will and settlement.

The cause was tried before Sir James Prendergast, C.J., without a jury, when a great mass of testimony was adduced on both sides. The bulk of it has little or no bearing upon the real issue; but, in so far as it is relevant, the evidence led by the parties is on all material points in direct conflict.

The learned Chief Justice pronounced in favour of the second will, and, in delivering judgment, observed that had it not been for the testimony of one witness for the appellants he would "have found much difficulty in arriving at a conclusion that Renata had executed the will propounded by Mrs. Donnelly." In coming to the conclusion at which he did arrive, the learned Judge relied upon the evidence given by the witness, Archdeacon Williams, as to expressions used by the deceased in the course of Friday, the 13th April, the day before his death, indicating an understanding or belief on his part that he had already made his last will in favour of Mrs. Donnelly.

On appeal, the decision of the Chief Justice was unanimously reversed by a Court consisting of four Puisne Judges, whose opinion was delivered by Mr. Justice Richmond. They agreed with the Chief Justice in thinking that, if the evidence of Archdeacon Williams were not taken into account, it would be impossible to hold that the appellants had proved the will; but they differed from his conclusion because, in the first place, they adopted a stricter view of the burden of proof incumbent

upon parties who seek to set up an informal will, signed by mark, instead of the usual subscription in full of the testator, obtained from him by one of their own number having a substantial interest in its provisions, and witnessed by two of her relatives; and, in the second place, they held that the evidence of the one witness upon whom he relied was not conclusive, or, at all events, was insufficient *per se* to satisfy the onus attaching to the appellants.

Their Lordships do not think it would serve any useful purpose to examine the evidence in detail. It is, however, necessary to refer to the surrounding circumstances, and to the relations in which the parties stood to each other and to the deceased at the time when the will is said to have been executed by him. As to these facts there is really no material variance in the accounts given by the witnesses on either side.

During the week commencing the 8th April, 1888, there was a large congress of Maori chiefs held at Omaha. Mrs. Donnelly, whose residence, "Crissoge," is a mile and a half distant from Omaha, was requested by Renata to direct, or to aid in directing, his preparations for their hospitable reception; and for ten days before Renata's death the lady seems to have spent a considerable part of each day at Omaha. On Friday, the 6th April, Mrs. Donnelly became seriously alarmed about the state of Renata's health, and sent for Dr. Spencer, who came the following day, and (with the exception of the Sunday) continued to see his patient daily until Friday, the 13th. On the Monday Dr. Spencer communicated to Mrs. Donnelly his apprehension that Renata would not recover, and recommended that, if he had any business affairs to settle, he should be advised to do so at once. On the Wednesday another medical man, Dr. Faulknor, was called in by the respondent, and the result of a consultation was that the doctors differed, Dr. Faulknor taking a favourable view of the patient's symptoms, which ultimately proved to be over-sanguine. After Dr. Faulknor left, Dr. Spencer had a conversation with Mrs. Donnelly and the respondent, when he repeated his opinion that if Renata had any business affairs to settle he ought to be informed that there was no time to lose. The respondent on that occasion made no objection to Renata's being told what Dr. Spencer advised. On the same day Dr. Spencer, who knew nothing about Renata's having previously executed a settlement, and who in the course of his professional avocation appears, naturally enough, to have been occasionally required to prepare a patient's will, had "offered Mrs. Donnelly to make the will if wanted."

The infirmity of Renata and the propriety of his making a testamentary settlement of his affairs became, after the opinion of Dr. Spencer was expressed to Mrs. Donnelly on Monday, the 9th April, a common theme of discussion and conversation not only in the household of the deceased, but among the Maori chiefs then assembled at Omaha. Mrs. Donnelly had evidently a conviction that Renata, if advised that his time for the final disposition of his affairs was short, would, at all events, make a substantial provision in her favour—a conviction probably induced by the fact of their recent reconciliation, and also by her having heard Renata express sentiments hostile to two of the beneficiaries who, with their children, took a share of the fund to be invested under the will of 1887. Accordingly, from Monday until the night of Wednesday Mrs. Donnelly was constant in her endeavours to persuade one or other of the chiefs in congress assembled to approach Renata, to inform him of his hopeless condition, and to advise him of the necessity of making any change in his settlements which he might contemplate, without delay. Whether from feelings of delicacy or other motives, none of the chiefs thus solicited appear to have been willing to undertake the ungracious task of assuring the sick man of the near approach of his dissolution. It is only natural to suppose that the respondent was not specially desirous that Renata should be stirred up to alter or modify the will already made in his favour; but beyond the suggestion that Dr. Faulknor was right, and that Renata's illness was not so deadly as Dr. Spencer supposed, he did nothing to dissuade or prevent any one who chose from acting on the advice given by Dr. Spencer.

Thus far the facts of the case are substantiated by the evidence given on both sides. It now becomes necessary to refer to the circumstances attendant upon the actual execution of the alleged new will, which, so far as direct evidence is concerned, rests upon the testimony of Mrs. Donnelly, and of Te Teira and Te Roera, the subscribing witnesses.

The account given by Mrs. Donnelly is that on Thursday morning, some time between 10 a.m. and 12 noon, she went into Renata's apartment, when she found him in bed, attended by his two wives, of whom one in a little while went to sleep, and the other shortly after followed her example. So early as Tuesday morning Mrs. Donnelly, in the expectation of Renata being informed of his condition, and thereupon resolving to make a new will, provided herself with paper, pen, and ink, which she carried in her pocket in readiness for the emergency. When both his wives had fallen asleep Renata asked her, "Have you made my will?" to which she answered, "No." He said, "Why not?" She said, "Because I was waiting for you to tell me to do it." He said, "Well, do it now." She then said, "What am I to say?" He said, "My will to you and your *teina* [i.e., younger brothers and sisters], and your children." She then wrote the body of the will to Renata's dictation upon one of the sheets of paper which she had in her pocket; and, having done so, proposed to wake up one of the wives to fan him whilst she went out in search of her uncle Te Teira. Renata said, "Never mind." So she went out and found Te Teira at the gate, and, having told him to bring Te Roera with him, returned to Renata's apartment. Te Teira and Te Roera soon arrived, whereupon Renata asked if they had been told why they were sent for, and received an answer in the affirmative. The will was read aloud by Mrs. Donnelly, and Renata asked for a pen but found that he was unable to sign his name owing to physical weakness and an injury to his right hand, which it is proved *aliunde* that he had actually suffered. He then, at her suggestion, made the mark with his own hand, and she afterwards wrote his name on either side of the mark. Renata, addressing Te Teira and Te Roera, said, "Friends, will you come and write your names to my will?" And they accordingly did so, and took their departure. The attesting witnesses gave substantially the same account with Mrs. Donnelly of their being called in, and of the reading and

signing of the will in their presence. Their story is so far supported by the evidence of John Sturm, who says that on the Thursday afternoon he saw Te Teira standing in the vicinity of Renata's house; and by that of Mrs. Harper, an English nurse employed by Mrs. Donnelly, who states that on the same forenoon she carried a cup of beef-tea into Renata's room, where she found Mrs. Donnelly attending to his wants, whilst both his wives were fast asleep. On the other hand, the account given by Mrs. Donnelly and these witnesses is absolutely inconsistent with the evidence of the two wives of Renata, as well as that of the respondent and others, who say that they were in the house, and had opportunity of seeing what was done there, at the time when the will is alleged to have been made.

To return to the history of the document in dispute, Mrs. Donnelly took and retained possession of it, and its existence did not become known to the respondent until after the death of Renata upon the Saturday. On the Thursday night and Friday morning Mrs. Donnelly communicated the fact that Renata had made a will in her favour, which was then in her keeping, to her husband and one or two persons, including Archdeacon Williams, whom she considered her friends. She herself says that on the Thursday evening she was informed by the witness Frederick Luckie that he had made arrangements with the respondent and James Carroll, who had acted as agent for Renata in the Land Court, to talk "about Renata's will," and that she thereupon kept telling Luckie "never to mind about it." On the Friday morning she told Mr. McLean, her solicitor, and one of her witnesses, that she had not mentioned the will on the previous night because "if Luckie knew he might think it his duty to tell Carroll and Broughton."

The principles applied by the Probate Court in England to a will obtained in circumstances similar to those which occur in the present case were explained by Sir John Nicholl in *Paske v. Ollat* (2 Phill., 323). After stating that, when the person who prepares the instrument and conducts the execution of it is himself an interested person, his conduct must be watched as that of an interested person, the learned Judge goes on to say, "The presumption and *onus probandi* are against the instrument; but, as the law does not render such an act invalid, the Court has only to require strict proof, and the onus of proof may be increased by circumstances, such as unbounded confidence in the drawer of the will, extreme debility in the testator, clandestinity, and other circumstances which may increase the presumption even so much as to be conclusive against the instrument."

Having regard to the painful conflict of the evidence adduced by the parties in regard to matters about which there could be no difference between witnesses who were disposed to tell the truth, and to the observations upon Native testimony given after a lapse of time, which were made in almost the same terms by the Chief Justice and by the Appeal Court, their Lordships entirely concur in the opinion expressed by Mr. Justice Richmond to the effect that "the rules which govern Courts of Probate should by no means be relaxed in the case of testamentary papers executed by Maoris on their death-beds."

Omitting for the present any reference to the testimony of Archdeacon Williams, which, owing to the importance attached to it by the Judge of first instance, must be separately noticed, their Lordships are of opinion not only that the case put forward by the appellants is within the rule as stated by Sir John Nicholl, but that there are circumstances conclusive against the validity of the instrument which they propound.

First of all, it is a singular thing that Renata, who, even in the opinion of Mrs. Donnelly, was not likely to make a new will unless he was prompted to it, should on the Thursday morning have conceived the idea that he had already instructed Mrs. Donnelly to prepare a will for him, and had told her the terms in which it was to be made. It is not less singular, if he had resolved to make a new testamentary disposition of his affairs, that he should have intrusted the duty of preparing a proper document for that purpose to Mrs. Donnelly, instead of one or other of the agents whom he was in the habit of employing for business purposes, of whom there was no scarcity in Omaha at that time. If the will-making scene really began with the question, "Have you made my will?" that would suggest some doubts as to the mental condition of Renata, induced by physical weakness. He certainly was not in a good state for executing a settlement without the deliberate aid of some unprejudiced person. Dr. Spencer, who saw him just after the hour fixed by Mrs. Donnelly for the execution of the document, says that he was then weak and "sinking," and that on the Friday—the day to which the evidence of Archdeacon Williams applies—he was drowsy and "sinking fast."

Then, the circumstance that Mrs. Donnelly was carrying about with her materials for writing out a will on the shortest notice is not calculated to beget any inference in favour of the appellant's case. Not less favourable to such an inference are the facts that she undertook the task of writing the will herself, when Dr. Spencer (who had offered to do so) and so many others were at hand who could have performed it without the imputation of interest, and that she called in her uncle and another relative, when it would have been so easy to obtain the attestation of witnesses above all suspicion.

Last of all, the transaction, according to Mrs. Donnelly's own narrative of it, was characterized by what Sir John Nicholl terms "clandestinity." Assuming the will to have been made as Mrs. Donnelly alleges, the fact that no outsider was present at its execution did not afford a legitimate reason for keeping its existence secret. If the witnesses on both sides are to be believed, Renata was not a man to be driven from his settled purpose; and if the fact that he had made a new will had been divulged, it is more than probable that there would have been no room now for any question either as to his having executed a will or as to his understanding of its terms.

Their Lordships now proceed to consider the evidence of Archdeacon Williams, which the learned Chief Justice accepted as sufficient to rebut all legal presumptions against the validity of the document of the 12th April, 1887.

The reverend gentleman saw Renata three times on Friday, the 13th—in the morning, in the

course of the day, and again at night. Before the first of these interviews took place he had been informed by Mrs. Donnelly, and had obviously a firm belief, that Renata had executed a will in her favour upon the day preceding. On the first occasion he put the question to Renata, "I suppose you have made your will to your satisfaction?" and Renata replied, "Yes, it is done," an answer which might refer with as much propriety to the will of 1887 as to the writing upon which the appellants rely. Upon the second and the important occasion Renata awoke out of a sleep and, addressing the Archdeacon, said, "You were asking me about my will." Renata, who spoke in the Maori language, then, pointing to Mrs. Donnelly, went on to say, either "It is in her favour," or "She has it." The witness is uncertain which of these expressions was used by the deceased. According to the evidence of the Archdeacon, Renata next referred to the withdrawal of Mrs. Donnelly's claims in the Land Court, which "was exceedingly gratifying to him," and "*that now, under existing circumstances, I leave everything to her.*" Shortly afterwards the deceased, closing his fist, said, "Yes, the question is in my hands. Here it is;" and then, opening his hand towards Mrs. Donnelly, said, "To that woman."

Their Lordships do not doubt that the strongest presumptions against the validity of a will, arising from the position of the parties by whom, and the circumstances in which, it was prepared and executed, may be overcome by clear testimony showing that the testator subsequently acknowledged that it was executed by him, and also that it gave effect to his intentions with regard to the final disposal of his property. The statements of Archdeacon Williams were accepted by the Chief Justice as clear and indubitable evidence to both these effects; they were discarded by the Court of Appeal, who were of opinion that, notwithstanding the confidence expressed by the witness in the accuracy of his own observation, he might have mistaken the import of what the dying chief said.

Although the honesty of the witness may be beyond question, it does not appear to their Lordships that the testimony of one person, however honest, which depends to a large extent not only on the accuracy of his hearing, but upon his previous belief as influencing the construction he was likely to put upon the language which he heard, is a somewhat narrow ground for setting aside the pregnant presumptions arising in this case from facts either admitted or proved beyond doubt. But they do not find it necessary to dispose of the evidence of Archdeacon Williams upon that consideration. The statements by Renata to which he speaks do not square with the terms of the instrument which is propounded and impeached in this suit. They mean that Renata had made a will leaving the whole of his property to the appellant, Mrs. Donnelly, and can mean nothing else. But the writing of the 12th April gives Mrs. Donnelly only one-fifth of his succession, and gives the remaining four-fifths to persons for whom he had never expressed any predilection, and to whom he never referred as objects of his bounty. The natural inferences suggested by these facts are either that Renata, if he did execute a document purporting to be a will on the 12th April, did not understand its contents, or that the will in question is of a domestic manufacture for the purpose of defeating the respondent's rights under the undoubted will of January, 1887.

In these circumstances their Lordships have no hesitation in coming to the conclusion that the decision of the Court of Appeal is in accordance with law; and they will therefore humbly advise Her Majesty that the judgment appealed from ought to be affirmed and the appeal dismissed. The appellants must pay the costs of this appeal.

No. 22.

(Circular.)

SIR,—

Downing Street, 26th August, 1891.

I have the honour to transmit to you a copy of a letter from the Board of Agriculture, desiring to be furnished with information relative to the methods adopted in certain colonies for checking and preventing potato-disease, and enclosing a list of queries with reference to the treatment of potatoes, to which they will be glad to receive replies; and I have to request that you will be good enough to furnish me with the desired information as far as regards the colony under your Government.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

Enclosure.

The BOARD of AGRICULTURE to the COLONIAL OFFICE.

Board of Agriculture, 3, St. James's Square, London, S.W.,

19th August, 1891.

SIR,—

I am directed by the Board of Agriculture to state that the Board are of opinion that it is most desirable that a general inquiry should be made in some of our colonies, and in certain foreign countries, relative to the methods adopted for checking and preventing potato-disease.

The Foreign Office have promised to assist the Board in this inquiry through their representatives in the United States, France, Belgium, Holland, Germany, Austria-Hungary, Denmark, Russia, and Italy, and I am now directed to request that you will be so good as to move Lord Knutsford to give instructions that a similar inquiry may be undertaken in the Australian Colonies, Canada, Cape Colony, and Bermuda.

In order to assist the representatives who may be engaged in this inquiry, and with the view of obtaining uniformity in the replies, a list of points on which information is desired is enclosed.

I have, &c.,

RICHARD DAWSON, Assistant Secretary.

The Under-Secretary of State, Colonial Office.

The Treatment of Potatoes in the Colonies.

INFORMATION is desired upon the following points: namely,—

1. The variety of potatoes usually grown.
2. As to the changes of seed—whether these are frequent or infrequent.
3. As to whether the tubers for seed are planted whole or cut in pieces; and, if cut, what sized pieces are used for seed.
4. As to how frequently potatoes are grown in the same land.
5. The methods of cultivation adopted, and particularly as to the practice of earthing.
6. The manures used generally.
7. As to the prevalence of the potato-disease caused by the fungus *Phytophthora infestans*.
8. Precautions (if any) taken against this potato-disease, such as destruction of infected haulm and tubers, caustic dressings to soil, &c.
9. Direct measures to prevent the spores of the fungus from getting a habitat upon the plants. For example, the application of sulphate of copper, sulphate of iron, and other substances, in the form of bouillies, solutions, or powders. With regard to these, particulars are desired concerning (a) the composition, strength, and nature of the bouillies, solutions, or powders so applied; (b) the quantity put on per acre; (c) the number of applications and the dates; (d) the machines employed for the application of the bouillies, solutions, or powders; (e) cost per acre of the treatment.
10. Remedies adopted when the fungus has made its appearance upon the potato-plants, with particulars as detailed above in (a), (b), (c), (d), (e).
11. The result of any such treatment, comparative if possible.

No. 23.

(New Zealand, No. 41.)

MY LORD,—

Downing Street, 31st August, 1891.

A.—1, 1892, No. 9.

I have the honour to acknowledge the receipt of your Lordship's Despatch No. 49, of the 13th July, transmitting reports from Mr. Moss respecting affairs in the Cook Islands.

I have read these reports with interest.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 24.

(General.)

MY LORD,—

Downing Street, 7th September, 1891.

A.—1, 1891, Sess.
II., No. 24.

I have the honour to acknowledge the receipt of your Lordship's Despatch No. 35, of the 23rd May, respecting the recovery from life insurance companies in the United Kingdom of the moneys assured by policies effected by persons dying domiciled in a colony. The Lords Commissioners of Her Majesty's Treasury, to whom your despatch has been referred, consider that the best way of meeting the wish of your Government would be to permit a resale in this country of the probate or letters of administration granted in the colony, without requiring the payment of duty in respect of the moneys to be recovered on the policy, provided that the deceased who effected the policy died domiciled elsewhere than in the United Kingdom.

I concur in this view, and I accordingly propose to embody a provision to this effect in the Colonial Probates Bill which it is hoped to introduce in the next session of Parliament.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 25.

(New Zealand, No. 42A.)

MY LORD,—

Downing Street, 25th September, 1891.

A.—1, 1892, No. 5.

With reference to your Despatch No. 43, of the 25th of June last, I have the honour to transmit to you, for your information and for that of your Government, a copy of a letter from the Admiralty showing the arrangements which the Lords Commissioners of the Admiralty are willing to make for the admission into the Royal navy of men and boys of Australian and New Zealand birth.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

Enclosure.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,—

Admiralty, 9th September, 1891.

I have laid before my Lords Commissioners of the Admiralty your letter of the 12th ultimo relative to the admission of boys and young men of New Zealand birth into Her Majesty's Australasian Naval Squadron, and after full consideration their Lordships desire me to state, for the information of Lord Knutsford, that, while they are not prepared to depart from the principle of the continuous and general service system, their Lordships will be willing to make arrangements for the admission into the Royal navy of men and boys of Australian and New Zealand birth on the following lines:—

1. Able or ordinary seamen to be entered on the Australian Station to fill vacancies as non-continuous-service men for six months' trial on the station, and if after that time they are found suitable they will be allowed to join the navy as continuous-service men, and will be paid (as continuous-service men) from the date of their original entry. Men so entered will be sent to England for training in gunnery, &c., but they will afterwards be employed on the Australian Station if they so desire.

2. Boys who volunteer, and come up to the standard, will be accepted and brought to England for training with the paid-off crews of Her Majesty's ships, and after undergoing the necessary training they will be employed, as far as possible, on the Australian Station, if they so desire.

I have, &c.,

EVAN MACGREGOR.

The Under-Secretary of State, Colonial Office.

No. 26.

(New Zealand, No. 43.)

MY LORD,—

Downing Street, 26th September, 1891.

I am directed by the Secretary of State to transmit to you, for communication to your Lordship's Government, the document specified in the annexed schedule on the subject of the retirement of Sir F. D. Bell.

I have, &c.,

ROBERT W. G. HERBERT.

The Officer Administering the Government of New Zealand.

Date.	Description of Document.
23rd September... ..	Copy of a letter to Sir F. D. Bell.

Enclosure.

The COLONIAL OFFICE to Sir F. D. BELL.

SIR,—

Downing Street, 23rd September, 1891.

I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 14th instant notifying the provisional appointment of Mr. W. Kennaway, C.M.G., as Agent-General for New Zealand, pending the appointment of your successor by the Governor.

His Lordship desires me to take this opportunity of expressing his appreciation of the courtesy and ability with which you have invariably conducted all your business with this department, and his regret that you are now retiring from the office which you have filled with so much advantage to Her Majesty's Government, as well as to the Government of New Zealand.

I have, &c.,

JOHN BRAMSTON.

Sir F. D. Bell, K.C.M.G.

No. 27.

(New Zealand, No. 47.)

MY LORD,—

Downing Street, 12th October, 1891.

I have the honour to acknowledge the receipt of your Despatch No. 54, A.—1, 1892, No. 13. of the 21st of August, respecting the proposed federation of Australia.

I have, &c.,

KNUTSFORD.

The Right Hon. the Earl of Onslow, &c.

No. 28.

(New Zealand, No. 48.)

MY LORD,—

Downing Street, 22nd October, 1891.

I have the honour to acknowledge the receipt of your Despatch No. 52, A.—1, 1892, No. 11. of the 11th August last, enclosing a memorandum from the Premier of your

3—A. 2.

Government calling attention to the supposed omission in “The Colonial Courts of Admiralty Act, 1890,” and suggesting, for the reason stated, that a declaratory Act should be passed on the subject.

I referred this question to the Law Officers of the Crown, observing that I apprehended that the Governor of the colony could legally appoint such officers as might be required for the effective exercise of the Admiralty jurisdiction of the Supreme Court, and I am advised that the course pursued by you was quite legal, and that there is no necessity for a declaratory Act.

The Right Hon. the Earl of Onslow, &c.

I have, &c.,

KNUTSFORD.

No. 29.

(New Zealand, No. 53.)

MY LORD,—

Downing Street, 14th November, 1891.

A.—1, 1892, No. 12.

I have the honour to acknowledge the receipt of your Despatch No. 53, of the 19th August last, enclosing a petition addressed to the Queen by Maoris resident in the Hot Lakes District of New Zealand, praying that Her Majesty will authorise the constitution of a Representative Council of Maoris to deal with matters affecting the Natives.

I request that you will inform the petitioners that their petition has been laid before the Queen, who was pleased to receive it very graciously, but that, Responsible Government having been conceded to the people of New Zealand, and representatives of the Maori race having seats in the Colonial Parliament, Her Majesty cannot interfere in the manner prayed for by them.

You will add that Her Majesty has full confidence that the interests of the Maori race and their welfare are matters of deep concern to the Government and Parliament of New Zealand, as they are and will continue to be to Her Majesty herself.

I have, &c.,

KNUTSFORD.

The Right Hon. the Earl of Onslow, &c.

No. 30.

TELEGRAM from the SECRETARY of STATE to the GOVERNOR.

A.—1, 1892, No. 21. THE Queen has received your resignation with regret, in which I fully concur. 19th November, 1891.

No. 31.

(New Zealand, No. 54.)

MY LORD,—

Downing Street, 19th November, 1891.

A.—1, 1892, No. 21.

I have the honour to acknowledge the receipt of your Despatch No. 67, of the 7th October, in which you request me to submit to the Queen your resignation, on account of urgent private affairs, of the office of Governor of New Zealand. Her Majesty, to whom I made the desired submission on your behalf, expressed much regret that you had found yourself under the necessity of taking this course, and I myself am very sensible of the loss which the colony and the public service will sustain through your retirement.

I will bear in mind you wish to be relieved of your duties not later than the end of next February.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

No. 32.

(New Zealand, General.)

MY LORD,—

Downing Street, 20th November, 1891.

A.—1, 1890, No. 4.

With reference to your Lordship's Despatch No. 24, of the 18th of May, 1889, I have the honour to request that you will be good enough to inform me, for the purposes of the Statute Law Revision Committee, whether sections 75, 77, and 78 of the Imperial Act 15 and 16 Vict., cap. 72, are spent, and may be

revealed in the Bill which it is proposed to introduce into Parliament next session.

Section 76 appears, from the footnote to page 36 of the compilation of Acts relating to the Constitution of New Zealand and the privileges of Parliament (Wellington, 1882), to be no longer operative, but I shall be glad to receive further information as to the other three sections above-mentioned.

The Right Hon. the Earl of Onslow, &c.

I have, &c.,

KNUTSFORD.

No. 33.

(New Zealand.)

MY LORD,—

Downing Street, 12th December, 1891.

With reference to previous correspondence, I have the honour to transmit to you, for the information of your Government, a copy of a despatch which I have addressed to the Officers Administering the Governments of New South Wales, Queensland, Tasmania, Victoria, and Western Australia respecting the proposed change which was discussed at the Colonial Conference of 1887 in the clause of the Royal Instructions dealing with the exercise of the Queen's prerogative of pardon.

I have, &c.,

The Right Hon. the Earl of Onslow, &c.

KNUTSFORD.

Enclosure 1.

Lord KNUTSFORD to the GOVERNORS of NEW SOUTH WALES, QUEENSLAND, TASMANIA, VICTORIA, and WESTERN AUSTRALIA.

MY LORD,—

SIR,—

Downing Street, December, 1891.

I have the honour to transmit to you, for communication in confidence to your Government, a copy of a despatch (A.—1, 1891, Session II., No. 8) which I received from the Governor of New Zealand in the course of this year, with its enclosure, in connection with the question of the exercise of the prerogative of mercy under the Royal Instructions, together with a copy of my reply.

I also transmit a copy of a despatch from the Governor of South Australia on the same subject.

In consequence of these representations Her Majesty's Government have taken the question of the alteration of the existing Instructions into their serious consideration.

My despatch of the 30th April, 1888, directed the attention of your Government to the discussion which took place in the Colonial Conference of 1887 respecting the Letters Patent and Royal Instructions issued to the self-governing colonies of Australasia, but it did not deal specifically with the alteration of the clause relating to the exercise of the prerogative of pardon, though the question is incidentally referred to.*

The delegates at the Colonial Conference differed upon the question whether it was desirable to assimilate the Australasian practice to that of Canada in cases of the exercise of the Queen's prerogative; but an opinion in favour of a change was distinctly expressed by the representatives of Victoria and New Zealand, and the Government of South Australia has now also adopted that opinion. I gather, moreover, from the letter addressed to the Governor of Queensland by the Premier of that colony on the 9th August, 1888, that the same view prevails in Queensland.

Your Ministers are aware that the question received full consideration some years ago in the case of the Dominion of Canada, and the following clause in the Instructions to the Governor-General was agreed to, and is now in force: "V. And We do further authorise and empower our said Governor-General, as he shall see occasion, in our name and on our behalf, when any crime has been committed for which the offender may be tried within our said Dominion, to grant a pardon to any accomplice, not being the actual perpetrator of such crime, who shall give such information as shall lead to the conviction of the principal offender, and further to grant to any offender convicted of any crime in any Court, or before any Judge, Justice, or Magistrate, within our said Dominion a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to our said Governor-General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to us: Provided always that our said Governor-General shall not in any case, except where the offence has been of a political nature, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself from our said Dominion. And we do hereby direct and enjoin that our said Governor-General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of the Privy Council for our said Dominion, and in other cases the advice of one at least of his Ministers; and in any case in which such pardon or reprieve might affect the interests of our Empire, or of any country or place beyond the jurisdiction of the Government of our said Dominion, our said Governor-General shall, before deciding as to either pardon or reprieve, take

* Omit this paragraph to Western Australia.

those interests specially into his own personal consideration, in conjunction with such advice as aforesaid."

Her Majesty's Government are prepared, should it be thought desirable, to submit to Her Majesty the question of the substitution for the corresponding clause in the present Instructions to the Governors of the Australasian Colonies of a clause similar to that contained in the Canadian Royal Instructions; but before taking any further step in the matter they seek to be informed whether your Ministers desire such a change.

I have only to add that it is desirable, as far as possible, to secure uniformity of action upon this important question.

I have, &c.,

KNUTSFORD.

Enclosure 2.

Lord KINTORE to Lord KNUTSFORD.

MY LORD,—

Government House, Adelaide, 29th June, 1891.

On the 22nd of June the Governor of New Zealand forwarded to me, at the suggestion of his Ministers, copies of despatches which had passed between your Lordship and himself with reference to the exercise of the prerogative of mercy in capital cases, with a request that I would submit them to my Ministers for their consideration.

This I have done, and the outcome of their attention having been drawn to the matter is that the Prime Minister begs that the views of the Government on this matter may be communicated to your Lordship.

My Government would learn with satisfaction that the General Instructions to Governors of Australasian Colonies are likely to be amended at an early date by an Instruction that in exercising the prerogative of mercy in capital cases Governors are to act upon the advice of their Responsible Ministers.

I have, &c.,

The Right Hon. Lord Knutsford, G.C.M.G.

KINTORE.

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