

1903.
NEW ZEALAND.

DESPATCHES
FROM THE SECRETARY OF STATE FOR THE COLONIES TO THE GOVERNOR
OF NEW ZEALAND.

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

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No. 1.

(Circular.)

SIR,—

Downing Street, 28th February, 1902.

I have the honour to transmit to you, for the information of your Government, a copy of a parliamentary paper containing an Agreement between Great Britain and Japan, which was signed at London on the 30th of January, 1902.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

DESPATCH TO HIS MAJESTY'S MINISTER AT TOKIO, FORWARDING AGREEMENT BETWEEN GREAT BRITAIN AND JAPAN OF 30TH JANUARY, 1902.

The MARQUESS of LANSDOWNE to Sir C. MACDONALD.

SIR,—

Foreign Office, 30th January, 1902.

I have signed to-day, with the Japanese Minister, an Agreement between Great Britain and Japan, of which a copy is enclosed in this despatch.

This Agreement may be regarded as the outcome of the events which have taken place during the last two years in the Far East, and of the part taken by Great Britain and Japan in dealing with them.

Throughout the troubles and complications which arose in China consequent upon the Boxer outbreak and the attack upon the Peking Legations, the two Powers have been in close and uninterrupted communication, and have been actuated by similar views.

We have each of us desired that the integrity and independence of the Chinese Empire should be preserved, that there should be no disturbance of the territorial *status quo* either in China or in the adjoining regions, that all nations should, within those regions, as well as within the limits of the Chinese Empire, be afforded equal opportunities for the development of their commerce and industry, and that peace should not only be restored, but should, for the future, be maintained.

From the frequent exchanges of views which have taken place between the two Governments, and from the discovery that their Far Eastern policy was identical, it has resulted that each side has expressed the desire that their common policy should find expression in an international contract of binding validity.

We have thought it desirable to record in the preamble of that instrument the main objects of our common policy in the Far East to which I have already referred, and in the first article we join in entirely disclaiming any aggressive tendencies either in China or Corea. We have, however, thought it necessary also to place on record the view entertained by both the high contracting parties that, should their interests as above described be endangered, it will be admissible for either of them to take such measures as may be indispensable in order to safeguard those interests, and words have been added which will render it clear that such precautionary measures might become necessary and might be legitimately taken, not only in the case of aggressive action or of an actual attack by some other Power, but in the event of disturbances arising of a character to necessitate the intervention of either of the high contracting parties for the protection of the lives and property of its subjects.

The principal obligations undertaken mutually by the high contracting parties are those of maintaining a strict neutrality in the event of either of them becoming involved in war, and of coming to one another's assistance in the event of either of them being confronted by the opposition of more than one hostile Power.

Under the remaining provisions of the Agreement, the high contracting parties undertake that neither of them will, without consultation with the other, enter into separate arrangements with another Power to the prejudice of the interests described in the Agreement, and that whenever those interests are in jeopardy they will communicate with one another fully and frankly.

The concluding article has reference to the duration of the agreement, which, after five years, is terminable by either of the high contracting parties at one year's notice.

His Majesty's Government have been largely influenced in their decision to enter into this important contract by the conviction that it contains no provisions which can be regarded as an indication of aggressive or self-seeking tendencies in the regions to which it applies. It has been concluded purely as a measure of precaution, to be invoked, should occasion arise, in the defence of important British interests. It in no way threatens the present position or the legitimate interests of other Powers. On the contrary, that part of it which renders either of the high contracting parties liable to be called upon by the other for assistance can operate only when one of the allies has found himself obliged to go to war in defence of interests which are common to both, when the circumstances in which he has taken this step are such as to establish that the quarrel has not been of his own seeking, and when, being engaged in his own defence, he finds himself threatened not by a single Power, but by a hostile coalition.

His Majesty's Government trust that the Agreement may be found of mutual advantage to the two countries, that it will make for the preservation of peace, and that, should peace unfortunately be broken, it will have the effect of restricting the area of hostilities.

I am, &c.,
LANSDOWNE.

Sub-enclosure.

AGREEMENT BETWEEN GREAT BRITAIN AND JAPAN, SIGNED AT LONDON, 30TH JANUARY, 1902.

THE Governments of Great Britain and Japan, actuated solely by a desire to maintain the *status quo* and general peace in the extreme East, being moreover specially interested in maintaining the independence and territorial integrity of the Empire of China and the Empire of Corea, and in securing equal opportunities in those countries for the commerce and industry of all nations, hereby agree as follows:—

Article I.

The high contracting parties, having mutually recognised the independence of China and of Corea, declare themselves to be entirely uninfluenced by any aggressive tendencies in either country. Having in view, however, their special interests, of which those of Great Britain relate principally to China, while Japan, in addition to the interests which she possesses in China, is interested in a peculiar degree politically, as well as commercially and industrially, in Corea, the high contracting parties recognise that it will be admissible for either of them to take such measures as may be indispensable in order to safeguard those interests if threatened either by the aggressive action of any other Power, or by disturbances arising in China or Corea, and necessitating the intervention of either of the high contracting parties for the protection of the lives and property of its subjects.

Article II.

If either Great Britain or Japan, in the defence of their respective interests as above described, should become involved in war with another Power, the other high contracting party will maintain a strict neutrality, and use its efforts to prevent other Powers from joining in hostilities against its ally.

Article III.

If, in the above event, any other Power or Powers should join in hostilities against that ally, the other high contracting party will come to its assistance, and will conduct the war in common, and make peace in mutual agreement with it.

Article IV.

The high contracting parties agree that neither of them will, without consulting the other, enter into separate arrangements with another Power to the prejudice of the interests above described.

Article V.

Whenever, in the opinion of either Great Britain or Japan, the above-mentioned interests are in jeopardy, the two Governments will communicate with one another fully and frankly.

Article VI.

The present Agreement shall come into effect immediately after the date of its signature, and remain in force for five years from that date.

In case neither of the high contracting parties should have notified twelve months before the expiration of the said five years the intention of terminating it, it shall remain binding until the

expiration of one year from the day on which either of the high contracting parties shall have denounced it; but if, when the date fixed for its expiration arrives, either ally is actually engaged in war, the alliance shall, *ipso facto*, continue until peace is concluded.

In faith whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement, and have affixed thereto their seals.

Done in duplicate, at London, the 30th January, 1902.

LANSDOWNE,
His Britannic Majesty's Principal Secretary of State for Foreign Affairs.
HAYASHI,
Envoy Extraordinary and Minister Plenipotentiary of His Majesty the
Emperor of Japan at the Court of St. James's.

No. 2.

(No. 24.)

MY LORD,—

Downing Street, 6th March, 1902.

I have the honour to transmit to you, for the information of your Ministers, with reference to my telegram of the 22nd ultimo, the papers noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
27th February, 1902	War Office ...	Colonial Office	Contract for the supply of meat to the troops in South Africa.

Enclosures.

SIR,—

War Office, London, S.W., 27th February, 1902.

In reference to your letter of the 13th instant, No. 5930, I am directed by the Secretary of State for War to forward, for the information of Mr. Secretary Chamberlain, a copy of War Office letter to the Agent-General for New South Wales on the subject of the contract for the supply of meat to the troops in South Africa.

I am, &c.,

The Under-Secretary of State, Colonial Office, S.W.

E. W. D. WARD.

SIR,—

26th February, 1902.

With reference to my interview of the 14th instant with the Agents-General for New South Wales, New Zealand, Queensland, South Australia, and Tasmania, relative to the contract for the supply of meat to the troops in South Africa for the year commencing 1st April, 1902, I am directed by the Secretary of State for War to acquaint you:—

(1.) That it has been arranged that reports shall be furnished monthly by the Inspectors of the cargoes of meat for the use of the troops, and that these reports shall cover not only quality but also the place of origin of the meat supplied.

(2.) That copies of the contract with Messrs. Bergl and Co. are enclosed.

(3.), (4.) That the mileage-rate for the carriage of meat in South Africa shall be stated when tenders are again invited, with a view to assisting tenderers in calculating the cost of distribution.

(5.) That for future contracts the fullest time possible will be given to colonial firms to tender.

(6.) That, under circumstances such as are at present existing, it is considered impracticable to provide separate contracts for the supply of live meat and dead meat.

(7.) That, should the monthly reports show a divergence from the undertaking in respect of colonial meat, an opportunity shall be given to the Agents-General to report as to the actual position in regard thereto.

I am, &c.

The Agent-General for New South Wales, 9, Victoria Street, S.W.

No. 3.

(No. 26.)

MY LORD,—

Downing Street, 19th March, 1902.

I have the honour to transmit to you, for the information of your Ministers, the papers noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
10th March, 1902	Foreign Office	Colonial Office	Transfer of the French Consulate from Wellington to Auckland.

Enclosures.

SIR,—

Foreign Office, 10th March, 1902.

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before the Secretary of State for the Colonies, a copy of a note from the French Ambassador relative to the transfer of the French Consulate in New Zealand from Wellington to Auckland.

I am, &c.,

The Under-Secretary of State, Colonial Office.

F. H. SANDERSON.

MONSIEUR LE MARQUIS,—

Londres, le 7 Mars, 1902.

Monsieur le Ministre des Affaires Etrangères vient de me faire connaître, et je m'empresse d'annoncer à votre Seigneurie, que, par décret du 19 Février dernier, le siege du Consulat de France dans la Nouvelle Zélande a été transféré de Wellington à Auckland.

Je ne manquerai pas de transmettre à votre Seigneurie, aussitôt que je l'aurai reçue, la nouvelle commission consulaire destinée à Monsieur de Courte, Consul de France dans la Nouvelle Zélande.

Veuillez agréer, &c.,

La Seigneurie le Marquis de Lansdowne, K.G., &c.

PAUL CAMBON.

No. 4.

(Circular.)

SIR,—

Downing Street, 25th March, 1902.

I have the honour to inform you that the military authorities at Cape Town have experienced some difficulty in identifying Government servants who have no permits to land in South Africa. It has accordingly been decided to issue a special form of permit to Government servants sailing for South Africa in other than Government vessels on and after the 1st April, 1902.

The term "Government servant" is to be understood to include military officers and all persons in the employment of, or in receipt of pay from, His Majesty's Government or the British Administrations in South Africa.

A supply of these special forms will be forwarded to you as soon as possible, and, meanwhile, I have to request that you will arrange for the issue to Government servants of the ordinary permit form indorsed "Government Official."

I have the honour also to enclose, with reference to my circular despatch of 19th February, a copy of a letter which has been received from the War Office, together with a form of declaration amended in accordance with the decision of which you were informed in my circular despatch.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

SIR,—

War Office, London, March, 1902.

In continuation of my letter of the 7th ultimo, I am directed by the Secretary of State for War to acquaint you, for the information of Mr. Secretary Chamberlain, that in consequence of the decision reported therein, it has been considered advisable to amend the "form of declaration" on the present permit paper, in the manner shown on the attached slip.

I am to suggest that, pending the issue of fresh permit papers, the amended form of declaration should be brought to the notice of all concerned.

I am, &c.,

The Under-Secretary of State, Colonial Office.

G. FLEETWOOD WILSON.

Sub-enclosure.

I DECLARE that I am a subject, and that I am proceeding to South Africa on the business, or for the purpose, stated above; that I have not been deported from that country or sent home as indigent or in any way at the expense of the British Government, and that I have never been a

burgher or taken out burgher rights in the late South African Republic or Orange Free State. I also declare that I am in possession of £100 (or in a position to maintain myself on arrival in South Africa), and, further, that I have not assisted, and will not directly or indirectly assist, in any way whatsoever, His Majesty's enemies in South Africa, and that I am aware of the penalties of so doing under martial law.

Signature :

Witness :

[The addition to the original form of declaration is shown in italics.]

No. 5.

(Circular.)

SIR,—

Downing Street, 27th March, 1902.

I have the honour to transmit to you, for publication in the colony under your Government, a copy of an Order of His Majesty the King in Council, dated the 6th March, 1902, bringing into operation as from the 17th instant, a treaty between His Britannic Majesty and His Majesty the King of the Belgians for the mutual extradition of criminals, which was signed at Brussels on the 29th October, 1901, and of which the ratifications were exchanged at that city on the 6th December, 1901.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

ORDER IN COUNCIL.—BELGIAN EXTRADITION TREATY.

At the Court at Saint James's, the 6th day of March, 1902. Present: The King's Most Excellent Majesty, Lord President, Earl of Kintore, Lord James of Hereford, Sir Arthur Wilson.

WHEREAS by "The Extradition Acts, 1870 to 1895," it is amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient:

And whereas a treaty was concluded on the twenty-ninth day of October, one thousand nine hundred and one, between His Majesty and His Majesty the King of the Belgians for the mutual extradition of fugitive criminals, which treaty is in the terms following:—

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and His Majesty the King of the Belgians, having mutually resolved to conclude a new treaty for the extradition of criminals, the said high contracting parties have named as their plenipotentiaries to conclude a treaty for this purpose, that is to say:—

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, Constantine Phipps, Esquire, Companion of the Most Honourable Order of the Bath, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians; and His Majesty the King of the Belgians, the Baron de Favereaux, Knight of His Order of Leopold, Member of the Senate, His Minister of Foreign Affairs: who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:—

Article I.

It is agreed that His Britannic Majesty and His Majesty the King of the Belgians shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally, under the circumstances and conditions stated in the present treaty, any persons who, being accused or convicted, as principals or accessories, of any of the crimes hereinafter specified, committed within the territories of the requiring party, shall be found within the territories of the other party:—

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt, or conspiracy to murder, in cases jointly provided for by the laws of the two countries.
2. Administering drugs or using instruments with intent to procure the miscarriage of women.
3. Manslaughter.
4. Bigamy.
5. (a.) Counterfeiting or altering money, or uttering counterfeit or altered money.
- (b.) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.
6. Abandoning children, exposing, or unlawfully detaining them.
7. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited, or altered.

8. Any malicious act done with intent to endanger persons in a railway train.
9. Embezzlement or larceny.
10. Receiving any chattel, money, valuable security, or other property knowing the same to have been embezzled, stolen, or feloniously obtained.
11. Obtaining money, goods, or valuable securities by false pretences.
12. Crimes by bankrupts against bankruptcy law.
13. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.
14. Rape. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under sixteen years of age, so far as such acts are punishable by the law of the State upon which the demand is made. Indecent assault. Indecent assault without violence upon children of either sex under thirteen years of age.
15. Abduction.
16. Child-stealing.
17. Kidnapping and false imprisonment.
18. Burglary or housebreaking.
19. Arson.
20. Robbery with violence (including intimidation).
21. Threats by letter or otherwise, with intent to extort.
22. Piracy by law of nations.
23. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
24. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
25. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
26. Perjury and subornation of perjury.
27. Malicious injury to property, if the offence be indictable.
28. Assault occasioning actual bodily harm. Malicious wounding, or inflicting grievous bodily harm.
29. Offences in connection with the slave trade punishable by the laws of both States.

Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed, and in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

In no case can the surrender be made unless the crime shall be punishable according to the laws in force in both countries with regard to extradition.

In no case, nor on any consideration whatever, shall the high contracting parties be bound to surrender their own subjects, whether by birth or naturalization.

Article II.

In the dominions of His Britannic Majesty, other than the colonies or foreign possessions of His Majesty, the manner of proceeding shall be as follows:—

1. In the case of a person accused—

The requisition for the surrender shall be made to His Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other Diplomatic Agent of His Majesty the King of the Belgians, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Belgium, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Secretary of State shall transmit such documents to His Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended, he shall be brought before a competent Magistrate. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorised to receive him on the part of the Government of His Majesty the King of the Belgians.

2. In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state

the fact, place, and date of his conviction. The evidence to be produced before the Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

After the Magistrate shall have committed the accused or convicted person to prison to await the order of the Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*: if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant.

Article III.

In the dominions of His Majesty the King of the Belgians, other than the colonies or foreign possessions of His said Majesty, the manner of proceeding shall be as follows:—

1. In case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of the Belgians by the Minister or other Diplomatic Agent of His Britannic Majesty, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Great Britain, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any other particulars which may serve to identify him.

The Minister for Foreign Affairs shall transmit the warrant of arrest, with the documents thereto annexed, to the Minister of Justice, who shall forward the same to the proper judicial authority, in order that the warrant of arrest may be put in course of execution by the Chamber of the Council (*Chambre du Conseil*) of the Court of first instance of the place of residence of the accused, or of the place where he may be found.

The foreigner may claim to be provisionally set at liberty in any case in which a Belgian enjoys that right, and under the same conditions.

The application shall be submitted to the Chamber of the Council (*Chambre du Conseil*).

The Government will take the opinion of the Chamber of Indictments or Investigation (*Chambre des Mises en Accusation*) of the Court of Appeal within whose jurisdiction the foreigner shall have been arrested.

The hearing of the case shall be public, unless the foreigner should demand that it should be with closed doors.

The public authorities and the foreigner shall be heard. The latter may obtain the assistance of counsel.

Within a fortnight from the receipt of the documents they shall be returned, with a reasoned opinion, to the Minister of Justice, who shall decide and may order that the accused be delivered to the person duly authorised on the part of the Government of His Britannic Majesty.

2. In case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the conviction or sentence of condemnation issued in original or in an authenticated copy, to be transmitted by the Minister or other Diplomatic Agent in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the Belgian laws, prove that the prisoner was convicted of the crime charged.

Article IV.

A fugitive criminal may, however, be apprehended under a warrant signed by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two contracting parties in which he exercises jurisdiction: Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a competent Magistrate. He shall be discharged, as well in the United Kingdom as in Belgium, if within fourteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of the requiring State in the manner directed by Articles II. and III. of this treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article V.

If within two months, counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the Diplomatic Agent, he shall not have been sent off to the reclaiming country.

Article VI.

When any person shall have been surrendered by either of the high contracting parties to the other, such person shall not, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

Article VII.

No accused or convicted person shall be surrendered if the offence in respect of which his surrender is demanded shall be deemed by the party upon which it is made to be a political offence, or to be an act connected with (*connexe à*) such an offence, or if he prove to the satisfaction of the Magistrate or of the Court before which he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offence of a political character.

Article VIII.

Warrants, depositions, or statements on oath issued or taken in the dominions of either of the two high contracting parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken: Provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath or solemn affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

Article IX.

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

Article X.

If the individual claimed by one of the two high contracting parties in pursuance of the present treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date; unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

Article XI.

If the individual claimed should be under process, or condemned by the Courts of the country where he has taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall, nevertheless, take place, the injured party retaining his right to prosecute his claims before the competent authority.

Article XII.

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are, nevertheless, reserved.

Article XIII.

Each of the high contracting parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present treaty.

Article XIV.

The stipulations of the present treaty shall be applicable to the colonies and foreign possessions of the two high contracting parties.

The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either party shall be made to the Governor or chief authority of such colony or possession by the chief Consular Officer of the other in such colony or possession; or, if the fugitive has escaped from a colony or foreign possession of the party on whose behalf the requisition is made, by the Governor or chief authority of such colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British colonies and foreign possessions for the surrender of Belgian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present treaty.

Article XV

The present treaty shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

From the day when the present treaty shall come into force, the treaty of extradition between the two countries of the 20th May, 1876; the declaration between the British and Belgian Governments, dated the 23rd July, 1877, extending the treaty of the 20th May, 1876, to certain

additional crimes; the further declaration of the 21st April, 1887, amending Article I. of the treaty of the 20th May, 1876; and the convention of the 27th August, 1896, further amending the treaty of the 20th May, 1876, shall all cease to have effect; but the present treaty shall apply to all crimes within the treaty whether committed before or after the day when it comes into force.

Either party may at any time terminate the treaty on giving to the other six months' notice of its intention.

Article XVI.

The present treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as may be within six weeks from the date of signature.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Brussels, the 29th day of October, in the year of our Lord 1901.

(L.S.)

CONSTANTINE PHIPPS.

(L.S.)

FAVEREAUX.

And whereas the ratifications of the said treaty were exchanged at Brussels on the 6th day of December, 1901.

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the 17th day of March, 1902, the said Acts shall apply in the case of Belgium, and of the said treaty with Belgium:

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886, and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FITZROY.

No. 6.

(Miscellaneous.)

MY LORD,—

Downing Street, 29th March, 1902.

A.-1, 1902,
No. 68.

With reference to your Lordship's despatch (No. 125) of the 16th December last, enclosing draft amended regulations to govern the issue of the distinguished conduct, meritorious service, and long-service and good-conduct medals to the New Zealand Permanent Forces, I have the honour to transmit to you, for the information of your Government, a copy of a letter from the War Office on the subject, from which it will be observed that Mr. Brodrick concurs generally in the draft regulations, but suggests certain minor amendments.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

SIR,—

War Office, London, S.W., 20th March, 1902.

I am directed by the Secretary of State for War to acknowledge the receipt of your letter of the 14th ultimo (No. 2709/1901/2), and in reply to acquaint you that he concurs in the draft regulations to govern the issue of the long-service and good-conduct medals to the New Zealand Permanent Forces.

I am, however, to point out that the Royal Warrant of the 31st May, 1895, should be quoted in the heading as the authority for the issue of the regulations.

As regards the regulations of the medal for distinguished conduct, Mr. Brodrick would suggest that, as the medal does not bear the Royal effigy, the words "having on one side the Royal effigy," should be struck out.

With respect to the medal for meritorious service, Mr. Brodrick would point out that an insertion should be made in the regulations to the effect that certified extracts from the court-martial book should also accompany recommendations for the medal.

I am, &c.,

The Under-Secretary of State, Colonial Office.

G. FLEETWOOD WILSON.

No. 7.

(No. 33.)

MY LORD,—

Downing Street, 1st April, 1902.

A.-1, 1902,
No. 69.

With reference to your despatch (No. 126) of the 18th December last, I have the honour to forward to you one sealed and six plain copies of an Order in Council declaring His Majesty's assent to the reserved Bill of the Parliament of New Zealand, entitled "An Act to establish and define an Ensign for New Zealand."

2. It ought to have been pointed out in my previous despatches on the subject that the flag should be described as “the blue ensign of the Royal Naval Reserve,” which is the phrase used in section 2 of Act No. 74, of 1901.

I have, &c.,

J. CHAMBERLAIN,

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

At the Court at St. James's, the 24th day of March, 1902. Present: The King's Most Excellent Majesty, Lord Chancellor, Lord President, Lord Suffield, Mr. Akers-Douglas, Sir Dighton Probyn, Sir John Charles Day.

WHEREAS by an Act passed in the session held in the fifteenth and sixteenth years of Her late Majesty's reign, entitled “An Act to grant a Representative Constitution to the Colony of New Zealand,” it is, amongst other things, declared that no Bill which shall be reserved for the signification of His Majesty's pleasure thereon shall have any force or authority within the Colony of New Zealand until the Governor of the said colony shall signify either by speech or message to the Legislative Council and House of Representatives of the said colony, or by Proclamation, that such Bill has been laid before His Majesty in Council, and that His Majesty has been pleased to assent to the same:

And whereas a certain Bill passed by the Legislative Council and House of Representatives of the said colony, entitled “An Act to establish and define an Ensign for New Zealand,” was presented to the Governor of the said colony for His Majesty's assent:

And whereas the said Bill was reserved by the said Governor for the signification of His Majesty's pleasure thereon:

And whereas the said Bill so reserved as aforesaid has been laid before His Majesty in Council, and it is expedient that the said Bill should be assented to by His Majesty.

Now, therefore, His Majesty, in pursuance of the said Act, and in exercise of the power thereby reserved to His Majesty as aforesaid, doth by this present Order, by and with the advice of His Majesty's Privy Council, declare his assent to the said Bill.

A. W. FITZROY.

No. 8.

(Circular.)

SIR,—

Downing Street, 7th April, 1902.

I have the honour to inform you that the question of the presentation at his Majesty's levées of officers of the local Forces of the Colonies, &c., possessing responsible Government, has recently engaged the attention both of the War Office and of this Department, and that it has been decided that these officers shall in future be presented by the Commander-in-Chief instead of by the Secretary of State for the Colonies.

2. It is essential, however, that any such officers who may be coming to this country with the desire of being presented at Court should bring with them some credential, as otherwise the Commander-in-Chief would not be able to present them.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 9.

(No. 36.)

MY LORD,—

Downing Street, 11th April, 1902.

I have the honour to request that you will inform me whether it would be possible to obtain from New Zealand a certain number of fully trained and qualified surveyors for employment on the Gold Coast from the month of October next, in connection with a survey of the goldfields of that colony, which is being undertaken by the Government.

2. The circumstances in which this request is made are as follows: The despatch of the Governor of the Gold Coast of the 22nd of January, 1901, (No. 35), of which a copy is enclosed, explains generally the reasons for which the survey has been undertaken, the organization of parties by whom the work is being carried out, and the emoluments of the members of those parties. In accordance with the Governor's proposals, an expedition consisting of Major

Watherston, R.E., the Director of the Survey, five army officers, and ten non-commissioned officers and sappers of the Royal Engineers, left this country in September last for the Gold Coast, where they have since been employed, and will continue working until about the end of May, when the wet season, which lasts for about four months, sets in, rendering work of the nature of surveying practically impossible.

3. It has been found during the present dry season that more surveyors would be required if the work was to be completed with sufficient rapidity to prevent delays arising in the Concessions Court from the want of surveys; and the attempt was therefore made to secure eight additional survey parties, each consisting of a surveyor and two subordinates. Owing, however, to the continued drain of Royal Engineer officers to South Africa no additional army officers could be obtained, nor, on application being made elsewhere than at the War Office, could any competent surveyors be found whose services were immediately available for employment on the Gold Coast. It was therefore decided not to send out any additional parties during the present dry season, but to allow matters to stand over until after the rains.

4. It is anticipated that in the month of October next the services of a considerable number of survey parties—at any rate, not less than eight, each composed of a surveyor and two subordinates—will be required. The probable requirements will be discussed in detail with the Governor of the Gold Coast on his return to this country this summer on leave of absence; but I am bringing the information contained in this despatch to your notice at once, in order that, if it should be decided definitely to apply to you for a certain number of surveyors, it may be possible for me to do so by a short telegram, which, when read in the light of this despatch, will be sufficient to make the nature of the requirement quite clear; and that you may be able, by having already considered the matter, to inform me at once on the receipt of such a telegram whether you would be able to meet the request, and, if so, whether the surveyors could leave New Zealand in time to reach the Gold Coast not later than the beginning of October.

5. The nature of the qualifications which the surveyors will be required to possess will be seen from the Governor's despatch of the 22nd January, 1901, already referred to in the second paragraph, and from the further papers which are noted in the margin [Government of the Gold Coast to the Director of Surveys, 11th January, 1902. Enclosures to above: (1) Regulations for guidance of licensed surveyors; (2) Notice with regard to the survey of properties], and of which copies are also enclosed. You will observe from these papers that distinction is to be drawn between the surveyors of the Government parties, who are appointed by the Government, and surveyors employed by private companies, who are merely licensed by the Government, and whose work is required to be tested by the Government surveyors for the purpose of the Concessions Court. The present despatch refers, of course, exclusively to Government surveyors appointed by the Government; but I enclose a paper showing the qualifications insisted upon for the licensed surveyors, as these particulars may be of use in explaining what will, *a fortiori*, be required in the case of Government surveyors.

6. The skilled surveyor in each party would be offered a salary of £60 a month while actually employed on the Gold Coast, and salary at half that rate during the period of the voyage from New Zealand to the Gold Coast. The tour of service on the Gold Coast would be for eight months of residential service, and would be followed by leave of absence on half-pay for a period of four months, on the surveyor undertaking to return to the colony for a further tour of eight months' service, or for two months in the event of his not wishing to return. The work of the survey is expected to last for at least three years from the commencement of this year, and the above arrangement of eight months' service with full pay, to be followed by leave with half-pay for four or two months, as the case might be, would be followed throughout the period of the duration of the survey. Free first-class passages would also be provided from New Zealand to the Gold Coast, and back again at the expiration of the surveyor's engagement; also from

the Gold Coast to England and back during each intervening period of leave of absence. It should, however, be clearly understood that these arrangements refer only to the single passages of the surveyor himself, as under the rules of the West African services, passages are not provided by the Government either for the wife or children of an officer employed under it.

7. In addition to the emoluments mentioned in the previous paragraph, the surveyor would be granted an outfit allowance of £30. I enclose a list which has been prepared by Major Watherston, the Director of the Survey, of the outfit which has been found useful by the officers at present at work on the survey. I enclose also a copy of a list of stores, marked "A," with which each survey party would be provided in this country before proceeding to the Gold Coast.

8. It would appear from the inquiries which have been made upon the subject that the subordinate surveyors, two of whom are required for each survey party, will probably be less difficult to obtain from this country than the skilled surveyors; but, in case it should be decided to apply to you for assistance in the matter of subordinate surveyors also, I add the following particulars with regard to the conditions of their appointment:—

9. The salary offered to any civilian subordinate surveyors appointed from New Zealand would be at the rate of £25 a month from the date of landing in the Gold Coast (with half-pay for the voyage from New Zealand). The arrangements as to the length of the tours of service, leave of absence, and passages would be identical with those described in paragraph 6 of this despatch, except that the passages would be second-class instead of first-class.

10. As regards outfit, I enclose a list of the personal effects with which non-commissioned officers serving under this Department in West Africa are provided by the Government. In the event of any subordinate surveyors being sent from New Zealand they would be granted an outfit allowance of £15 each towards the expenses of providing themselves with an analogous kit. I enclose also a further list, marked "B," showing the additional general outfit which is provided in this country for each pair of non-commissioned officers or sappers, and which would be similarly furnished by this Department to any pair of subordinate surveyors sent from New Zealand.

11. As regards the qualifications required for this class of appointment, I should add that Major Watherston states, in connection with the selection of the non-commissioned officers and sappers at present serving in the colony, that the chief requisites were that they should be neat draughtsmen, of good intelligence, and capable of thinking for themselves, as they would often be working alone away from any officer. He added that they would be called on to display considerable tact and discretion in their dealing with Natives, and would be subject to a certain amount of temptation from the lower class of miners employed in the country.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 10.

(No. 37.)

MY LORD,—

Downing Street, 11th April, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 5) of the 1st February, forwarding copies of resolutions passed by various public bodies on the question of army meat contracts, and to inform you that the resolutions have been forwarded to the Secretary of State for War.

A.-1, 1902,
No. 72.

2. I have also to refer you to the telegrams and despatches which I have recently addressed to you on this subject.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 11.

(No. 40.)

MY LORD,—

Downing Street, 30th April, 1902.

A.—1, 1902,
No. 77.

I have the honour to acknowledge the receipt of your despatch (No. 11) of the 18th February, and to transmit to you, for the information of your Ministers, copy of a correspondence with the Pacific Islands Company, from which it will be seen that this company would prefer a new lease of Suwarrow Island to the indorsement of the existing lease.

2. In explanation of the company's letter of the 16th instant, I may state that at present Christmas and Suwarrow Islands are included in one lease, but that it is intended to include the former island in the new general license about to be issued in respect of the islands held by the company from His Majesty's Government, and the existing lease will then, so far as Christmas Island is concerned, be cancelled.

3. As regards the point raised in paragraph 3 of your despatch under acknowledgment, you will have noticed on reference to the lease that the reservation which has been proclaimed of certain portions of the island for naval purposes is within its terms.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosures.

SIR,—

Downing Street, 9th April, 1902.

With reference to the last paragraph of the letter from this Department of the 13th September, 1901, I am directed by Mr. Secretary Chamberlain to request you to inform the Pacific Islands Company that he is advised that it will be sufficient to indorse the license held by the company in respect of Suwarrow and Christmas Islands with a statement to the effect that, owing to the inclusion of the former island within the boundaries of New Zealand, the powers given by the license to the Secretary of State and the High Commissioner have passed to and will in future be exercised by the Governor of that colony, as far as Suwarrow is concerned.

2. The Government of New Zealand have concurred in the proposal that such an indorsement should be made.

3. I am therefore to request that the license may be forwarded to this Department in order that it may be indorsed as indicated above. It will then be returned to you.

I am, &c.,

The Secretary, Pacific Islands Company.

H. BERTRAM COX.

The Pacific Islands Company (Limited), 120-123, Fenchurch Street,
London, E.C., 16th April, 1902.

SIR,—

I have the honour to acknowledge the receipt of your letter of the 9th instant (No. 12214/1902), the contents of which have been communicated to my board of directors. They now instruct me to respectfully point out that your letter of the 11th January (No. 1070/1902) conveys an expression of Mr. Chamberlain's willingness to agree to the issue of a new lease of certain cocoanut islands, including Christmas Island; and, this being the case, they conclude that on the issue of this new lease the old lease of Christmas and Suwarrow Islands will be extinguished.

If their assumption is correct, they will be glad to learn what steps they should take to secure a new lease of Suwarrow Island.

I have, &c.,

THE PACIFIC ISLANDS COMPANY, LIMITED,
A. J. REEVES, Secretary.

The Under-Secretary of State, Colonial Office, Downing Street, S.W.

SIR,—

Downing Street, 30th April, 1902.

I am directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 16th instant, and to state that, in the circumstances therein mentioned it is for the Pacific Islands Company to consider whether, so far as Suwarrow Island is concerned, they should apply to the Government of New Zealand for a fresh lease for the remainder of the term of the existing lease.

2. The company is, of course, aware that the Governor of New Zealand recently proclaimed the reservation for naval purposes of certain portions of Suwarrow Island, and that the new lease would be subject to that reservation.

3. A copy of the correspondence is being sent to the Governor of New Zealand.

I am, &c.,

The Secretary, Pacific Islands Company.

H. BERTRAM COX.

No. 12.

(No. 41.)

MY LORD,—

Downing Street, 30th April, 1902.

With reference to my despatch (No. 33) of the 1st April, I have the No. 7. honour to transmit to you a copy of a letter which has been received from the Lords Commissioners of the Admiralty, asking that they may be supplied with coloured drawings of the New Zealand ensign for Government and merchant vessels respectively; and to request that the drawings may accordingly be transmitted for their Lordship's information.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

SIR,—

Admiralty, 22nd April, 1902.

With reference to your letter dated the 1st April (No. 11688) respecting the New Zealand Ensign Bill, I am commanded by my Lords Commissioners of the Admiralty to request that you will move the Secretary of State for the Colonies to cause coloured drawings of the New Zealand ensign, for Government and merchant vessels respectively, to be forwarded for their Lordships' information, in order that the design for the badges may be correctly represented in the Admiralty Flag-book.

I am to observe that the drawing of the badge at present shown in the flag-book, viz., four five-pointed red stars in a white circle, was inserted on receipt of Colonial Office letter dated the 16th August, 1898 (No. 17976/98), and that prior to this, the stars were shown with white borders only, which apparently is the design now approved by the Order in Council enclosed in your letter under reply.

I am, &c.,

EVAN MACGREGOR.

The Under-Secretary of State, Colonial Office.

No. 13.

(General.)

MY LORD,—

Downing Street, 8th May, 1902.

I have the honour to transmit for the consideration of your Ministers copies of the correspondence which has been communicated to me by the Secretary of State for Foreign Affairs, relative to the expenses incurred in connection with extradition from the United States of America.

I have to request that you will ask your Ministers to favour me at an early date with their views on the proposals suggested in the letter from the Home Office, should they be desirous of coming to an arrangement in respect of such expenses.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosures.

SIR,—

Foreign Office, 21st November, 1901.

With reference to your letter of the 29th June last, I am directed by the Marquess of Lansdowne to transmit to you, to be laid before Mr. Secretary Ritchie, a copy of a despatch from Mr. Lowther, His Majesty's Chargé d'Affaires at Washington, enclosing the reply of the United States Government to the representation made by His Majesty's Government respecting the expenses incurred with extradition from the United States.

Mr. Lowther, in his despatch, gives the views of Sir Percy Sanderson, His Majesty's Consul-General at New York, who has considerable experience in all matters connected with extradition.

Lord Lansdowne would be glad to be favoured with Mr. Ritchie's observations upon the subject.

In view of the practice obtaining in this country, it might perhaps be desirable to urge, on the ground of reciprocity, that the United States Government should undertake, in case of need, to employ counsel in support of extradition applications made by His Majesty's Government.

Lord Lansdowne is, however, disposed to think that Sir Percy Sanderson's suggestion, as to a scale of fees to be agreed upon with the United States Government, offers the more practicable solution of the difficulty.

I am, &c.,

F. H. VILLIERS.

The Under-Secretary of State, Home Office.

SIR,—

Whitehall, 26th March, 1902.

I am directed by the Secretary of State to say that he has had under his careful consideration your letter of the 21st November last, on the subject of the expenses involved in procuring extradition from the United States of America, and entirely concurs in the suggestion that the fairest way of settling the question would be that any legal assistance necessary should be supplied by the United States Government.

By the treaty of 1842 each Government agreed to "deliver up to justice," on a requisition made by the other Government, any persons found within their territory who had been charged with certain specified crimes within the jurisdiction of the other Government, provided that certain conditions laid down in the treaty were duly satisfied. To enable the two Governments to discharge the obligations so undertaken by them, legislation was necessary in both countries. The principle on which this legislation was founded does not, so far as Mr. Ritchie is aware, differ materially in the two countries, but the practice appears to be widely different. In England this Government has conceived it to be its duty to take active steps for giving effect to any requisition received from the United States for the surrender of an accused person.

On receipt of such a requisition, the evidence supporting it is forwarded to the Magistrate at Bow Street, with an order directing the issue of a warrant for the arrest of the accused, provided that the requirements of English law are met. The Magistrate considers the evidence so transmitted to him, and, if it is sufficient, and the fugitive is brought before him, he commits him for extradition.

If the evidence is insufficient, an opportunity is given the foreign Government to furnish more. If any legal question of real difficulty is raised it is the practice to commit the accused, so long as there is some *prima facie* case against him, in order that it may be fully discussed before the High Court upon the application of the accused for a *habeas corpus*, and in that event His Majesty's Government instructs counsel to argue the case for extradition.

As soon as the legal conditions imposed by statute are satisfied, a warrant of surrender is issued from this Department, and, in fact, from the time when the requisition from America is received till the time when His Majesty's Government is in a position to surrender the prisoner, His Majesty's Government charges itself with the duty of conducting the proceedings for the purpose of carrying out its obligations under the treaty, without requiring from the Federal Government any action beyond that of supplying the evidence specified in the treaty.

When the apprehension of a fugitive is desired prior to the submission of a claim for extradition, every facility is afforded the Federal Government for obtaining it: an information has to be laid in order to procure a warrant of arrest, but the process for this purpose is quite simple; a form has been drawn up for use by any representative of the United States; the police give every assistance, and the Secretary of State believes that occasion never arises for the employment of a solicitor, or still less a counsel.

In America the procedure is widely different, and it would almost seem as though His Majesty's Government is regarded as having acquired no right under the treaty of 1843 except that of appearing in the Federal Courts and instituting what is closely analogous to an ordinary prosecution, the action of the United States Government being confined, so far as Mr. Ritchie is aware, to the issue of a warrant of surrender as soon as the requirements of law have been satisfied. It may be that the Federal Courts are not, strictly speaking, empowered to insist on the case being put before them by counsel, but it is obvious that if the proceedings in extradition go on the lines of an ordinary prosecution, in which the fugitive claimed for surrender under the treaty is defendant and His Majesty's Government is the prosecutor, it may become practically as necessary to obtain legal assistance as though this were an actual requirement of the Court. If the American law requires proceedings for extradition to be of the nature above indicated, Mr. Ritchie cannot but think that in view of the terms of the treaty the United States Government should supply such legal aid as may be necessary.

That Government would, in his opinion, have a legitimate ground of complaint under the treaty if they found themselves compelled, in order to procure the surrender of a fugitive criminal, to appear, whether by counsel or not, in the Courts of this country and conduct criminal proceedings against him; and it seems to him inequitable that His Majesty's Government in America should be liable to obligations of a kind from which in this country the American Embassy is entirely relieved. Mr. Ritchie would say nothing at this time of the cost entailed on His Majesty's representative in the United States in employing detective agencies for tracing criminals, in paying the fees charged by the United States Commissioners and Marshals, and in paying for the board of persons claimed for extradition while in American gaols.

In these respects also there is a manifest difference in the mode of carrying out the treaty in the two countries; but, in his opinion, these matters are of secondary importance, and will admit of easy settlement if the United States Government concur, as he trusts they will feel disposed to do, in the view indicated in the earlier part of this letter. If it should be agreed that His Majesty's Government should be relieved in America, as the United States Government is in this country, of all legal expenses arising out of the extradition procedure, the decision would no doubt be extended so as to secure a uniformity of practice with regard to other expenses also.

Nor is he familiar with the procedure of extradition under the Canadian statutes, and he thinks that any representation to the United States Government should be strictly limited to the case of fugitives from the United Kingdom.

If it is the fact that the United States Government is charged fees for the services of a Magistrate in Canada in extradition cases, and if in other respects the procedure between the two countries is similar, it is clear that the United States Government cannot be asked to alter its practice with regard to fugitives from Canada unless the Canadian practice is also altered; but Mr. Ritchie does not think this need stand in the way of a representation with regard to English fugitives.

which is based on the procedure in this country. But the advisability of distinguishing between Canada and the United Kingdom in this respect is a matter on which Lord Lansdowne is in a better position than he can be to form an opinion.

Mr. Ritchie is further of opinion that His Majesty's Ambassador at Washington should be asked whether he confirms the impression as to the procedure in America which has been created by recent extradition cases in this Department; but, if there is in reality such a wide divergence between the procedure in the two countries as appears to him to exist, he thinks that reciprocity will not be secured by merely settling a scale of charges to be met by His Majesty's representatives in America, but that the United States Government should be asked to reconsider their attitude generally in respect of the discharge of the obligations created by the treaty of 1842.

The Secretary of State thinks it well to add, with reference to the last paragraph but one of Mr. David Hill's note of the 22nd October last, that the comparison he draws between the charges in cases of extradition from Great Britain and from the United States respectively is not really a fair one. If the only expenses that this country had to meet were those claimed by the United States Government there would have been no need to raise any question. But it must be remembered that the claims made by His Majesty's Government, through the Foreign Office, on the United States Government when criminals are extradited to America represent all that the demanding Government has to expend, except the cost of sending the police officer to England to fetch the prisoner, and the prisoner's passage back.

The claims made by the United States Government, while similarly not covering the corresponding expenses of conveyance, are also exclusive of the large sums which this country has to pay for legal expenses, and frequently for the services of detectives employed to trace the fugitive. These expenses, as they are defrayed by His Majesty's Consuls, do not come into the accounts of the United States Government at all.

I am, &c.,

The Under-Secretary of State, Foreign Office.

KENELM E. DIGBY.

MY LORD,—

Foreign Office, 26th April, 1902.

With reference to Mr. Lowther's despatch (No. 52, treaty of the 1st November last), I enclose, for your Excellency's information, copies of correspondence which has passed between this Department and the Home Office on the subject of expenses in the United States in connection with extradition cases.

Unless you should see any reason to differ from the conclusions set forth in this letter, I have to request that your Excellency will discuss the matter with the United States Government, and endeavour to come to an arrangement of the nature suggested by Mr. Secretary Ritchie.

Copies of this despatch, and of the correspondence enclosed, will be forwarded to the Colonial Office, and it will be desirable that your Excellency, in communicating with the United States Government, should mention that perhaps some of the British colonies may also desire to effect a settlement of this question of extradition expenses.

I am, &c.,

LANSDOWNE.

His Excellency the Right Hon. the Lord Pauncefoot, G.C.B., G.C.M.G., &c.

No. 14.

(No. 43.)

MY LORD,—

Downing Street, 13th May, 1902.

I have the honour to transmit to you, for the information of your Ministers, the papers noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	Subject.
18th April, 1902 ...	Judgment of the Judicial Committee of the Privy Council on the appeals of the Mayor, Councillors, and Citizens of the City of Wellington <i>v.</i> Johnston and another; and the Mayor, Councillors, and Citizens of Wellington <i>v.</i> Lloyd and another.

Enclosure.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL ON THE APPEALS OF THE MAYOR, COUNCILLORS, AND CITIZENS OF THE CITY OF WELLINGTON *v.* JOHNSTON AND ANOTHER, AND THE MAYOR, COUNCILLORS, AND CITIZENS OF THE CITY OF WELLINGTON *v.* LLOYD AND ANOTHER, FROM THE COURT OF APPEAL OF NEW ZEALAND. DELIVERED THE 18TH APRIL, 1902.

Present at the Hearing: Lord Macnaghten, Lord Davy, Lord Robertson, Lord Lindley. Delivered by Lord Macnaghten.

THESE two appeals were heard together. They raise one and the same question: Can a local authority, having taken land under "The Public Works Act, 1894," having received a claim for compensation from the late proprietor, and having omitted to challenge the amount of the claim within the period prescribed by the Act, obtain relief in a Court of law against the statutory consequences of such omission?

In New Zealand, under "The Public Works Act, 1894," the expropriation of lands required by a local authority for public works is rather a summary process. A survey is made and a plan prepared and deposited, and then notices are gazetted calling "upon all persons affected" to set forth in writing any "well-grounded objections" to the taking of the lands. An "objection to the amount or payment of compensation" is not to be deemed a well-grounded objection.

If no objection is made within the prescribed time, or if after due consideration of all objections the local authority is of opinion that it is expedient that the proposed works should be executed, the land is to be taken in the manner set forth in section 18. That section authorises the Governor, after the preliminary requirements of the Act have been complied with, to declare by Proclamation that the lands (a list of which is to be contained in or annexed to the Proclamation) are taken for the public work therein mentioned. And then, from and after a day named in the Proclamation, the land becomes absolutely vested in the local authority, "discharged from all mortgages, charges, claims, estates, or interests of what kind soever for the public use named in the Proclamation."

Part III. of the Act, beginning with section 34, deals with the subject of compensation. Any person claiming compensation (in the Act styled "the claimant") is to serve upon the local authority (styled "the respondent") a claim in writing, in one of the forms in the Second Schedule to the Act, stating, among other things, the total amount claimed and the name and address of the claimant. It is provided (section 42, subsection 2) that the claim shall be served by being left at the office of the local authority, or sent by registered letter to its office, and that "the claimant shall be entitled to receive" from the officer for the time being in charge of "any such office a receipt stating the day on which such claim was delivered or received."

Section 44, on which the question at issue in this case depends, is in the following words: "If the respondent does not, within sixty days after receiving such claim, give notice in writing to the claimant that he does not admit it, the claimant may file a copy of his claim, together with the receipt for the service thereof, in the Supreme Court; and such claim, when so filed, shall be deemed to be and shall have the effect of an award filed in the Supreme Court, and may be enforced in the manner provided in section seventy-six."

If the respondent gives notice in writing within the said sixty days that he does not admit the claim, or if the claimant does not accept the respondent's offer, assuming that an offer is made by the respondent, provision is made for having the question determined by a Court styled "the Compensation Court." Where the claim exceeds £250, the Compensation Court consists of two Assessors, one named by each party, and a Judge of the High Court as President.

Then follow provisions as to the hearing of the case and the making of the award. Section 76, which is referred to in section 44, is in the following terms: "76. (1.) The Court shall make its award in writing, which shall be drawn up and signed by the President as soon as conveniently may be after the making thereof; and the President shall deliver or transmit the same to the Registrar of the Supreme Court, to be by him filed in the said Court. (2.) The Court may, within one month after making the award, reverse, alter, or modify the same; and may hear such evidence and make such order as to costs or otherwise as the Court may deem best. (3.) Such award shall be final as regards the amount awarded, but shall not be deemed to be final as regards the right or title of the claimant or any other person to receive the same or any part thereof. (4.) But if the sum awarded be not paid into the Public Trust Office under subsection one of section twenty-seven within sixty days after the filing of the award in the Supreme Court, the award so made and filed shall have the effect of a judgment of the Supreme Court, and may be enforced accordingly, subject, however, to the provisions of this Act."

The facts in both the cases under appeal are very simple, and not in dispute. Certain lands belonging to the respondents were required by the Corporation of the City of Wellington for public improvements. They were taken under Act of 1894, and the respondents were dispossessed. In due course they sent in a claim in accordance with Schedule 2 of the Act, stating, amongst other things, the total amounts of their respective claims. The period of sixty days mentioned in section 44 of the Act expired without notice being given by or on behalf of the Corporation that they did not admit the claim. In due course the respondents filed copies of their claims, together with receipts for the service thereof, in the Supreme Court. Thirty-one days in the one case and fifteen days in the other, after the expiration of the statutory period, the Town Clerk discovered that he had allowed the time prescribed by the Act to elapse. He applied to the solicitors of the respondents, stating that the failure of the Council to give notice that the claim was not admitted was due to an omission on his part, and begging them to ask their clients to withdraw the claim and allow the matter to go to the Compensation Court. This proposition was declined. Thereupon the Council gave notices of motion in the Supreme Court, asking in each case for an order to set aside the claim "so that the same might become void and of no effect as an award within the meaning of the Act of 1894, notwithstanding the provisions of section 44 of the Act." The first and principal ground alleged in each case was "that the Corporation did not admit the said claim, and that the omission of the Corporation to give notice to that effect to the claimants within sixty days after the receipt of such claim was accidental and entirely due to inadvertence." The motions were by consent removed into the Court of Appeal. That Court (*dissentiente* Edwards, J.), discharged both motions, with costs.

The case was argued before this Board on behalf of the appellants with great ability and earnestness; but, notwithstanding the opinion of the learned Judge, who differed from his colleagues, the question appears to their Lordships to be too plain for argument. Edwards, J., described the conduct of the respondents, who did no more than what the Act of Parliament authorised and directed them to do, as "an attempt to snatch a judgment," and "an abuse of the process of the Court." The learned counsel for the appellants did not use language so inappropriate. Everybody, he said, was liable to make a mistake; the slip in the present case was one

which a hard-worked official in the pressure of business might be excused for making. After all, no injustice would be done if claims which his clients on sworn testimony regarded as extravagant were referred to the Court specially constituted to take cognisance of such questions.

So far their Lordships are not concerned to differ from the view presented to them, and it may be taken for granted that the respondents' claims, whether they are or are not so extravagant as the appellants represent them to be, are probably in excess of any amount which could be established on reference to arbitration.

An evicted proprietor demanding compensation from a wealthy Corporation may be trusted to make the most of his claim. But this is not the question. The question is, has any Court the right to deprive the respondents of the advantage which the law of the land gives them? The scheme of the Act is not unreasonable: The local authority initiate the proceedings. They dispossess the person whose land they want. They dispossess him without paying down or securing anything in the shape of compensation. They leave him to make his claim. Is the period of sixty days too short a time to enable the local authority to make up their minds whether they will admit his claim or not? If they do not admit it they have nothing to do but say so.

It was said that Parliament has overlooked the possibility of a slip. It has certainly made no provision for a slip in the case of a local authority setting the Act in motion. It has made provision for a slip in the case of a claimant who has received notice that his claim is not admitted failing to make the next move in due time. But that is a different case altogether. It is not unreasonable to require that public bodies putting in force an Act of Parliament for their own purposes should attend to its provisions. It would be contrary to natural justice to deprive a claimant whose land has been taken from him of all compensation because he makes a slip which cannot prejudice the other side. But even in that case the claimant is not allowed to prosecute his claim except with the leave of the Compensation Court, and upon such terms and conditions as that Court thinks fit. This special provision in the case of a claimant tells against rather than for the appellants' contention.

Then, it was asked, suppose the claimant has been guilty of fraud, would there be no remedy in that case? Certainly, there would be a remedy. Courts of Justice have an original and inherent jurisdiction to relieve against every species of fraud, but it may be that the relief would have to be sought in an independent action. It was admitted by Sir Robert Reid that the slip which occurred in this case was not a mistake against which relief could be obtained in a Court of equity. His argument was that when the claim was filed in the Supreme Court it came under the control of the Court, and that, just as Courts of law and equity before the days of statutory rules and orders could deal with their own procedure and enlarge the time for taking any step in an action, and set aside in such terms as they thought fit a judgment obtained by default, so the Supreme Court in such a case as this ought to set aside the award and enlarge the time, and by some process, which was not clearly explained, remit the case to a Compensation Court.

Their Lordships, however, cannot find in the Act any authority for such a course. The rights of the claimants were fixed by statute before the Supreme Court had anything to do with the matter. The only function of the Supreme Court was to enforce the claim as an award, and see that the money reached the proper hands. The circumstance that an award made by a Compensation Court seems to be only provisional for the space of a month, under section 76, subsection (2), does not assist the argument or afford any analogy for the course suggested on behalf of the appellants. In that case the Court to deal with the award during the month of grace is not the Supreme Court but the Compensation Court.

Failing the principal ground of appeal, two other points were put forward on behalf of the appellants. In one of the cases it was said that the claim was not made as directed by the Act. The claimants were absent. Two powers of attorney were produced, one of which it was argued did not on its true construction authorise the attorney to make the claim, while the other it was suggested was too late. But, in fact, no power of attorney was required. The claim was made by an agent, in the name and avowedly on behalf of the respondents, and they have ratified the action of their agent. The other objection was not more substantial. It was said that the receipt filed on behalf of the claimants was not given by the officer for the time being in charge of the office, but by an assistant or subordinate. It appears that it was, in fact, signed by an assistant in the office for the officer in charge, and by his direction. Their Lordships are of opinion that this was a sufficient compliance with the Act. But, if it was not, the respondents are now entitled to demand a proper receipt in conformity with the Act.

Their Lordships are of opinion that the appeals fail, and they will humbly advise His Majesty that they ought to be dismissed.

The appellants will pay the costs of the appeals.

No. 15.

(No. 44.)

MY LORD,—

Downing Street, 14th May, 1902.

I have the honour to inform you that His Majesty will not be advised A.-1, 1902,
No. 69. to exercise his powers of disallowance with respect to the Act No. 15 of 1901, of the Legislature of New Zealand, entitled "An Act to amend the Law relating to the Exportation of Arms and other Military and Naval Stores," a transcript of which accompanied your despatch (No. 126) of the 18th December last.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 16.

(General.)

MY LORD,—

Downing Street, 15th May, 1902.

A.-1, 1902.
No. 55.

With reference to your despatch (No. 108) of the 12th October last, in which you request that the necessary action might be taken for upholding certain administrative agreements which have been entered into between the Postal Administration of New Zealand and the postal authorities of certain foreign States, I have the honour to state for the information of your Ministers that the matter having formed the subject of reference to the General Post Office, and that Department having advised that the attitude of the International Bureau was technically correct, and that consequently some simple form of diplomatic instrument was necessary, I communicated with the Foreign Office as to the form of such instrument, and have signed declarations approving and confirming the several agreements reported in your despatch, which are to be forwarded to His Majesty's representatives in the various foreign States to which they relate, to be exchanged against similar instruments executed by the proper authorities in those States.

2. The instruments returned in exchange will be forwarded to you as soon as they may be received from the Foreign Office.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 17.

(No. 47.)

MY LORD,—

Downing Street, 16th May, 1902.

A.-1, 1902,
No. 83.

I have the honour to acknowledge the receipt of your despatch (No. 19) of the 26th March last, embodying a resolution passed by the representatives of the New Zealand Chambers of Commerce on the subject of the contracts for the supply of meat to the Imperial army, and also a further resolution recommending the early adoption of the metric system of weights and measures.

2. I have caused copies of these resolutions to be forwarded to the Secretary of State for War and the Board of Trade respectively.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 18.

(No. 48.)

MY LORD,—

Downing Street, 16th May, 1902.

A.-1, 1902,
No. 80.

I have the honour to acknowledge the receipt of your despatch (No. 16) of the 10th March, respecting the sinking fund for the redemption of the New Zealand four-per-cent. Imperial-guaranteed debentures authorised by the Act 33 and 34 Victoria, cap. 40.

2. In reply, I transmit to you for the information of your Ministers the accompanying copy of a letter on the subject from the Treasury, together with a copy of a letter addressed in last September to the Auditor of the Civil List by the Crown Agents for the Colonies. From these documents your Government will learn the exact nature of the addition to the list of authorised investments for the sinking fund, which was not made clear in the Treasury letter of the 20th September to this Department.

3. I understand that the Crown Agents have already acted in accordance with the suggestion made in their letter of the 7th September to the Auditor of the Civil List.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosures.

SIR,—

Treasury Chambers, 2nd May, 1902.

With reference to your letter of the 18th ultimo (No. 14635), enclosing a copy of a despatch from the Governor of New Zealand respecting the sinking fund provision for the New Zealand guaranteed loan of £1,000,000, I am directed by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of the Secretary of State for the Colonies, that they concur in the suggestion of the New Zealand Government that no increase of the sinking fund now in operation need be provided for unless and until the debentures issued, now amounting to £200,000, shall exceed £600,000.

My Lords infer that the Government of the colony were informed by Mr. Chamberlain's despatch of the securities which the Crown Agents propose to add to the list of authorised investments, and that the Governor's silence on the point may be understood to imply consent. In pursuance of the Act 33 and 34 Vict., c.40, section 4, I am to state that this Board concur in the proposed additions, namely: (a) Any of the securities named in "The Trustee Act, 1893"; (b) The debentures or inscribed stocks of any colonial Government for which an official quotation has been granted by the Stock Exchange.

I am, &c.,

The Under-Secretary of State, Colonial Office.

E. W. HAMILTON.

SIR,—

New Zealand, 7th September, 1901.

I have the honour to draw your attention and that of the Lords Commissioners of the Treasury to the position of the sinking fund formed for the redemption of New Zealand 4-per-cent. Imperial-guaranteed debentures authorised by 33 and 34 Vict., cap. 40, of which you are one of the Trustees appointed by the Treasury.

2. Of the £1,000,000 debentures authorised to be raised only £200,000 are on the market, and the nominal value of the sinking fund is at the present moment £667,991, which is being augmented from time to time by the investment of the half-yearly contribution of £12,000 and of the dividends on the securities held.

3. Under clause 4 of Act 33 and 34 Vict., cap. 40, it is laid down that the investments of the sinking fund may be in such securities as the Treasury and the Government of New Zealand may from time to time agree upon.

4. For many years past only stocks, &c., of the Governments of Canada, New South Wales, South Australia, and Victoria have been purchased, and the investments in these securities are consequently very large, the amount being distributed about evenly over the four colonies.

5. In view of this fact, and that many other colonial Government securities are becoming investments which can be held under "The Trustee Act, 1893," I would suggest that the time has arrived when the question of investments for the New Zealand sinking fund might be reconsidered.

6. If the Lords Commissioners of the Treasury should consider this suggestion favourably, there can, we think, be no doubt that the Government of New Zealand would acquiesce, and I would suggest that in future we should be authorised to make investments in those securities which the Secretary of State for the Colonies has approved of our purchasing for the many colonial funds for which we act as Trustees, viz.: (a.) In any of the securities named in "The Trustee Act, 1893"; (b.) In the debentures or inscribed stocks of any colonial Government for which an official quotation has been granted by the Stock Exchange.

I have, &c.,

E. E. BLAKE.

S. E. Spring-Rice, Esq., C.B., Auditor of the Civil List, Treasury.

No. 19.

(Circular.)

SIR,—

Downing Street, 21st May, 1902.

With reference to my circular despatch of the 6th October, 1900, I have the honour to transmit to you, for the information of your Government, and for such publication as may be thought desirable, three copies of a circular issued by the Board of Trade to consular and colonial officers on the subject of continuous discharge certificates for seamen.

It will be observed that this instruction does not purport to compulsorily introduce the continuous discharge certificate system in all cases occurring in the colonies, but is in the nature of an addition to the instructions contained in the Circular No. 593, enclosed in my despatch above referred to.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

INSTRUCTIONS TO CONSULS AND OFFICERS IN BRITISH POSSESSIONS ABROAD.—CONTINUOUS DISCHARGE CERTIFICATES.

Board of Trade, Marine Department, April, 1902.

1. In all cases where seamen are engaged before a consular or colonial officer an entry should be made over the man's name, in the agreement, showing whether or not a continuous discharge-

book has been produced, and an indorsement should be made on the pages reserved for certificates, stating whether or not the book produced were handed to the master.

3. When men desert, or are left behind from sickness or any other cause, the continuous discharge certificates belonging to them should be obtained, properly entered up, from the master of the vessel. An indorsement should be made on the agreement, showing whether, in each case, the continuous discharge certificate has been delivered by the master.

FRANCIS J. S. HOPWOOD, Secretary.

WALTER J. HOWELL, Assistant Secretary.

No. 20.

(Circular.)

SIR,—

Downing Street, 22nd May, 1902.

I have the honour to transmit to you, for your information, a copy of a circular letter which has been addressed by the Lords Commissioners of the Admiralty to Naval Commanders-in-Chief abroad, in regard to the procedure to be adopted by His Majesty's ships on Foreign Stations on the day of His Majesty's Coronation.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

SIR,—

Admiralty, 14th May, 1902.

My Lords Commissioners of the Admiralty have received the King's commands that the celebration of His Majesty's coronation on the 26th June is to be observed on board His Majesty's ships in accordance with the following procedure :—

So far as service requirements will admit, the bulk of the ships of your squadron are to assemble at one of the principal British ports on the station, or are to be divided between the principal British ports, should local conditions and the number of ships available render such division expedient.

The ships are to be dressed as for the King's Birthday, between 8 a.m. and sunset, and so far as possible are to be illuminated after dark.

All ships are to fire a Royal salute at the hour (by local time) when the Crown is placed on His Majesty's head—the time will be communicated later—and you are to arrange with the military authorities so that the salute may be fired in conjunction with that fired from the batteries.

A joint review of all available naval and military forces will be held, and as many seamen and marines as possible are to be landed for the purpose, and here again you will act in communication with the military and local authorities.

It is understood that, after the festivities which are customary in the navy on a King's Birthday, the highest authority representing His Majesty will hold a full-dress reception in the evening, which the principal members of the naval forces and naval departments should attend.

The morning of the 26th June is to be kept as a Sunday, Divine service being held, and special prayer being offered up to Almighty God for the King's Majesty.

Extra grog, or the authorised equivalent, is to be served out to each ship's company, and the question of pardoning such offenders as may be undergoing punishment on board is to be considered, with due regard to the necessity for the maintenance of discipline in His Majesty's navy.

The afternoon of the 27th June is to be kept as an extra holiday on board His Majesty's ships.

I am, &c.,

The Commander-in-Chief, His Majesty's Ships and Vessels.

No. 21.

(Circular.)

MY LORD,—

Downing Street, 23rd May, 1902.

I have the honour to transmit to you, for your information, a copy of a circular letter which has been addressed by the War Office to the General Officers Commanding Stations at Home and abroad, respecting the observance of Coronation Day.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

SIR,—

War Office, London, S.W., 14th May, 1902.

I am directed by the Commander-in-Chief to inform you that on the day of the coronation of His Majesty the King (26th June), you should arrange to fire a Royal salute from the usual saluting-batteries, and where there are sufficient troops there should be a parade and a *feu de joie* fired.

Any indulgence possible to mark the occasion should be granted to the troops.

You may also make any arrangements you think desirable for the local celebration of Coronation Day in the district under your command, including the employment of the Volunteers, provided that no expense is entailed on the public.

The General Officer Commanding.

I am, &c.,

J. K. KENNY, A.G.

No. 22.

(No. 50.)

MY LORD,—

Downing Street, 26th May, 1902.

I have the honour to transmit to you, for the information of your Ministers, the paper noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
17th May, 1902	War Office ...	Colonial Office ..	Issue of South African war gratuity to colonial officers resigning their commissions.

Enclosure.

SIR,—

War Office, London, S.W., 17th May, 1902.

With reference to the contingents sent to South Africa for service this year, I am directed by the Secretary of State for War to acquaint you that he has decided that oversea colonial officers who are allowed, for private reasons, to resign their commissions before the disbandment of the contingent to which they belong cannot be regarded as entitled to the South African war gratuity unless they have served for at least nine months.

I am to request that this decision may be communicated to the authorities of the Australian Commonwealth for their guidance when claims for the war gratuities of members of the new contingents are dealt with.

The Under-Secretary of State, Colonial Office.

I have, &c.,

E. W. D. WARD.

No. 23.

(No. 51.)

MY LORD,—

Downing Street, 30th May, 1902.

Your telegram of the 11th instant, on the subject of the volcanic eruption in Martinique, has been duly communicated to the French Government by His Majesty's Ambassador in Paris, and I have the honour to inform you that M. Delcassé has requested that the heartfelt thanks of the French Government may be conveyed to the Government of New Zealand for the sympathy shown on the occasion of the disaster which has befallen Martinique.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 24.

(No. 56.)

MY LORD,—

Downing Street, 18th June, 1902.

With reference to my despatch (No. 40) of the 30th April, and to your despatch (No. 24) of the 3rd of the same month, I have the honour to transmit to you, for the information of your Ministers, the papers noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 11.
A.-1, 1902,
No. 86.

Date.	From	To	Subject.
13th May, 1902 ...	Pacific Islands Company	Colonial Office	Suwarrow Island : lease, and naval lands.
22nd May, 1902 ...	Colonial Office	Pacific Islands Company	
18th June, 1902 ...	Colonial Office	Pacific Islands Company	

Enclosure.

The Pacific Islands Company, 120-123, Fenchurch Street,
London, 13th May, 1902.

SIR,—

Referring to my letter of 6th instant, I am now instructed by my directors to reply to your letter of 30th April (No. 14928), 1902.

I am instructed to ask whether, considering that the lease of the two islands of Suwarrow and Christmas will be virtually cancelled when Christmas Island is included in the new lease for the ten islands for ninety-nine years, which it is proposed to issue to Messrs. Lever Brothers (Limited), it would not be possible for a new lease for Suwarrow Island only to be granted by His Majesty's Government for the remaining term, in order that Messrs. Lever Brothers may be able to approach the Government of New Zealand with a view of obtaining a like concession for ninety-nine years.

It is presumed that the reservation for naval purposes will not interfere with the commercial operations of Messrs. Lever Brothers (Limited).

I have, &c.,

A. J. REEVES, Secretary.

The Under-Secretary of State, Colonial Office, Downing Street, S.W.

SIR,—

Downing Street, 22nd May, 1902.

I am directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 13th instant respecting the case of Suwarrow Island in the Pacific Ocean.

2. In reply I am to inform you that, as the island is now part of New Zealand, any new lease must be issued by the Government of that colony, to which application should be addressed.

3. Mr. Chamberlain is communicating with the Admiralty on the subject of the reservation of land for naval purposes, and will cause a further letter to be addressed to you as soon as a reply is received from that Department.

I am, &c.,

The Secretary, Pacific Islands Company (Limited).

H. BERTHAM COX.

SIR,—

Downing Street, 18th June, 1902.

With reference to the letter from this Department of the 22nd ultimo, I am directed by Mr. Secretary Chamberlain to request you to inform the Pacific Islands Company that a letter has been received from the Admiralty stating that the Lords Commissioners have no intention of interfering with commercial operations on the lands in Suwarrow Island now vested in them until those lands are required for naval purposes.

2. A copy of the correspondence is being sent to the Governor of New Zealand.

I am, &c.,

The Secretary, Pacific Islands Company.

H. BERTRAM COX.

No. 25.

(No. 58.)

MY LORD,—

Downing Street, 19th June, 1902.

With reference to your despatch (No. 13) of the 5th March, I have the honour to transmit to you, for the information of your Minister, the paper noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
11th June, 1902	Admiralty ...	Colonial Office	The use of Bluff Harbour by vessels of large tonnage.

Enclosure.

SIR,—

Admiralty, 11th June, 1902.

With reference to your communication of 24th April last (No. 14632), forwarding copy of correspondence relative to the use of Bluff Harbour by vessels of large tonnage, I am commanded by My Lords Commissioners of the Admiralty to request that you will convey their thanks to the Secretary of State for the Colonies for the information furnished, and to state that special note has been taken of the fact that arrangements are now made for taking pilots outside to meet ships unacquainted with the port.

The Under-Secretary of State, Colonial Office.

I am, &c.,

EVAN MACGREGOR.

No. 26.

(No. 59.)

MY LORD,—

Downing Street, 25th June, 1902.

I have the honour to transmit to you, for the information of your Ministers, the paper noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
16th April, 1902 ...	Commander F. Addington	Rear-Admiral Sir L. A. T. Beaumont, K.C.M.G.	Report on visit to the Chatham Islands.

Enclosure.

REPORT ON CHATHAM ISLANDS.

SIR,—

H.M.S. "Phœbe," at Wellington, 16th April, 1902.

In accordance with your orders of the 29th March, 1902, I have the honour to submit the following report (in triplicate):—

Main Island.—There appears little to add to the comprehensive account of Lieutenant and Commander Bain, as brought up to date by Commander Rolleston's report of last year. The land has changed hands considerably recently through financial failures, chiefly owing to over-speculation. The population (both white and Native) continue numerically much the same, nearly half the population being white. The homesteads, scattered at large distances apart over the island, have remained much the same in number for the last twenty years. The fall in prices in wool has naturally considerably affected the position of the large runholders; but there appears nothing approaching to real poverty, though there is no wealth. The district to the southward of Waitangi is extremely poor and worthless, and is known as the "tobacco country," from the fact of it having been sold by a Native for a few sticks of tobacco. The land to westward and northward of the great lake is good grazing country, as is the south-eastern peninsula, but round Port Hutt and on the northern shores of Peka Bay it is arid and only produces low scrub. There is one homestead on the shores of Port Hutt (Mr. Papin, German, who keeps a small flock of sheep but does not seem to do much business). The best land is undoubtedly around Waitangi, where the grazing is rich and abundant. Herds of wild horses and cattle are to be found in some parts. There are no roads, only tracks, unfit for wheeled vehicles, of which latter there are only two in the island. All business is done either on horseback or by a "sand-sleigh" peculiar to the place.

I was unfortunately unable to visit Pitt Island on account of bad weather, but the reports I heard were favourable. The community there (about fifty whites) are in much closer touch, and I understand that land there is better, though nearly half the island requires clearing.

It is a matter of regret that the two islands should be so much cut off. The passage across the stormy and tide-swept straits is not safe for an open boat except on rare occasions, so that the sometimes infrequent visits of the steamer from New Zealand afford almost the only opportunity of communication. A fatal disaster, by which four lives were lost, occurred not long ago through some Pitt Islanders attempting the passage, and no anxiety for their safety was aroused for some time, as the Pitt Islanders did not know of their non-arrival, and the Waitangi people were not expecting them.

The export of sheep has decreased considerably this season on recent years, viz., from 12,000 last year to 9,000 this season.

To develop the islands roads are much required, as large tracts are swamps, dangerous to those unacquainted with the paths across.

I would also suggest that a small steam-vessel of about 30 tons would be of the greatest service, as she could be used to communicate with Pitt Island, and to collect the cargo at Waitangi from the numerous points around the island, where the New Zealand steamer now calls, thus

lowering the freightage as well as probably paying for her own keep, fuel, &c. A vessel of this size could lie at Waitangi in most weathers, but on the approach of really bad weather could seek shelter at Port Hutt, nine miles distant.

With some enterprise, I think that both horses and cattle-breeding might be made to pay as well as sheep-farming, but this seems the quality that is absolutely lacking.

I have, &c.,

F. ADDINGTON, Commander.

Rear-Admiral Sir Lewis A. T. Beaumont, K.C.M.G., Commander-in-Chief, Australia.

No. 27.

(No. 61.)

MY LORD,—

Downing Street, 27th June, 1902.

A.—2, 1900,
No. 24.

With reference to my despatch (No. 71), of the 3rd November, 1899, I have the honour to inform you that the Lord Commissioners of the Admiralty desire further information as to the saluting-batteries at Wellington and Auckland, and I have to request you to be good enough to inform me what is the name and position of the battery at each of those ports.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 28.

(No. 62.)

MY LORD,—

Downing Street, 8th July, 1902.

A.—1, 1903,
No. 1.

I have the honour to acknowledge the receipt of your despatch (No. 27) of the 12th April, forwarding a copy of a memorandum from your Prime Minister on the subject of army meat contracts.

2. From the War Office letter of the 26th February, to the Agent-General for New South Wales (a copy of which was forwarded to you in my despatch No. 24, of the 6th March), your Ministers will be aware of the general arrangements proposed in the case of any future contract, which I trust have approved themselves to your Government.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 29.

(Circular.)

SIR,—

Downing Street, 10th July, 1902.

I have the honour to transmit to you, for the consideration of your Government, a copy of a letter which the Russian Ambassador has addressed to the Marquess of Lansdowne asking for information respecting colonial legislation in regard to accidents caused by agricultural machinery, and precautions for their prevention.

I shall be glad if you will cause me to be furnished with particulars of any legislation or regulations on this subject that may be in force in the colony under your administration, in order that I may be in a position to comply with this request.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

MONSIEUR LE MARQUIS,—

Londres, le 31 Mai, 1902.

Le Département d'Agriculture étant chargé de l'élaboration de mesures en vue d'éviter les accidents survenant à la suite des travaux avec des machines agricoles, me demande de lui fournir les renseignements sur les dispositions et ordonnances ad hoc qui sont en vigueur en Angleterre et dans ses colonies, ainsi que tous les matériaux qui ont trait à ce sujet (tels que comptes-rendus, investigations, lois, &c.).

En portant ce qui précède à la connaissance de Votre Seigneurie, je me permets de recourir à son amabilité éprouvée en La priant de bien vouloir faire les démarches nécessaires, afin de me mettre à même de satisfaire à la demande de mon Gouvernement.

J'ai l'honneur, &c.,

Son Excellence, Monsieur le Marquis de Lansdowne, K.G., &c.

STAAL.

No. 30.

(No. 66.)

MY LORD,—

Downing Street, 11th July, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 38) of the 7th May last, reporting the despatch of twenty teachers from New Zealand for South Africa, and to thank your Government for the assistance which they have rendered in the matter. I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 31.

(No. 70.)

MY LORD,—

Downing Street, 28th July, 1902.

I have the honour to transmit to you, for the information of your Ministers, with reference to my despatch (No. 56) of the 18th June, the papers noted in the subjoined schedule. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
24th July, 1902 ...	Pacific Islands Company	Colonial Office ...	Transfer of the Pacific Islands Company's lease of Suwarrow Island to Lever's Pacific Plantations.
28th July, 1902 ...	Colonial Office ...	Pacific Islands Company	

Enclosures.

The Pacific Islands Company (Limited), 120, Fenchurch Street,
London, E.C., 24th July, 1902.

SIR,—

I am instructed to acknowledge the receipt of your letters dated 22nd May (18962/1902) and 18th June (23437/1902), and to thank you for the same.

In reference to paragraph 2 of your favour of the 22nd May, my directors note that any new lease for Suwarrow Island must be issued by the Government of New Zealand; but, in the meantime, my directors will be much obliged to you if you will give your official sanction to the transfer of the lease from the Pacific Islands Company (Limited) to Lever's Pacific Plantations (Limited), in the same manner as was done by the letter from the Colonial Office of the 18th November, 1898, to the transfer from James Morrison and Company (Limited) to the Pacific Islands Company (Limited).

As Mr. Lever is leaving England on the 30th instant, my directors will be extremely obliged if this matter can receive your early attention. I have, &c.,

A. J. REEVES, Secretary.

The Under-Secretary of State for the Colonies, Downing Street, S.W.

SIR,—

Downing Street, 28th July, 1902.

I am directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 24th of July, asking for his sanction to the transfer of the Pacific Islands Company's lease of Suwarrow Island to Lever's Pacific Plantations (Limited).

2. I am to inform you that as this island has been handed over to New Zealand, and forms part of that colony, the company must obtain the approval of the Government of New Zealand for the proposed transfer. I am, &c.,

The Secretary, Pacific Islands Company (Limited.)

H. BERTRAM COX.

No. 32.

(No. 71.)

MY LORD,—

Downing Street, 29th July, 1902.

I have the honour to transmit to you for report, with reference to your despatch (No. 18) of the 24th March, the accompanying copy of correspondence with the Board of Trade on the subject of the decision of the Stipendiary Magistrate at Wellington in the case of s.s. "Waikato." A.-1, 1902, No. 82.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

Board of Trade, Marine Department, 7, Whitehall Gardens,
London, S.W., 14th July, 1902.

SIR,—

With reference to your letter (No. 18040) with enclosures of the 16th May last, respecting the decision of the Stipendiary Magistrate at Wellington, New Zealand, in the case of the s.s. "Waikato," I am directed by the Board of Trade to state, for the information of Mr. Secretary Chamberlain, that it is not clear to them on what grounds the vessel in question was held to be engaged in the coasting trade of the colony at the time.

The Board would accordingly suggest, for Mr. Chamberlain's consideration, that the New Zealand Government should be asked to state what is the construction placed on the words "coastal trade" in section 7 of "The Shipping and Seamen's Act Amendment Act, 1894."

I have, &c.,

WALTER J. HOWELL.

The Under-Secretary of State, Colonial Office.

SIR,—

Downing Street, 29th July, 1902.

I am directed by Mr. Secretary Chamberlain to acquaint you, for the information of the Board of Trade, with reference to your letter (No. M. 9833) of the 14th of July, that he understands that the steamers of the New Zealand Steamship Company, in the course of their voyage from London and back, carry goods and passengers from one New Zealand port to another, and are therefore properly held to be engaged in the coasting trade of the colony.

2. If, therefore, as Mr. Chamberlain presumes, the s.s. "Waikato" arrived at Wellington with goods and passengers from that port for Lyttelton, or some other New Zealand port, it would appear to have been engaged in the coasting trade, and accordingly subject to the New Zealand law as to manning.

3. Mr. Chamberlain will, however, send a copy of the correspondence to the Governor of New Zealand for his report.

I am, &c.,

H. BERTRAM COX.

The Assistant Secretary, Marine Department, Board of Trade.

No. 33.

(No. 74.)

MY LORD,—

Downing Street, 1st August 1902.

I have the honour to transmit to you, for communication to your Ministers, the paper noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	Subject.
23rd July, 1902	Judgment of the Judicial Committee of the Privy Council on the appeal of the Commissioner of Trade and Customs v. R. Bell and Company (Limited).

Enclosure.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL ON THE APPEAL OF THE COMMISSIONER OF TRADE AND CUSTOMS v. R. BELL AND COMPANY (LIMITED), FROM THE COURT OF APPEAL OF NEW ZEALAND. DELIVERED THE 23RD JULY, 1902.

Present at the hearing: Lord Macnaghten, Lord Davy, Lord Robertson, Lord Linley, Sir Ford North. Delivered by Sir Ford North.

THE respondents carry on the business of manufacturers of matches in New Zealand, and also in London. In London they make match-boxes as well as matches, and as occasion requires they send over empty match-boxes stamped with the words "New Zealand" for use in their colonial business.

In 1900, several packages of match-boxes, consigned by the respondents to their agents in New Zealand, were seized on arrival by the officers of Customs as contraband. The boxes were stamped "New Zealand," but filled with London matches.

It is not disputed that, having regard to their contents, these boxes bore a false trade description. On the other hand, it is conceded that neither the respondents nor their agents or servants had any fraudulent intention, or any intention of transgressing the law of the colony. The mistake was the work of a subordinate in the packing department of the London factory, who acted in the matter without instructions from his superiors, and merely with a view of economising space in transit.

The respondents, as they were entitled to do, challenged the legality of the seizure by bringing an action against the appellant, the Commissioner of Trade and Customs. And so far they have been successful in the contest. The Judge of first instance, holding that the respondents "had acted innocently," made a declaration that the goods seized were not liable to forfeiture. The Court of Appeal by a majority of four to one has affirmed the order.

The question depends upon the true construction of Part IV. of "The Patents, Designs, and Trade-marks Act, 1889," which reproduces the provisions of the Imperial statute known as "The Merchandise Marks Act, 1887."

The most important sections in the colonial Act are sections 89 and 104, corresponding with sections 2 and 16 of the Imperial Act. Subsection (1) of section 89 deals with the forgery of trade-marks and the application to goods of any false trade description. It declares that, subject to the provisions of the Act, an offence against the Act is committed by such forgery or application unless the party charged "proves that he acted without intention to defraud." Subsection (2) enacts that every person who sells any goods to which any false trade description is applied is guilty of an offence against the Act unless he proves (a) that, "having taken all reasonable precautions against committing an offence" against the Act, he had no reason to suspect the genuineness of the trade description; and (b) that on demand duly made he gave all information in his power with respect to the persons from whom he obtained such goods; or (c) "that otherwise he had acted innocently." Subsection (3) enacts that every person guilty of an offence against this Part of the Act is liable on conviction to imprisonment or fine, or to both, and "in any case to forfeit to Her Majesty every chattel, article, instrument, or thing by means of or in relation to which the offence has been committed."

Section 104, so far as material, is in the following terms: "Whereas it is expedient to make further provision for prohibiting the importation of goods which if sold would be liable to forfeiture under this Part of the Act: Be it therefore enacted as follows: (1.) All such goods" (and also all foreign goods bearing the name or trade mark of a British trader, unless accompanied by a definite indication of origin) "are hereby prohibited to be imported into the colony, and, subject to the provisions of this section, shall be included among goods prohibited to be imported as if they were specified in section sixty-six of 'The Customs Laws Consolidation Act, 1882.' (8.) This section shall have effect as if it were part of 'The Customs Laws Consolidation Act, 1882.'"

The Act of 1882 authorises the seizure and forfeiture of all goods the importation of which is prohibited by law.

The contention of the respondents throughout has been that their innocence protects their goods. The argument is that no goods are liable to forfeiture unless an offence against the Act has been committed, and that there can be no offence against the Act where the party charged is in a position to prove that he has "acted innocently."

Their Lordships do not stop to inquire whether in a case like the present, where the false trade description is stamped on the goods, or the boxes containing the goods, it is competent for the party charged to give the go-by to the specific requirements of (a) and (b), and to shelter himself under the looser and more general language of (c), or whether—as seems to have been in *Coppen v. Moore* (1898, 2 Q.B. 306), a case of great importance and no little authority—the person charged can only resort to (c) when the false trade description is not affixed to the goods themselves, but has been used upon the occasion and as part of the terms of sale. Whatever may be the true view on this point, their Lordships assume, for the purposes of this judgment, that if the goods in question in the present case had been sold on arrival the respondents could not have been convicted of an offence against the Act.

What then is the meaning of section 104? It is certainly awkwardly expressed. It follows the language of section 89, but not so closely as necessarily to confine prohibition to the case in which liability to forfeiture is declared in the earlier section. There is at any rate one difference between the two sections not without significance. Section 104 deals with things, not with persons. It speaks of goods liable to forfeiture, not of traders liable to have their goods forfeited. Still, no doubt, on a narrow and literal construction of the words of the preamble, if the scope and object of the Act be disregarded, it is possible to arrive at the conclusion that no goods are to be treated as contraband unless an offence against the Act has been committed, and has been followed by conviction. But this construction obviously makes the scheme of prohibition unworkable, and the enactment itself little better than nonsense.

It seems to their Lordships that the proper mode of dealing with the Act is to construe it—as indeed it was construed in *Coppen v. Moore*—in accordance with the intent and meaning of the Legislature. Clearly it was the intention of the Legislature to exclude goods bearing a forged trade-mark, or a false trade description, as well as all foreign goods bearing the name or trade-mark of a British trader without a definite indication of origin. The latter class of goods is excluded absolutely. It seems absurd to suppose that the Legislature could have meant that the admission or exclusion of the former should depend on the state of mind of the importer. Goods bearing a forged trade-mark, or a false trade description, may be mischievous even in the hands of an innocent or ignorant owner. The owner's innocence cannot affect the character of the goods. It is difficult to see why it should be allowed to interfere with the policy of the Legislature.

Section 98, dealing with goods obnoxious to the Act where the owner is unknown or cannot be found, speaks of goods "which if the owner thereof were convicted would be liable to forfeiture." There the language is perfectly accurate. The passage seems to suggest what must be supplied in the preamble of section 104.

Their Lordships think that the words "goods which if sold would be liable to forfeiture," must read as meaning "goods which if sold would be liable to forfeiture on conviction of the seller," or, what comes to the same thing, as equivalent to the expression, "goods the sale of which would

expose the seller to the liability of having the goods forfeited by due process of law." That gives a reasonable meaning of the words. Goods falsely marked are liable to forfeiture in a very intelligible sense. There is an inchoate liability, although the seller may escape conviction, and its consequences, by proving facts which the Act treats as a sufficient excuse.

The learned counsel for the respondents dwelt upon the hardship inflicted on an innocent owner by the forfeiture of valuable goods when the mischief could be remedied so simply by emptying and refilling the boxes which have been seized as contraband. But the hardship, such as it is, is really due to the action of the respondents themselves. They have mistaken their remedy. The case seems to be met by section 267 of the Act of 1882, which provides that whenever any seizure is made for any offence under the Customs Acts the Governor may direct restoration, or may waive proceedings on any terms and conditions he shall think fit. Had an application been made to the Governor, supported by proper evidence, it can hardly be doubted that the goods would have been released on a proper undertaking.

In the result their Lordships will humbly advise His Majesty that the appeal should be allowed, and that the action should be dismissed with costs in the Courts below, to be taxed on the same scale as the costs awarded in the Courts below were directed to be taxed.

The respondents will pay the costs of the appeal.

No. 34.

(Circular.)

SIR,—

Downing Street, 14th August, 1902.

I have the honour to inform you that my attention has recently been called to the question of the procedure to be adopted with regard to letters of request from foreign tribunals.

2. The following are the general principles which I am advised should be borne in mind: When an application for the taking of evidence is received with respect to a civil or commercial case pending before a foreign tribunal, the matter would not appear to be one in which the colonial authorities should intervene, beyond calling the attention of the Consul, or other person making the application, to the provisions of the Act 19 and 20 Vict., cap. 113, and informing him that he, or some other person duly authorised by the foreign tribunal, should apply directly to the Court for the required evidence to be taken; except where there is a treaty obligation to a contrary effect, the same course should be followed in cases where a criminal matter is pending, as the above-cited Act is extended to criminal cases by section 24 of "The Extradition Act, 1870" (33 and 34 Vict., cap. 52). The expression "criminal matter pending" is understood to mean a matter or proceeding in which a specific charge has been brought against some person or persons of having committed a criminal act, and which is actually pending before a Court or tribunal.

3. The enclosed memorandum quotes the provisions contained in treaties between the United Kingdom and other countries relative to the taking of evidence in criminal matters. In the case of a letter of request emanating from one of these countries, the matter should be taken in hand by the Attorney-General of the colony. The expenses incurred should fall either on the demanding Government (as provided in the case of Russia), or on the Government in whose territory the evidence is taken (as provided in the treaty with the Netherlands).

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

MEMORANDUM.—PROVISIONS IN EXTRADITION TREATIES RELATIVE TO THE TAKING OF EVIDENCE IN CRIMINAL CASES.

Luxemburg.—24th November, 1880; Article 2.

If, in any criminal matter pending in any Court or tribunal of one of the two countries, it is thought desirable to take the evidence of any witness in the other, such evidence may be taken by the judicial authorities in accordance with the laws in force on this subject in the country where the witness may be.

Monaco.—17th December, 1891; Article 18.

When, in a criminal case of a non-political character, either of the high contracting parties should think it necessary to take the evidence of witnesses residing in the dominions of the other, or to obtain any other legal evidence, a "Commission Rogatoire" to that effect shall be sent through the channel indicated in Article VIII., and effect shall be given thereto conformably to the laws in force in the place where the evidence is to be taken.

Netherlands.—26th September, 1898; Article 17.

If, in any criminal matter pending in any Court or tribunal of one of the two countries, it is thought desirable to take the evidence of any witness in the other, such evidence may be taken by the judicial authorities in accordance with the laws in force on this subject in the country where the witness may be, and any expenses incurred in taking such evidence shall be defrayed by the country in which it is taken.

Russia.—24th November, 1886; Article 17.

When, for the purposes of a criminal matter, not being of a political character, pending in any of its Courts or tribunals, either Government shall desire to obtain the evidence of witnesses residing in the other State, a "Commission Rogatoire" to that end shall be sent through the diplomatic channel, and which shall be executed in conformity with the law of the State where the evidence is to be taken.

The Government which sends the "Commission Rogatoire" will, however, take all necessary steps and pay all expenses for finding and procuring the attendance before the Magistrate of the witnesses named for examination in such Commission.

San Marino.—16th October, 1899; Article 18.

When, in a criminal case of a non-political character, either of the high contracting parties should think it necessary to take the evidence of witnesses residing in the dominions of the other, or to obtain any other legal evidence, a "Commission Rogatoire" to that effect shall be sent through the channel indicated in Article VIII., and effect shall be given thereto conformably to the laws in force where the evidence is to be taken.

No. 35.

(Circular.)

SIR,—

Downing Street, 21st August, 1902.

I have the honour to transmit to you a copy of an address by the Society of Comparative Legislation to the representatives of the various colonies in England, submitting proposals for the establishment in all parts of the Empire of branch societies or committees, with a view to a closer relationship for the interchange of ideas and information as to matters of legal importance, and the promotion of unity of law and procedure so far as may be practicable.

2. I have to refer you to my circular despatches of the 20th July, 1895, and 3rd October, 1895, which were accompanied by papers showing the constitution of this society, the objects for which it was formed, and the several points on which it desired information with regard to the laws and methods of legislation in the colonies. You will observe that I have always heartily approved of the objects which the society has in view, and that I am desirous of affording it every facility in my power. I enclose a copy of a memorandum which the society has prepared, containing suggestions as to the composition and duties of the branches or committees which they are anxious should be established in the colonies; and I should be glad if you would again bring the matter to the notice of your Ministers with a view to securing the co-operation of the Law Officers of the colony in the manner suggested therein.

3. The following are the addresses of the Secretary of the society and the editor of its publications: John Macdonell, Esq., C.B., LL.D., Master of the Supreme Court of Judicature, Royal Courts of Justice, London, W.C. (Editor); Edward Manson, Esq., 8, Old Square, Lincoln's Inn, London, W.C. (Secretary).

4. I shall be glad to learn in due course what measures your Ministers would be prepared to adopt in order to meet the views of the Society of Comparative Legislation.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

SOCIETY OF COMPARATIVE LEGISLATION.—SUGGESTIONS FOR EXTENDING THE SOCIETY
IN THE COLONIES.

THE aim of the society is to promote a systematic interchange of ideas and information between all parts of the Empire on subjects interesting to lawyers, jurists, and statesmen.

We think this object could best be secured—

1. By forming branches of the society in the different parts of the Empire, and we would suggest that the most effective way of doing this would be for the Colonial Office to invite the Attorneys-General of the various colonies to form local committees on the model of the executive committee of the Home society.

2. The committee so formed would put itself in communication with the Law Societies and local Bars, and would ask their co-operation in carrying on the work of the society. Any subscriptions might, it is suggested, be divided between the Home society and the local branch.

3. Every branch society would make a quarterly report to the Home society of all matters of interest to the society, such as pending Bills in Parliament, Acts passed, important decisions of the Courts, meetings, &c., and what was of permanent interest in such report would be embodied in the journal of the society, published quarterly, which would thus reflect the legal ideas and transactions of all parts of the Empire.

4. Each branch would forward to the Home society a complete set of the statutes of the colony, which would be housed by the Home society, and would form the nucleus of a legal library for the Empire.

5. The Home society being in constant correspondence with foreign jurists would be a medium by which the Law Officers in the colonies could obtain information as to the law in foreign countries.

6. The executives of the local branches would meet monthly.

7. There would be periodical conferences, at intervals of three years, between the different branches of the society.

No. 36.

(No. 84.)

MY LORD,—

Downing Street, 22nd August, 1902.

A.-1, 1903
No. 11.

I have the honour to acknowledge the receipt of your despatch (No. 62) of the 10th ultimo, forwarding copies of the Speech with which you opened the third session of the Fourteenth Parliament of New Zealand on the 1st ultimo, and copies of the Addresses presented in reply by the Legislative Council and House of Representatives.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 37.

(New Zealand, General.)

MY LORD,—

Downing Street, 22nd August, 1902.

I have the honour to transmit to you copies of letters which I have received from the Lord Chancellor and the Speaker of the House of Commons, forwarding transcripts of resolutions come to by the House of Lords and the House of Commons respectively on the 5th of June, conveying their thanks for and the high approval of the distinguished services of His Majesty's colonial and other Forces during the recent prolonged campaign in South Africa.

2. You will find enclosed with this despatch one bound and signed transcript of each of these resolutions, besides printed copies; and I have to request that you will take steps to gazette or otherwise to make public the resolutions in the colony under your government.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

SIR,—

House of Lords, 11th July, 1902.

In accordance with the order of the House of Lords I have the honour to transmit to you the resolutions come to by the House, *nemine dissente*, on the 5th June, together with a copy thereof, and to request that you will communicate the same to the officers and men referred to therein.

I have, &c.,

The Secretary of State for the Colonial Department.

HALSBURY.

HOUSE OF LORDS.—DIE JOVIS, 5^o JUNII, 1902.

Resolved, *nemine dissente*, by the Lords Spiritual and Temporal in Parliament assembled, That the thanks of this House be given to the officers and warrant officers of the navy, the army, the Royal Marines, the Militia, the Imperial Yeomanry, and the Volunteers for the energy and gallantry with which they executed the services which they were called upon to perform during the prolonged campaign in South Africa.

Resolved, *nemine dissente*, That this House doth acknowledge and highly approve the gallantry, discipline, and good conduct displayed by the petty officers, non-commissioned officers, and men of the navy, the army, the Royal Marines, the Militia, the Imperial Yeomanry, and the Volunteers throughout the war.

Resolved, *nemine dissente*, That the thanks of this House be given to the officers, warrant officers, non-commissioned officers, and men of His Majesty's Colonial and Indian Forces for their co-operation with His Majesty's Imperial Forces, and for the energy and gallantry with which they executed the services which they were called upon to perform during the prolonged campaign in South Africa.

Resolved, *nemine dissente*, That this House doth acknowledge and highly approve the gallantry, discipline, and good conduct displayed by His Majesty's Colonial and Indian Forces, and doth also acknowledge the cordial good feeling which animated all His Majesty's Forces.

Resolved, *nemine dissente*, That the thanks of this House be given to the officers, warrant officers, non-commissioned officers, and men of the several corps of Militia which have been embodied in Great Britain and Ireland during the course of the war, for the zealous and meritorious services which they have rendered at home and abroad.

Resolved, *nemine dissente*, That this House doth acknowledge with admiration the distinguished valour, devotion, and conduct of those officers and men who have perished during the campaign in South Africa in the service of the Empire, and desires to express deep sympathy with their relatives and friends.

Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Lord Chancellor do communicate the said resolutions to the Commissioners for executing the office of Lord High Admiral, and to the Field-Marshal Commanding-in-chief His Majesty's Forces, and to His Majesty's Secretary of State for the Colonial Department, with a request that they will communicate the same to the officers and men referred to therein.

SIR,—

House of Commons, 11th July, 1902.

In obedience to the order of the House of Commons, I have the honour of forwarding to you a copy of the resolution of the House thanking His Majesty's colonial and other Forces for their gallant and distinguished services during the late war in South Africa, and expressing its admiration of the valour and devotion of those who perished during the campaign, and its deep sympathy with their relatives and friends.

I am, &c.,

W. C. GULLY,
Speaker.

The Right Hon. Joseph Chamberlain, M.P., Secretary for the Colonies.

HOUSE OF COMMONS.—THURSDAY, 5TH JUNE, 1902.

RESOLVED,—

That the thanks of this House be given to the officers and warrant officers of the navy, the army, the Royal Marines, the Militia, the Imperial Yeomanry, and the Volunteers for the energy and gallantry with which they executed the services which they were called upon to perform during the long campaign in South Africa.

That this House doth acknowledge and highly approve the gallantry, discipline, and good conduct displayed by the petty officers, non-commissioned officers, and men of the navy, the army, the Royal Marines, the Militia, the Imperial Yeomanry, and the Volunteers throughout the war.

That the thanks of this House be given to the officers, warrant officers, non-commissioned officers, and men of His Majesty's Colonial and Indian Forces, for their co-operation with His Majesty's Imperial Forces, and for the energy and gallantry with which they executed the services which they were called upon to perform during the prolonged campaign in South Africa.

That this House doth acknowledge and highly approve the gallantry, discipline, and good conduct displayed by His Majesty's Colonial and Indian Forces, and doth also acknowledge the cordial good-feeling which animated all His Majesty's Forces.

That the thanks of this House be given to the officers, warrant officers, non-commissioned officers, and men of the several corps of Militia which have been embodied in Great Britain and Ireland during the course of the war, for the zealous and meritorious services which they have rendered at home and abroad.

That this House doth acknowledge with admiration the distinguished valour, devotion, and conduct of those officers and men who have perished during the campaign in South Africa in the service of the Empire, and desires to express deep sympathy with their relatives and friends.

Ordered, That Mr. Speaker do signify the said resolution to the Commissioners for executing the office of Lord High Admiral, and to the Field-Marshal Commanding-in-chief His Majesty's Forces, and to His Majesty's Secretary of State for the Colonial Department, to communicate the same to the officers and men referred to therein.

C. P. ILBERT,
Ch. Dom. Com.

No. 38.

(No. 86.)

MY LORD,—

Downing Street, 22nd August, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 63) of the 11th ultimo, notifying the receipt from all parts of New Zealand of letters and telegrams expressing regret and sympathy on the illness of His Majesty the King, and I would refer you to my telegram of the 27th June last, in which the wishes of the Royal Family with regard to those messages were signified.

I have, &c.,

J. CHAMBERLAIN,

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

5—A. 2.

No. 39.

(No. 90.)

MY LORD,—

Downing Street, 4th September, 1902.

I have the honour to transmit to you, to be laid before your Ministers, copy of a letter from the Foreign Office respecting certain certificates which have been required by your Government from His Majesty's Consul-General at San Francisco.

2. I concur with the Secretary of State for Foreign Affairs in thinking that it is not within the competence of Consular Officers to give certificates of the kind in question; but, before proceeding further in the matter, I shall be obliged if you will move your Ministers to state on what grounds such certificates have hitherto been requested.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosures.

SIR,—

Foreign Office, 18th August, 1902.

I am directed by the Marquess of Lansdowne to transmit to you a copy of a despatch from Mr. Bennett, His Majesty's Consul-General at San Francisco, from which it appears that he has been required by the Governments of New South Wales and New Zealand to furnish certificates as to the laws of the State of California.

Lord Lansdowne considers that it is not within the competence of Consular Officers to give certificates of this nature; but His Lordship would be glad to receive any observations which Mr. Secretary Chamberlain may wish to offer as to the proper course to be pursued, in order that Mr. Bennett may be furnished with instructions for his guidance in the future.

I am, &c.,

F. H. VILLIERS.

The Under-Secretary of State, Colonial Office.

MY LORD,—

His Majesty's Consulate-General, San Francisco, 24th July, 1902.

I have the honour to enclose herewith an extract from the letter of a lawyer in Sydney, New South Wales, to a firm in San Francisco, requiring that I should certify "that the American documents are in the form prescribed and required by the laws of the State of California."

This certificate is always required by the Government of New South Wales, and also by the Government of New Zealand, and I would respectfully submit that it is one which a Consular Officer should hardly be called upon to give.

I suggested on this and a previous occasion that such a certificate should be given by a local notary, and that I should certify to the notary's signature in the ordinary way, but was told that the Government in question would accept nothing but a certificate from me in the sense indicated.

In order to avoid delay and inconvenience, I finally consented to grant the certificate on production of a letter addressed to me by the legal adviser of this Consulate-General saying I could safely do so.

As, however, I am doubtful whether I have not gone beyond my instructions in giving such a certificate, I would venture to ask your Lordship what course I should take in future when such unusual services are demanded from me.

I have, &c.,

C. W. BENNETT,
Consul-General.

The Marquess of Lansdowne, K.G., &c.

Sydney, 23rd June, 1902.

DEAR SIR,—

Re *Mr. Lacy's Shares*.

I have seen the Registrar of Probates upon the subject of granting letters of administration with the will annexed of Mr. Lacy, but before the letters of administration can be granted he requires that the signatures of Mr. Mahony, the County Clerk, and Mr. Justice Cook, the presiding Judge, attached to the document verifying the will and order admitting probate, should be first verified and attested by the British Vice-Consul in California. He also requires a certificate by the Vice-Consul that the American documents are in the form prescribed and required by the laws of the State of California. This certificate is a trifling matter. The Vice-Consul will have a form of certificate to which, when completed, all the American documents should be attached.

I have, &c.,

WALTER G. PARISH, Solicitor.

Messrs. Parke and Lacy Co. (Limited), Clarence Street.

No. 40.

(General.)

MY LORD,—

Downing Street, 6th September, 1902.

In confirmation of my telegram of the 14th August, I have the honour to transmit to you for the consideration of your Ministers the accompanying copy of a despatch from His Majesty's Chargé d'Affaires at Berne, enclosing corre-

spondence with the Swiss Government relative to the form of agreement between the Postal Administration of the Federal Government and that of New Zealand, from which it will be seen that the Swiss Government have decided to discontinue the arrangement into which they had provisionally entered.

2. I have also to transmit to you a copy of a despatch, with enclosures, from His Majesty's Chargé d'Affaires at Rome, relative to the unwillingness of the Italian Government to enter into a formal agreement in connection with the same matter, and copies of telegrams which have passed between the Secretary of State for Foreign Affairs and His Majesty's Minister at Santiago with regard to the attitude of the Chilian Government. I am in correspondence with the Foreign Office as to what course other Foreign States concerned may intend to pursue, and propose to consult the General Post Office as to any further action that can with advantage be taken to effect the wishes of your Government in this connection.

3. I have to add that the Governments of Egypt, Portugal, and Liberia have executed formal agreements in exchange for the instruments which I signed on behalf of your Government.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosures.

MY LORD,—

Berne, 12th July, 1902.

In obedience to the instructions conveyed in Your Lordship's despatch, No. 7 of this series, of the 17th of May last, I addressed a note, of which I have the honour to enclose a copy, to the Swiss Government, inviting them to exchange the Ministerial approval signed by His Majesty's Secretary of State for the Colonies, against a similar instrument signed by the responsible Minister whom the Federal Government might designate for the purpose, with a view to ratifying the arrangement arrived at between the Postmaster-General of New Zealand and the Postal Administration of Switzerland.

I have now the honour to enclose a copy of the reply of the Federal Government, in which, I regret to say, they inform me that, after having carefully considered the question, they are unable, in view of the position taken up by the Postal Administrations of the neighbouring countries, and in order not to bind their own hands in the future, to continue the concession made in the fourth paragraph of the letter of the Director-General of the Swiss Posts of the 11th January, 1901; and they add that they will revert to the state of things existing before the 1st January of the same year, as regards the rate imposed on letters coming from New Zealand to Switzerland.

The Swiss Postal Administration, however, in order not to prejudice the interests of the senders or the addressees of such letters, will admit the reduced rate of one penny per fifteen grammes in the case of letters posted before the 30th of September, 1902, inclusive.

After the date in question the Swiss Postal Administration will be compelled to penalise all letters from New Zealand which are not stamped in accordance with the conditions laid down by the Universal Postal Convention of Washington of 15th June, 1897.

I have, &c.,

The Marquess of Lansdowne, K.G., &c.

A. C. GRANT DUFF.

MONSIEUR LE PRESIDENT,—

Berne, 25th June, 1902.

Your Excellency is doubtless aware that the Postmaster-General of New Zealand has come to an arrangement with the Postal Administration of Switzerland, by virtue of which certain changes are effected in postal rates, and for the convenience of reference I have the honour to enclose copies of the correspondence which has passed between Mr. Ward and Mr. Lutz.

This arrangement having been notified to the International Bureau of the Universal Postal Union at Berne, the bureau has expressed an opinion that the postage cannot be reduced to places beyond the British Empire by a simple administrative agreement, and considers that such agreement should be concluded between the high contracting parties concerned. This view is, in the opinion of His Majesty's Government, technically justified by a literal construction of the second clause in Article 21 of the Postal Convention of Washington.

His Majesty's Government, having considered the matter, have come to the conclusion that the readiest and most expeditious means of putting the matter in order is by means of an interchange of Ministerial approvals of the several arrangements into which the Colony of New Zealand has entered.

The formal approval of His Majesty's Principal Secretary of State for the Colonies of the arrangement concluded between the Postmaster-General of New Zealand and the Postal Administration of Switzerland having been transmitted to me, I have the honour, in accordance with the instructions which I have received from the Marquess of Lansdowne, to invite Your Excellency to exchange it against a similar instrument signed by the responsible Minister whom Your Excellency may designate for that purpose.

I have the honour to enclose a copy of the Ministerial approval which it is proposed should be exchanged.

I also do myself the honour to suggest to Your Excellency that a certificate recording the exchange of the approvals should at the same time be signed in duplicate, one of which I shall transmit to His Majesty's Principal Secretary of State for Foreign Affairs, together with Your Excellency's Ministerial approval.

I avail, &c.,

A. C. GRANT DUFF.

His Excellency Monsieur Zemp, President of the Swiss Confederation.

MONSIEUR LE CHARGÉ D'AFFAIRES,—

Berne, le 8 Juillet, 1902.

Répondant à la note que vous avez bien voulu adresser, eu date du 25 Juin dernier, à Monsieur le Président de la Confédération Suisse, nous avons l'honneur de vous faire part de ce qui suit :—

Endate du 11 Janvier, 1901, la Direction Générale des Postes, répondant à une lettre que lui avait adressée le 23 Novembre, 1900, le General Post Office à Wellington s'est déclarée disposée à faire délivrer jusqu'à nouvel ordre aux destinataires sans perception de taxe, à la condition qu'elles ne portent aucun signe les désignant comme insuffisamment affranchies, les lettres de la Nouvelle Zélande à destination de la Suisse affranchie d'un penny par 15 g.

Au nom du Gouvernement de Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Islande et des Possessions Britanniques d'outre mer vous nous avez demandé de ratifier cet arrangement.

Nous avons mûrement examiné cette question et sommes arrivés à la conclusion qu'ensuite de la position prise par les Administrations des pays voisins comme aussi pour ne pas engager l'avenir il ne convenait pas de maintenir la concession faite par l'Administration des Postes Suisses, mais, au contraire de revenir à l'état existant avant le 1er Janvier, 1901, eu ce qui concerne la taxe des lettres originaires de la Nouvelle Zélande à destination de la Suisse.

Afin de ne pas poster préjudice aux expéditeurs soit aux destinataires, la taxe réduite d'un penny par 15 grammes sera toutefois encore considérée comme valable pour les lettres provenant de la Nouvelle Zélande qui seront mises à la poste jusqu'au 30 Septembre, 1902, inclusivement.

Passé de délai, l'Administration des Postes Suisses devra, en revanche, taxer toutes les lettres provenant de la Nouvelle Zélande qui ne seront pas affranchies aux conditions générales fixées par la Convention Postale Universelle de Washington du 15 Juin, 1897.

Nous saisissons, etc.,

Au nom du Conseil Fédéral Suisse,

Le Président de la Confédération,

ZEMP.

Le Chancelier de la Confédération,

RINGIER.

Monsieur A. C. Grant Duff, Chargé D'Affaires,
De Sa Majesté Britannique.

MY LORD,—

Rome, 20th July, 1902.

I have the honour to report that I duly submitted to the Italian Foreign Office the proposal contained in your Lordship's despatch in this series, No. 13, of the 17th May last, for placing on record a Ministerial approval of the arrangement entered into between the Postal Departments of New Zealand and Italy, with a view to effecting certain changes in postal rates. From the reply of the Italian Government, copy and translation of which is enclosed herein, Your Lordship will perceive that the Minister of Posts and Telegraphs demurs to treating the working arrangements entered into between the two Departments as an actual international agreement in the nature of an "union plus restreinte," as defined by Article 21, paragraph 2, of the Washington Convention.

The Minister, while prepared to maintain the understanding arrived at with the Postal Department in New Zealand, in accordance with which letters sent from New Zealand with a penny stamp are now accepted and delivered in Italy, does not feel justified in treating as a formal contract what is purely a unilateral arrangement, which lacks, in his opinion, the characteristic quality of reciprocal advantage.

I explained to the Under-Secretary of State that His Majesty's Government were of opinion that the view of the International Bureau at Berne was justified technically by a literal construction of the second clause of Article 21, and that I found some difficulty in understanding the scruples of the Minister of Posts to sanction formally what he had already sanctioned administratively. Monsieur Malvano asked me to ascertain what views other European countries to which the same application had been addressed had taken, and promised, if it could be shown that a similar unilateral arrangement had received formal Ministerial approval elsewhere, he would invite consideration of the point at issue.

I have, &c.,

The Right Hon. the Marquess of Lansdowne, K.G., &c.

RENNELL RODD.

[TRANSLATION.]

Ministry of Foreign Affairs, Rome, 19th July, 1902.

MONSIEUR LE CHARGÉ D'AFFAIRES,—

I duly communicated to the Ministry of Posts the substance of the note which you addressed to me on 6th June last, informing me of the opinion expressed by the British Government as to the advisability and the measures to be taken for the conclusion of an agreement to be founded on an exchange of notes between the Postal Administrations of Italy and New Zealand for the reduction of the postal tariff on letters from that English colony to Italy.

I now have the honour to transmit to you herewith a copy of a note, dated the 17th of the aforesaid month (?), in which the Ministry of Posts point out the reasons for which, in their

opinion, the agreement in question, being purely of an administrative character, and dealing only with questions of the postal service, and being accepted, moreover, gratuitously by the Italian Posts and as a matter of courtesy, has not the character of a "union restreinte," in the sense of Article 21, No. 2, of the International Postal Convention of Washington, and need not therefore be either ratified or notified to the International Bureau at Berne.

I beg you to inform His Majesty's Government of the reply of the Minister of Posts, and to let me know whether the English authorities share his views, and I avail myself, &c.

For the Minister,
PRINETTI.
MALVANO.

Sir R. Rodd, &c.

The MINISTRY of POSTS and TELEGRAPHS to the MINISTRY of FOREIGN AFFAIRS.

Rome, 12th July, 1901 (?).

No agreement, properly so-called, in the sense of Article 21, No. 2, of the Universal Postal Convention of Washington, has been concluded between this Administration and that of New Zealand with a view to a reciprocal reduction of postal tariffs.

In fact I wrote, in answer to the request of the Administration of New Zealand, when they invited us to conclude with them an "union plus restreinte" in the sense of the article of the Convention mentioned above, that I was not in a position to do so, since the exigencies of the Italian Treasury forbade such a course, and it was only in order to comply in a friendly manner with the urgent requests of the Administration of the colony that I consented that letters from New Zealand for Italy furnished with a penny stamp should be distributed without being taxed, when such letters (be it well understood, though it is not explicitly mentioned) were not stamped at the office from which they were posted with the stamp-mark "T," in accordance with Article VIII., Nos. 5 and 7, of the regulations and by-laws for the execution of the Convention.

In reply to the inquiry of the International Bureau at Berne, whether this Administration had concluded with that of New Zealand an "union restreinte" in the sense of Article 21, No. 2, of the Convention, a reply in the negative was given on 18th July, 1901, and explanations were furnished. (See Enclosure D.)

In these circumstances the concession made by courtesy to the Postal Administration of New Zealand, both in view of the intentions with which it was granted and on account of the facts of the case, cannot, in my opinion, be held to attain to the importance of a true and proper agreement, since the fundamental principle of mutual advantage is lacking to it.

Enclosure D.

MONSIEUR LE DIRECTEUR,—

En réponse à votre note du 10 courant (No. 3496), Je m'enpresse de vous informer que mon office n'a conclu avec la Nouvelle Zélande aucun accord spécial, dans le sens prévu par l'Article 21 de la Convention principale mais s'est limité à donner son consentement à ce que les lettres expédiées de la Nouvelle Zélande à l'Italie Soient considérées comme régulièrement affranchies en raison d'un penny par $\frac{1}{2}$ once ou fraction de demi once; la taxe des lettres expédiées de l'Italie à la Nouvelle Zélande reste fixe à 25 centimes par port de 15 grammes, comme dans les relations avec tous les autres pays de l'Union Postale.

Agréés, &c.,
(Firmato.) MIGLIORANGI,
Le Directeur General.

TELEGRAM from Mr. LOWTHER.

Santiago, Chile, 11th August, 1902.

TREATY: In answer to your despatch (No. 2), dated 17th May, the form of approval of arrangement is objected to by the Government of Chili, it being contrary to custom. Suggest a note from the Minister for Foreign Affairs might be sufficient.

TELEGRAM to Mr. LOWTHER.

14th August, 1902.

POSTAL Agreement with New Zealand: Proposed procedure is based on that adopted in case of Washington Postal Convention, but approval of Chilean Government in the form of a note from the Chilean Minister for Foreign Affairs would suffice if exchanged against declaration inclosed in my despatch of 17th May.

No. 41.

(No. 92.)

MY LORD,—

Downing Street, 12th September, 1902.

I have the honour to transmit to you, for the information of your Ministers, the paper noted in the subjoined schedule.

I have &c.,
J. CHAMBERLAIN.

The Officer Adminstrating the Government of New Zealand.

Date.	From	To	Subject.
19th August, 1902	The Acting British Consulate, Chicago	Foreign Office ...	The formation of a "Combine" among agricultural machinery manufacturers.

Enclosures.

MY LORD,—

British Consulate, Chicago, 19th August, 1902.

I have the honour to forward, enclosed herewith, a short report on the combination of firms manufacturing harvesting machinery.

I have, &c.,

THOMAS ERSKINE,
Acting British Consul.

His Majesty's Principal Secretary of State for Foreign Affairs.

COMBINE OF HARVESTING MACHINE COMPANIES.

THE recent combine of the five large harvesting machinery makers is of great interest to the British manufacturers of agricultural implements, as it will, probably, bring with it a decrease in price in all exported machines.

The capital of the new combine or "trust" is placed at £24,000,000, which is a very conservative estimate of the value of the combined businesses. This amount is to be all common stock, but if at any time further capital is required this will become preferred stock at 6 per cent., and the new capital will be the common stock.

The five firms at present employ over one thousand five hundred men to supervise the five thousand travelling salesmen and canvassers, and it is said that under the new conditions the services of three-fourths of these can be dispensed with. The plan of having only one man in the largest towns, instead of five, and letting the buyer come to the salesroom where all the different firms will have their machines, will also lessen the amount of correspondence and the number of employees in the offices. A great reduction will also be made in advertising, and the elaborate calendars, which cost a great deal to produce, may be abolished.

It is expected that altogether, notwithstanding the rise in price of raw material this year, machines will be marketable at a reduction of more than 10 per cent. on the present price, as it is stated that it costs more to sell a machine under the present methods than it does to manufacture it; and as there will be no competition in the United States to require reduction in prices to obtain sales, the companies could stand a still further reduction in the export trade.

The combined companies manufacture mowers, reapers, reapers and binders, maize reapers and binders, and hay-rakes (horse). They do not manufacture any other implements.

The inventions have been covered at different times by 11,258 patents, and the exports are more than half of all agricultural implements.

It is said that a branch factory will be built in Canada to save the duty.

There has been little change in the total export of agricultural implements during the last three years; but, while the ploughs and other implements have increased in numbers, harvesting machinery has fallen off £500,000 in value, and great efforts will be made to regain this trade.

Of the five firms, two have their factories in Chicago, one turning out over 300,000 and the other 250,000 machines; one in another part of Illinois produces 50,000, one in Wisconsin 40,000, and one in Ohio 75,000. The five companies produce over 700,000 machines and employ 20,000 workmen.

It is stated that the competition for the trade has been very keen, and that cuts of £3 have been made by rival agents to make a sale. Under the new conditions it will not matter which machine is sold, and no inducements to buy will be offered.

No. 42.

(General.)

MY LORD,—

Downing Street, 19th September, 1902.

With reference to my despatch of the 8th May last, and to your reply (No. 67) of the 5th ultimo, relative to the expenses incurred in connection with cases of extradition from the United States of America, I have the honour to state for the information of your Ministers that the United States Acting Secretary of State has addressed a note to His Majesty's Chargé d'Affaires at Washington intimating that the American Government has not agreed to the arrangement proposed by His Majesty's Government, which he states could not be agreed to without radical changes in the existing laws.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 43.

(Miscellaneous.)

MY LORD,—

Downing Street, 23rd September, 1902.

In view of the termination of the Coronation festivities, and the departure of the colonial troops, it becomes my duty to request you to express to your Ministers the thanks of His Majesty's Government for arranging the despatch of a military contingent to take part in the ceremonies.

2. I need hardly say how glad the people of this country were to have an opportunity of welcoming the representatives of the colonial contingents which have displayed such splendid qualities in the South African war.

3. His Majesty's Government feel that they are specially indebted to your Ministers for sanctioning the prolongation of the visit of the New Zealand Contingent beyond the unavoidably deferred date of the Coronation, as the representation of the local Forces of almost every portion of the Empire on that day undoubtedly added greatly to the interest of the spectacle.

4. His Majesty's Government trust that the members of the contingent will carry back with them a pleasant recollection of their stay in this country on an ever memorable occasion.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 44.

(No. 95.)

MY LORD,—

Downing Street, 26th September, 1902.

I have the honour to transmit to you, for the information of your Ministers, with reference to your despatch (No. 34) of the 23rd April, the paper noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
23rd September, 1902	War Office	Colonial Office	Grant of the war gratuity drawn by members of the Army Nursing Service to Nursing Sisters from oversea colonies.

Enclosure.

SIR,—

War Office, London, S.W., 23rd September, 1902.

With reference to your letters (No. 20815) dated 6th June last and the 19th instant, I am directed by the Secretary of State for War to acquaint you that it has now been decided to grant the war gratuity, drawn by members of the Army Nursing Service and the Army Nursing Service Reserve, to the ladies who were sent out officially as nursing sisters from oversea colonies, and also to those ladies who proceeded to South Africa from the colonies at their own expense, and were taken into employment locally.

I am further to inform you that steps are being taken by this Department to issue the amount of the gratuity to the ladies concerned.

I am, &c.,

G. FLEETWOOD WILSON.

The Under-Secretary of State, Colonial Office.

No. 45.

(New Zealand, No. 96.)

MY LORD,—

Downing Street, 30th September, 1902.

I have the honour to inform you that I have received from your Prime Minister a letter dated the 13th instant, in which he makes certain suggestions with regard to Fiji.

2. I shall be glad if you will inform him, in reply, that Sir H. Jackson, the newly appointed Governor of Fiji, has already been asked to report on the

question of giving more effective representation in the Council to the European residents; and that his attention will be drawn to the other points raised by Mr. Seddon, and in particular to the desirability of improving communications by opening up the lower reaches of the rivers, and by a more extended construction of roads and bridges.

3. Mr. Seddon will appreciate the fact that it is necessary to move cautiously in dealing with matters of such importance to the future of Fiji, but he may rest assured that his suggestions will receive full consideration both from Sir H. Jackson and from myself.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

SIR,—

Steamship "Tongariro," Teneriffe, 13th September, 1902.

The question of Fiji and the Pacific Islands not having been dealt with at the late Conference, I desire to call your attention to the decrease of the Fijian population, which the census returns give as being over one thousand a year for the last twenty years, and the late census returns show no improvement, but quite the reverse. The European population in the Fiji Islands is also less than it was twenty years ago. The islands are capable of great development, and whilst the Fijian will not work regularly, yet at certain employment, such as planting, fruit-growing, &c., which is intermittent, he, like the Maori, would do this provided the opportunity offered and his labours were fittingly requited. The spreading-out of the Maoris on new lands, and with due regard to water-supply and sanitation, has gone a long way to prevent their dying out, and they are now on the increase. The newly-appointed Governor of the islands will, no doubt, give this matter his attention, and do his best to arrest the dying-out of the Fijian race.

The New Zealand Parliament passed resolutions some time ago agreeing to the annexation of Fiji to New Zealand, and in reply thereto the Secretary of State for the Colonies stated that the Fijians, who had ceded the islands, should be consulted. How and in what way this was to be done has not been intimated to the New Zealand Government. Petitions have been largely signed by the Fijians; but what has become of the same we do not know. From the present outlook, however, it will be some time before this matter will be dealt with, and, pending a decision, and New Zealand being largely interested, I very respectfully urge that there should be some European and Native members elected to the Executive Council. This has worked well in other similarly situated islands, and would, I feel sure, relieve the strained situation in Fiji, besides being appreciated by both races.

I also consider it imperative that a loan should be authorised for the purpose of road-making, improving the beds of rivers for navigation, and water-supply. Experiments should also be made on a large scale in cotton-growing. This would find employment for the Natives and take the place of fruit-growing, which has of late years, owing to lessened markets, fallen off considerably; with the recent Commonwealth tariff on fruits, there will most likely be a still further falling-off. The export of copra could also be largely increased if extended planting obtained. At present the sugar-growing industry seems to be the Alpha and Omega of Fiji. It is not wise to have all the eggs in one basket, and should changes eventuate inimical to the sugar-growing industry Fiji would be in a very bad condition. Beet-growing in New Zealand, or a change in our tariff, withdrawing concessions now granted on raw sugar, would injuriously affect Fiji sugar-growing, and, seeing these are contingencies that may arise, it is well to further, especially in the interests of the Fijians, the other industries for which the islands are eminently adapted.

I have, &c.,

R. J. SEDDON.

No. 46.

(No. 97.)

MY LORD,—

Downing Street, 2nd October, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 69) of the 16th August, stating that you have received from all parts of the colony, from towns and country districts, from societies and associations, as well as from many Maori tribes, resolutions of congratulation and thankfulness that His Majesty the King should have so far recovered as to admit of his coronation.

2. I have to inform you that His Majesty deeply appreciated the good-will and loyalty thus manifested by his people of New Zealand, and commands me to request that these resolutions may be acknowledged, with an expression of his sincere thanks.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 47.

(No. 99.)

MY LORD,—

Downing Street, 3rd October, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 68) of the 15th August, transmitting resolutions passed by the Legislative Council and the House of Representatives, congratulating His Majesty the King upon his coronation. A.—1, 1903,
No. 15.

2. These resolutions have duly been laid at the foot of the Throne, and His Majesty has been pleased to accept them very graciously, and to command me to request you to convey to the Council and the House of Representatives his cordial thanks for their loyal congratulations and good wishes.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 48.

(Circular.)

SIR,—

Downing Street, 3rd October, 1902.

With reference to my predecessor's circular despatch of the 30th March, 1874, transmitting a copy of a treaty concluded on 3rd December, 1873, between Her Majesty Queen Victoria and the Emperor of Austria for the mutual surrender of fugitive criminals, I have the honour to transmit to you, for publication in the colony under your government, a copy of an Order of His Majesty in Council, giving effect to a declaration signed on the 26th June, 1901, and ratified on the 25th June last, between the United Kingdom and Austria-Hungary, amending Article XI. of the treaty of 1873.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

ORDER IN COUNCIL.—EXTRADITION DECLARATION OF THE 26TH JUNE, 1901, BETWEEN GREAT BRITAIN AND AUSTRIA-HUNGARY.

At the Court at Balmoral, the 15th day of September, 1902. Present: The King's Most Excellent Majesty, H.R.H. The Prince of Wales, Duke of Fife, Mr. Secretary Akers-Douglas, Sir Dighton Probyn.

WHEREAS by the Extradition Acts, 1870 to 1895, it was amongst other things enacted that where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient:

And whereas a treaty was concluded on the third day of December, one thousand eight hundred and seventy-three, between Her late Majesty Queen Victoria and his Majesty the Emperor of Austria and King of Hungary for the mutual extradition of fugitive criminals, in the case of which treaty "The Extradition Act, 1870," was applied by Order in Council of the seventeenth March, one thousand eight hundred and seventy-four:

And whereas a declaration was concluded on the twenty-sixth day of June, one thousand nine hundred and one, between His Majesty and His Majesty the Emperor of Austria, King of Hungary, amending Article XI. of the said Treaty of the third of December, one thousand eight hundred and seventy-three, for the mutual extradition of fugitive criminals, which declaration is in the terms following:—

As it is considered necessary by the Government of Great Britain and Ireland and by the Governments of Austria and Hungary to extend the period of fourteen days fixed in Article XI. of the treaty for the mutual surrender of criminals, concluded on the 3rd December, 1873, between Her late Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, &c., on one side, and His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary, on the other, the respective Plenipotentiaries, undersigned, have agreed that—

The last paragraph of Article XI. of the said treaty of extradition shall be altered as follows: "Provided, however, that he shall be discharged if, within the shortest time possible, and at the

utmost within one month, a requisition for his surrender in accordance with the terms of Article IX. of this treaty be not made by the Diplomatic Representative of the State which requests his extradition."

The present declaration shall have the same force and duration as the extradition treaty of the 3rd December, 1873, to which it relates.

The present declaration shall be ratified, and the ratifications shall be exchanged as soon as possible at London.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done in duplicate at London, the 26th day of June, 1901.

For Great Britain and Ireland, His Britannic Majesty's Principal Secretary of State for Foreign Affairs. LANSDOWNE.

For Austria and for Hungary, the Austro-Hungarian Ambassador.

DEYM.

And whereas the ratifications of the said declaration were exchanged in London, on the twenty-fifth day of June, one thousand nine hundred and two :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to him by the said recited Acts, doth order, and it is hereby ordered, that from and after the sixth day of October, one thousand nine hundred and two, the said Acts shall apply in the case of Austria and Hungary under and in accordance with the said treaty as amended by the said declaration above set forth.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in one thousand eight hundred and eighty-six, and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FITZROY.

No. 49.

(No. 101.)

MY LORD,—

Downing Street, 10th October, 1902.

You are doubtless aware that during his visit to this country your Prime Minister laid before the King four addresses of congratulation on His Majesty's coronation, from the Premier and Ministers of New Zealand, the electors of Westland, the Maori king, Mahuta, and the Maori tribes.

2. His Majesty was pleased to receive these addresses very graciously, and has commanded me to return his most cordial thanks to the signatories, and through them to his people in New Zealand, whom they represent. His Majesty has felt especial gratification in receiving these congratulations and assurances of loyalty from a colony which has shown such splendid devotion to the Crown and Empire, and, though inhabited by two races, is animated by one and the same spirit of Imperial patriotism. The King has watched with keen interest and great satisfaction the steady advance of New Zealand in prosperity and well-being, and hopes that, under the blessing of Providence, this advance may continue uninterrupted. His Majesty was specially gratified to note the references in the addresses to the pleasure experienced by the people of New Zealand in welcoming their Royal Highnesses the Prince and Princess of Wales during their recent visit to the colony, a visit the memory of which is no less pleasant and inspiring to their Royal Highnesses than to their hosts.

3. His Majesty desires me to add that he highly appreciates the labour and skill which have been so successfully devoted to the adornment of the addresses.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 50.

(No. 106.)

MY LORD,—

Downing Street, 15th October, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 65) of the 21st July, and to inform you that His Majesty has been graciously pleased to approve of the title "Royal," which was granted to the Permanent Artillery of New Zealand, being continued to the two branches, Artillery and Engineers, into which the Force has now been divided.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 51.

(No. 107.)

MY LORD,—

Downing Street, 18th October, 1902.

I have the honour to transmit to you, for communication to your Ministers, a copy of a resolution, passed unanimously by the recent Colonial Conference, recommending that similar Conferences should be held at intervals of four years for the consideration of questions of general interest to the colonies and the Mother-country.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

"THAT it would be to the advantage of the Empire if Conferences were held as far as practicable at intervals not exceeding four years, at which questions of common interest affecting the relations of the Mother-country and His Majesty's dominions over the seas should be discussed and considered as between the Secretary of State for the Colonies and the Premiers of the self-governing colonies.

"The Secretary of State is requested to arrange for the Conferences, after communicating with the Premiers of the respective colonies, in case of any emergency arising from which such a conference may have been deemed necessary, the next ordinary Conference to be held not sooner than three years hereafter."

No. 52.

(General.)

MY LORD,—

Downing Street, 24th October, 1902.

With reference to my despatch (General) of the 4th January last, A.-2, 1902, No. 108. notifying the further postponement of the International Telegraph Conference, I have the honour to inform you that it is now proposed that the Conference should meet in London on the 26th May next, and that the Postmaster-General has requested me to renew the invitation to your Government to participate.

2. I shall be glad to learn in due course the name and title of the delegate by whom your Government would propose to be represented.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 53.

(No. 110.)

MY LORD,—

Downing Street, 27th October, 1902.

I have the honour to transmit to you, for the information of your Ministers, the paper noted in the subjoined schedule.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
16th October, 1902	Admiralty ...	Colonial Office	Appointment of Commander-in-Chief on the Australian Station

Enclosure.

SIR,—

Admiralty, 16th October, 1902.

I am commanded by my Lords Commissioners of the Admiralty to request you will inform the Secretary of State that Vice-Admiral Arthur Dalrymple Fanshawe has been appointed to succeed Vice-Admiral Sir Lewis A. Beaumont, K.C.M.G., as Commander-in-Chief of His Majesty's ships and vessels on the Australian Station.

I am, &c.,

EVAN MACGREGOR.

The Under-Secretary of State, Colonial Office, S.W.

No. 54.

(Miscellaneous.)

MY LORD,—

Downing Street, 31st October, 1902.

I have the honour to transmit to you, for the information of your Government, a copy of a letter from the War Office respecting the alterations to be made in the medals for meritorious service, for distinguished conduct in the field, and for long service and good conduct, to be issued in future to the Permanent Colonial Forces.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

Enclosure.

SIR,—

War Office, London, S.W., 17th October, 1902.

I am directed by the Secretary of State for War to acquaint you that the King has been pleased to approve of the medal for meritorious service in future bearing on the obverse the effigy of His Majesty, in place of the effigy of Her late Majesty Queen Victoria; and the medals for distinguished conduct in the field, and for long service, and good conduct, bearing on the obverse the effigy of His Majesty, in place of the trophy of arms as at present. The King's effigy will be that which has recently been approved for the new Africa General Service Medal, surmounted by the inscription "Edwardus VII., Rex Imperator."

I have to add that the Deputy Master of the Mint has been requested to cause the necessary alterations to be made in the medals in future issued to the Colonial Forces.

I have, &c.,

The Under-Secretary of State, Colonial Office.

G. FLEETWOOD WILSON.

No. 55.

(Circular.)

SIR,—

Downing Street, 31st October, 1902.

I have the honour to inform you that I have learnt from the Foreign Office that His Majesty's Chargé d'Affaires at Rome has reported that applications are being received at the British Embassy from various British Colonial subjects arriving in Italy for purposes of study, who, having left their colony in ignorance of the new regulations with regard to entry without payment to the national museums, galleries, excavations, and monuments of Italy, are not furnished with the necessary academic document upon which free passes are granted.

2. I transmit, therefore, for your information and for such publication as may be considered desirable, a copy of a notice recently issued from the Foreign Office, giving the substance of the law passed in April last in so far as it affects foreigners coming to Italy for purposes of study.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

His Majesty's Chargé d'Affaires at Rome has sent to the Foreign Office the law regulating entry, without payment of the ordinary fee, to the national museums, galleries, excavations and monuments of Italy, which has been approved by the Royal Decree of the 13th April, 1902.

The privilege of free entry is by the law accorded to foreigners who are: (a.) Artists; (b) Art students and art critics who have issued noteworthy publications; (c) Professors of archæology, history, literature, and art; (d) Pupils of archæological, historical, and art institutions, students in the departments of literature and philosophy, and in schools of practical engineering.

Applications for a general permit for free entry to all museums, &c., must be sent to the Ministry of Public Instruction on stamped paper of 1 lira 20 c., with an unmounted photograph (of the applicant) not to exceed 5 centim. by 8 in size.

Applications for free entry to archæological and artistic institutes in a single town must be sent on stamped paper of 60 centimes to one of the heads of the institutes; and, if the permit is required for more than a month, a photograph must be sent of the size mentioned in the preceding paragraph.

The applications must be accompanied by the following documents: For persons under (a) and (c), by an academical document *visé* by the Italian diplomatic representative or Consul in the country to which the applicant belongs, or by the diplomatic representative of that country in

Italy. For persons under (b), by one of the publications which they have published. For persons under (d), by an official document showing that they stand on the books of the institutions mentioned under that heading for the year in which they apply. The document must be *visé* as in the case of documents furnished by persons under (a) and (c).

As His Majesty's diplomatic representative at Rome is not always in a position to authenticate, without previous inquiry, documents issued by institutions in the United Kingdom, art students, &c., are recommended to have such documents countersigned by the Italian consular officers in this country before leaving.

Foreign Office, 17th June, 1902.

No. 56.

(No 114.)

MY LORD,—

Downing Street, 5th November, 1902.

I have the honour to acknowledge the receipt of Sir R. Stout's telegram of the 1st November, offering congratulations to England on the completion of the Pacific cable.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 57.

PERMITS FOR TRANSVAAL AND ORANGE RIVER COLONIES, SOUTH AFRICA. —
(Telegram, dated London, 1st December instant, from the Secretary of State for the Colonies.)

On representation of Lord Milner it has been decided, after 1st December no permits to Transvaal or Orange River Colony will be issued except at South African ports. Persons wishing to proceed to those colonies should, therefore, apply for permits to Permit Office at port where they propose to land. Such permits may be refused, and, in order to avoid disappointment or delay, it is suggested that persons about to go to those colonies should ascertain, before sailing for South Africa, from Permit Office at port of landing, whether permits will be granted.

Under Peace Preservation Ordinance now in force in Transvaal and Orange River Colony, persons entering without permits may be ordered to leave, and, if order is not obeyed within a certain time, are liable to fine and imprisonment.

Should be glad if your Ministers would give instructions accordingly to Permit Officers in New Zealand, whose services will be no longer required, and also publish notice to above effect.

No. 58.

(No. 125.)

MY LORD,—

Downing Street, 12th December 1902.

I have the honour to transmit to you, for the information of your Ministers, with reference to Sir R. Stout's telegram of the 19th ultimo, the papers noted in the subjoined schedule.

I have, &c.,

For the Secretary of State,
ONSLOW.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
29th November, 1902	The British Minister at Brussels	The Marquess of Lansdowne	Congratulatory telegram to the King of the Belgians on his recent escape.

Enclosures.

MY LORD,—

Brussels, 29th November, 1902.

With reference to your Lordship's despatch No. 144, of the 22nd ultimo, I duly conveyed through the Belgian Government to its high destination the happily worded telegram of the Acting Governor of New Zealand, congratulating the King of the Belgians on his recent escape from assassination.

I have now the honour to enclose copy of a note in which, by special order of the King, Baron de Favereaux expresses His Majesty's very lively sense of that mark of sympathy—manifested moreover in such expressive terms.

The Marquess of Lansdowne, K.G., &c.

I have, &c.,

CONSTANTINE PHIPPS.

MONSIEUR LE MINISTRE,—

Bruxelles, le 28 Novembre, 1902.

Je n'ai pas manqué de faire placer sous les yeux du Roi la lettre que Votre Excellence a bien voulu m'écrire conformément aux instructions du Gouvernement de Sa Majesté Britannique pour me communiquer le texte du télégramme que Monsieur le Gouverneur de la Nouvelle Zélande a adressé à M. Chamberlain avec la prière d'exprimer à mon Auguste Souverain ses félicitations à l'occasion de l'attentat du 15 Novembre.

Sa Magesté a été très vivement touchée non seulement de la démarche de Monsieur le Gouverneur de la Nouvelle Zélande elle-même mais aussi des termes si expressifs dans les quels ce trant fonctionnaire a manifesté sa sympathie.

D'après les ordres particuliers du Roi, j'ai recours à l'obligeante entremise de Votre Excellence pour que Monsieur le Gouverneur de la Nouvelle Zélande soit assuré de la plus vive gratitude de sa Majesté.

Je saisi, &c.,

Son Excellence Sir Constantine Phipps, K.C.M.G., C.B., &c.

FAVEREAUX.

No. 59.

(No. 126.)

MY LORD,—

Downing Street, 12th December, 1902.

I have the honour to inform you that His Majesty will not be advised to exercise his powers of disallowance with respect to the Act, No. 54 of 1902, of the Legislature of New Zealand, entitled "An Act to amend 'The Military Pensions Act, 1866,' and to further extend the Provisions of 'The Military Pensions Extension to Contingents Act, 1900,'" a transcript of which accompanied Sir R. Stout's despatch (No. 90) of the 27th October last.

I have, &c.,

For the Secretary of State,

ONSLOW.

The Officer Administering the Government of New Zealand.

No. 60.

(No. 127.)

MY LORD,—

Downing Street, 12th December, 1902.

I have the honour to inform you that His Majesty will not be advised to exercise his powers of disallowance with respect to the Act, No. 33 of 1902, of the Legislature of New Zealand, entitled "An Act to extend the Provisions of "The Pacific Cable Authorisation Act, 1899,"" a transcript of which accompanied Sir R. Stout's despatch No. 90 of the 27th October last.

I have, &c.,

For the Secretary of State,

ONSLOW.

The Officer Administering the Government of New Zealand.

No. 61.

(No. 128.)

MY LORD,—

Downing Street, 12th December, 1902.

I have the honour to inform you that His Majesty will not be advised to exercise his powers of disallowance with respect to the Act, No. 35 of 1902, of the Legislature of New Zealand, entitled "An Act to make Further Provision for the Maintenance of a Naval Force in Australasian Waters," a transcript of which accompanied Sir R. Stout's despatch No. 90 of the 27th October last.

I have, &c.,

For the Secretary of State,

ONSLOW.

The Officer Administering the Government of New Zealand.

No. 62.

(No. 130.)

MY LORD,—

Downing Street, 12th December, 1902.

I have the honour to inform you that His Majesty will not be advised to exercise his powers of disallowance with respect to the Act, No. 34 of 1902, of the Legislature of New Zealand, entitled "An Act to amend 'The Cook and other Islands Government Act, 1901,'" a transcript of which accompanied Sir R. Stout's despatch No. 90 of the 27th October last.

A.—1, 1903,
No. 25.

I have, &c.,

For the Secretary of State,
ONSLOW.

The Officer Administering the Government of New Zealand.

No. 63.

(No. 131.)

MY LORD,—

Downing Street, 16th December, 1902.

I have the honour to transmit to you, for the consideration of your Ministers, the paper noted in the subjoined schedule.

I have, &c.,

For the Secretary of State,
ONSLOW.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
8th December, 1902	Mr. J. MacVeagh, M.P.	Colonial Office...	Treasure lost in the ship "General Grant."

Enclosure.

DEAR SIR,—

House of Commons, 8th December, 1902.

I am asked by one of the survivors from the "General Grant" to draw your attention to the enclosed cutting from the *Belfast Irish News* of a few days ago, and to inquire whether, in the event of treasure being found, the prospectors will be at liberty to remove it.

Yours, &c.,

J. MACVEAGH.

AN American schooner has arrived in New Zealand with a party who propose to search for long lost treasure. Nearly forty years have passed since the ship "General Grant" left Australia for London with a cargo of gold and wool. At one of the Auckland Islands, near New Zealand, she met with a frightful fate. She was sucked into a sort of colossal cave, but it is possible she might have got out if a large wave had not lifted her so high that the masts striking the roof were driven through her bottom. Through the openings thus made the water rushed in, and she speedily sank. Only one sailor and two children were saved. After some months on the island they were picked up by a passing steamer and taken to New Zealand. Several attempts have been made to recover the large quantity of gold that went down in the "General Grant," but they were all failures. It remains to be seen whether the American adventurers will be more successful. If they should recover the gold, is it their property? That seems a nice legal point.

No. 64.

(No. 132.)

MY LORD,—

Downing Street, 18th December, 1902.

I have the honour to acknowledge the receipt of your despatch (No. 81) of the 6th October, reporting the departure for England of Sir A. Douglas, Under-Secretary for Defence.

2. I have not failed to bring the valuable services rendered by him in connection with the despatch of the New Zealand Contingents to South Africa to the notice of the Secretary of State for War, and the Commander-in-Chief, who have expressed their high appreciation of his good work.

I have, &c.,

For the Secretary of State,
ONSLOW.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 65.

(General.)

MY LORD,—

Downing Street, 5th February, 1903.

With reference to Mr. Chamberlain's despatch ("General") of the 22nd of August last, and previous correspondence relative to the proposed application to New Zealand of "The Colonial Solicitors Act, 1900," I have the honour to state, for the information of your Ministers, that Mr. Chamberlain laid before the Incorporated Law Society for their favourable consideration the suggestion of the New Zealand Law Society: that, in view of the fact that service under articles is not compulsory in New Zealand, the requirements of the Act would be met if the Order in Council extending it to the colony required candidates for admission to produce a certificate from a Judge of the Supreme Court that such candidate had, before commencing practice in New Zealand, been engaged exclusively in acquiring a practical knowledge of law for a period of not less than three years, either under articles of clerkship or law pupilage (under subsection (4) of section V., or subsection (4) of section XVI. of "The Law Practitioners Act, 1861"), or otherwise in the employment of a practising barrister or solicitor.

(2.) The Incorporated Law Society at first expressed themselves unable to agree to this suggestion as an adequate alternative to service under articles; but, on a further representation being made to them, they have since agreed that a certificate from the solicitor or barrister in whose office an applicant has been employed to the effect that he has, before qualifying for practice in New Zealand, been engaged exclusively in acquiring a practical knowledge of law for a period of not less than three years, on being confirmed by a Judge of the Supreme Court after personal inquiry into the applicant's qualifications, might be regarded as sufficient, and accepted in lieu of service under articles.

3. I have, therefore, to request you to ascertain whether your Ministers are prepared to meet the views of the Incorporated Law Society, and arrange for provision being made either by law or regulation for the observance of the above conditions; and I shall be glad at the same time to learn whether they are prepared to make the amendment to the law of New Zealand indicated in the second paragraph of the despatch above referred to, in order to provide that English barristers or solicitors who have been in practice in England for not less than three years shall be entitled to practise in New Zealand without further examination.

I have, &c.,

For the Secretary of State,
ONSLOW.

Governor the Right Hon. the Earl of Ranfurly, G.C.M.G., &c.

No. 66.

(No. 5.)

Downing Street, 6th February, 1903.

A DESPATCH signifying that His Majesty will not be advised to exercise his power of disallowance with respect to the Acts of the New Zealand Legislature passed in the session of Parliament, 1902.

[List of Acts published in the *New Zealand Gazette* No. 25, of 2nd April, 1903.]

No. 67.

(No. 9.)

MY LORD,—

Downing Street, 26th February, 1903.

I have the honour to transmit to you, for communication to your Ministers, the paper noted in the subjoined schedule.

I have, &c.,

For the Secretary of State,
ONSLOW.

The Officer Administering the Government of New Zealand.

Date.	From	To	Subject.
10th February, 1903	Judgment of the Judicial Committee of the Privy Council on the appeal of F. Wallis and Others v. His Majesty's Solicitor-General for the Colony of New Zealand.

Enclosure.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL ON THE APPEAL OF FREDERICK WALLIS AND OTHERS v. HIS MAJESTY'S SOLICITOR-GENERAL FOR THE COLONY OF NEW ZEALAND, FROM THE COURT OF APPEAL OF NEW ZEALAND. DELIVERED 10TH FEBRUARY, 1903.

Present at the Hearing: Lord Macnaghten, Lord Lindley, Sir Ford North, Sir Arthur Wilson.
Delivered by Lord Macnaghten.

THIS is an appeal by persons claiming to be trustees of a certain charitable endowment in New Zealand against an order of the Court of Appeal of that colony. The order appealed from was made at the instance of the Crown on the occasion of an application by the trustees asking for the approval of a scheme for the administration of the charity.

The effect of the order was to pronounce the endowment null and void from its very commencement, and to discharge the trustees from all active duties in connection with it, declaring the charity property to have become the property of the Crown, but leaving it still in the hands of the trustees, and for the time being at least apparently derelict.

So far as the evidence goes, there can be no dispute about the facts. The documents relating to the formation of the charity are on record. The earliest of those documents in point of date, and the most important, is an instrument not under seal, which, in accordance with the legal phraseology in use in the colony, is described in a subsequent Crown grant as a "deed" of cession. It is in fact a letter addressed to Sir George Grey, the Governor of New Zealand, by certain Native chiefs and leading men among the Maoris, who were then in possession of lands called Witireia, in the District of Porirua, near the south-western extremity of the northern island. The body of the letter is in the following terms:—

"FRIEND, GOVERNOR GREY,—

"Otaki, 16th August, 1848.

"Greeting.—It is a perfect consenting on our part that Witereia shall be given up to the Bishop for a college. We give it up not merely as a place for the Bishop for the time being, but in continuation for those Bishops who shall follow and fill up his place to the end, that religion or faith in Christ may grow, and that it may be as it were a shelter against uncertain storms—that is, against the evils of this world. This is the full and final giving up of that place as a college for the Bishop of the Church of England."

It is in evidence that some of the donors, and those the leading men amongst them, were converts to Christianity who had been educated under the superintendence of the Right Rev. George Augustus Selwyn, then Bishop of New Zealand, at St. John's College, Auckland. That college, founded by the Bishop and named after his own college at Cambridge, was established for the purpose of providing religious education, industrial training, and instruction in the English language for Her late Majesty's subjects of all races, and of children of poor and destitute persons being inhabitants of islands in the South Pacific. It was a flourishing institution and regarded as a powerful factor in the civilisation of the country. The Bishop, as is well known, had acquired an extraordinary influence in New Zealand. His striking personality, his devotion to his Master's service, and his zeal for the welfare of the Maori race, had produced a profound impression on the Native mind. It cannot be doubted that it was the object of the donors, so far as in them lay, to imitate the Bishop's example, and to make some provision towards the establishment of an institution like the Auckland College near their own homes, in the south of the island. The cession is in terms an absolute, unqualified, and unconditional dedication to charity, the general purpose or end of which is declared to be "that religion or faith in Christ may grow."

The Government at the time warmly commended the action of the Native donors. The answer to their letter has not been put in evidence, but its tenor may be gathered from the following minute, dated the 7th October, 1848, and signed by the Lieutenant-Governor, which is printed in the record:—

"Acknowledge this and say that I shall have much pleasure in sanctioning this giving up a portion of their reserves at Porirua for the benevolent and useful purpose of founding a college, and that I will communicate their offer to the Lord Bishop. Such laudable and generous conduct will be made known in England, and cannot fail of insuring the commendation of all good men, and the Queen will rejoice in seeing her Maori subjects setting so good an example to the Europeans. When they wish, I will send over a surveyor that they may indicate the quantity and boundaries of the land they wish to transfer to the Bishop, that a plan may be made and the arrangement completed."

"E. EYRE, Lieutenant-Governor."

The Governor, it will be observed, sanctioned the proposed cession and undertook to give effect to it without attempting to make any stipulation, condition, or reservation of any sort or kind. As the law then stood, under the Treaty of Waitangi the chiefs and tribes of New Zealand and the

respective families and individuals thereof were guaranteed in the exclusive and undisturbed possession of their lands as long as they desired to possess them, and they were also entitled to dispose of their lands as they pleased, subject only to a right of pre-emption in the Crown. It was not until 1852 that it was made unlawful for any person other than Her Majesty to acquire or accept land from the Natives (15 and 16 Vict., c. 72, s. 72). The founders of the charity therefore were the Native donors. All that was of value came from them. The transfer to the Bishop was their doing. When the Government had once sanctioned their gift, nothing remained to be done but to demarcate the land, and place on record the fact that the Crown had waived its right of pre-emption. That might have been effected in various ways. The course adopted was to issue a Crown grant. That, perhaps, was the simplest way, though the Crown had no beneficial interest to pass. After all, it was only a question of conveyancing, as to which the Native owners were very possibly not consulted.

In accordance with the Governor's suggestion, the land intended to be included in the cession was marked out and surveyed. It was found to comprise about 500 acres. On the 28th December, 1850, the arrangement was completed by the issue of a Crown grant with a plan annexed. The Crown grant contained the following introductory recitals:—

“Whereas a school is about to be established at Porirua under the superintendence of the . . . Bishop of New Zealand, for the education of children of our subjects of all races, and of children of other poor and destitute persons being inhabitants of islands in the Pacific Ocean: And whereas it would promote the objects of the said institution to set apart a certain piece or parcel of land in the neighbourhood thereof for the use and towards the maintenance and support of the same, which piece or parcel of land has by a deed from the Natives been ceded for the support of the said school.”

The grant was expressed to be made to Bishop Selwyn, to hold to him and his successors “in trust nevertheless to and for the use and towards the maintenance of the said school so long as religious education, industrial training, and instruction in the English language shall be given to the youth educated therein or maintained thereat.”

In the year 1859, under the provisions of “The Bishop of New Zealand Trusts Act, 1858,” Bishop Selwyn conveyed the charity land to certain trustees nominated by the General Synod of the Church in New Zealand in communion with the established Church of England. The present appellants are their successors in the trust.

The land at the date of the cession was rough land covered with scrub, and apparently difficult of access. In order to improve it and make it available for pastoral purposes (the only use to which it could have been put at the time), Bishop Selwyn spent out of his own moneys a sum of about £200, which is said to have been more than the then value of the land.

No school or college has as yet been erected on the land or in the neighbourhood of it. The land has been let from time to time as grazing land, and the trustees have invested and accumulated the rents and profits.

In 1897 the accumulations amounted to a sum exceeding £6,000. The land had increased in value, but owing to the falling-off of the Native population the neighbourhood had become unsuited for the purpose of a school or college such as that contemplated by the original donors. In these circumstances the General Synod of the Church resolved that an application should be made to the Court for directions as to the administration of the charity. In the first instance the trustees communicated with the Law Officers of the Crown, sending them a copy of a proposed statement of claim and draft scheme.

The office of Attorney-General was then vacant. The matter came before the Solicitor-General. After a delay of three months he returned an unsatisfactory answer. He said that Ministers desired to consult Parliament on the general subject of such trusts during the coming session, and that he was therefore precluded from approving the proposed scheme. He suggested that the trustees should defer proceeding further for the present, adding, by way of encouragement or warning, that “the position now taken by the Government” was “not necessarily hostile” to the interests which the trustees represented.

In deference to the suggestions of the Solicitor-General, the trustees waited until the end of the session, and then, as nothing had been done in Parliament, they applied to the Court for the approval of the proposed scheme.

The Solicitor-General, in the absence of the Attorney-General, was made a party. He put in a defence. In his defence he took a line which must seem somewhat strange to those who are familiar with the administration of charitable trusts in this country. It is the province of the Crown as *parens patriæ* to enforce the execution of charitable trusts, and it has always been recognised as the duty of the Law Officers of the Crown to intervene for the purpose of protecting charities and affording advice and assistance to the Court in the administration of charitable trusts. The Solicitor-General, however, adopted a very different course. He seems to have thought it not inconsistent with the traditions of his high office to attack a charity, which it was *prima facie* his duty to protect. He suggested that the Crown was or might be entitled to the property. In the event of his failing on that point, which was the principal ground of his defence, he submitted a scheme in which the original trusts of the charity were apparently ignored altogether.

The case came on to be heard before the Chief Justice, Sir James Prendergast. That learned Judge rejected the Solicitor-General's contention that the endowment had reverted to the Crown, and declined to allow an amendment proposed at the hearing by which it was sought to impeach the validity of the Crown grant. He decided, with more hesitation than the case seems to have required, that the general purpose of the foundation was charity, and that the doctrine of *cy-près* was applicable. He did not, however, approve the scheme proposed by the trustees, as he thought it was not shown by the evidence before him that it was impossible for them to establish

a useful school in the neighbourhood with the funds at their disposal. At the same time he thought it clear that the trustees were right in their objection to the scheme proposed by the Solicitor-General. In these circumstances he reserved the matter for further consideration.

The case was afterwards brought up on further consideration before the present Chief Justice, Sir Robert Stout, and Edwards, J. Evidence was adduced which satisfied the Court that it would be a waste of the trust moneys to erect a school at Porirua. A fresh scheme was proposed and adopted, with some modifications to which the trustees assented. The Solicitor-General renewed his objections, but the Court held that it was bound by the decree made on the original hearing.

The Solicitor-General then appealed to the Court of Appeal upon the following grounds:—

"1. That the funds and lands have reverted to the Crown, either absolutely or as trustee, upon a failure of the objects and purposes of the Crown grant, and are not subject to administration by or under direction of the Court *cy-près*.

"2. That no general charitable purpose existed or is proved, either in the Native donors or the Crown, but only a purpose of creating a specific school at a specific site, and the funds and lands are therefore not subject to administration by or under direction of the Court *cy-près*."

The learned Judges of the Court of Appeal allowed the appeal and entered judgment for the Solicitor-General. They did not, however, adopt or even notice either of the grounds put forward by the Solicitor-General. They were of opinion, they said, that the land and money had become the property of the Crown for two reasons: In the first place, they thought "the grant had become void on the ground that it sufficiently appeared from the evidence that Her Majesty was deceived in her grant." In the second place, assuming that a school satisfying the terms of the grant had been at one time established, they held that the duration of the trust must have come to an end, because the trust was only to last "so long as religious education, industrial training, and instruction in the English language should be given to the youth educated therein or maintained thereat."

Now, as it is common ground that no school was ever established at or in the neighbourhood of Porirua, it would seem to follow that the occasion on which the trust, according to the construction placed on the grant by the Court of Appeal, was to cease and determine never arose and never could have arisen. It appears therefore hardly necessary to consider the second ground on which the Court of Appeal determined the case in favour of the Crown. It was not pressed at their Lordships' bar. The learned counsel for the respondent were in much the same difficulty in attempting to support the first ground upon which the Court of Appeal relied. There, too, the Court had recourse to an assumption which has no basis in fact. What evidence is there that the Crown was deceived? Absolutely none. The evidence is entirely the other way. The Governor undertook to complete the arrangement proposed by the Native donors as soon as he received their letter. He did not even wait to communicate with Bishop Selwyn. It is not suggested that he communicated on the subject with anybody else.

Now, it would be absurd to found a charge of misrepresentation on the letter of the Native donors. But, if the Native donors were innocent, with whom is the blame to rest? The evidence which the Court of Appeal said was sufficient to prove misrepresentation was discovered by them in the introductory recitals of the Crown grant. But the grant is not a deed *inter partēs*. The statements in it are the statements of the Crown. The statement that a school was "about to be established at Porirua" is just as consistent with an intention on the part of the Governor to establish the school by the aid of public money, or an expectation on his part that the announcement in England of the generosity of the Native donors, coupled with the approval of Her Majesty, would bring in ample funds for the object in view, as it is with the supposition of representations made to the Governor by some unknown persons interested in procuring this grant from the Crown. If the representative of Her Majesty was unduly sanguine; if he did think that the hopes and aspirations of the Native donors would attain a speedy consummation, that is no ground for suggesting that the Crown was deceived. And, indeed, expectations which may now seem to have been over-sanguine, or even unfounded, might not improbably have been fulfilled if it had not been for the Maori war and the removal of Bishop Selwyn to an English see before the war was finished.

After all, what does the statement in question come to? The Crown grant says that a "school is about to be established at Porirua." That does not imply that the school was to be established within any fixed and definite period of time. The Governor must have known the circumstances as well as anybody. He knew that, so far, nothing whatever had been contributed toward the establishment of this school but a piece or parcel of land for the present wholly unprofitable. How could he have been deceived into thinking that the school was to be established in the immediate future? Suppose some one at his elbow, with more sense and foresight than he seems to be credited with, had pointed out with effect that many hindrances might arise—that there might be a Native war, that the Bishop might be removed, and that the school might not be established for fifty or even one hundred years—would that have altered the action of the Governor? It might have modified the language of the grant. It might perhaps have led to the omission of the word "about," or to the substitution of the expression "intended to be" for the words "about to be," or to the adoption of some other phrase not obnoxious to hypercriticism. But the substance of the transaction would not have been altered. The attitude of the Governor would have remained just the same. What the Governor was looking to when he welcomed the offer of the Native donors was not the immediate establishment of a school, but the effect that the action of the Natives would produce in the colony and, above all, in England. Why should the Court attribute to a Government of the past more than childlike simplicity, in order that the Government of to-day may confiscate and appropriate property which never belonged to the Crown, and which the Crown encouraged the rightful possessors to dedicate to charity?

The learned counsel for the respondent, feeling that they could not support the judgment of the Court of Appeal on either of the reasons assigned, fell back on the argument suggested by the

Solicitor-General, that there was no general purpose of charity, but only an intention to erect "a specific school on a specified site." But that is a very narrow view of the transaction, at variance in their Lordships' opinion with the express terms of the gift, and opposed to principles laid down in recognised authorities such as *The Attorney-General v. The Bishop of Chester* (1 B.C.C. 444), and *The Incorporated Society v. Price* (1 J. and L. 498). Counsel also dwelt on the length of time which has elapsed since the date of the original gift without anything having been done in the way of establishing the proposed school. But it is well settled, as stated in Tudor's "Charitable Trusts" (3rd. ed. p. 53), that where there is an immediate gift for charitable purposes the gift is not rendered invalid by the fact that the particular application directed cannot immediately take effect or will not of necessity take effect within any definite limit of time, and may never take effect at all. In support of this proposition the learned writer cites a number of authorities, the latest of which is *Chamberlayne v. Brockett* (8 Ch. 206) before Lord Selborne, L.C.

So far their Lordships have treated the case as if the order under appeal had been made on a proper application and in a suit properly constituted. In fact, however, the application was entirely irregular, and the suit was not one in which such an order as that obtained by the Solicitor-General ought to have been made. It is contrary to the established practice of the Court to permit a defendant to an action for the administration of the trusts of a settlement, not void on the face of it, to impeach the settlement in his defence to that action. If he thinks he has a case for setting aside the settlement, or having it declared null and void, he must attack it openly and directly in an action or counter-claim in which he comes forward as plaintiff. Any other course would be inconvenient, embarrassing, and unfair. The present case affords a good illustration of the propriety of the rule. The Solicitor-General declined his proper duty and refused to bring an information. The trustees were compelled to come forward as plaintiffs. The Solicitor-General put in a defence. He submitted that the Crown might be entitled.

The case of the Crown was launched in a half-hearted fashion. The point was suggested rather as a difficulty in the way of administration than as a claim to property. In argument before the late Chief Justice, the Solicitor-General seems to have become rather bolder, but his contention was disregarded. Then he appealed to the Court of Appeal, asserting that property of which the Crown was never possessed had reverted to the Crown. But the validity of the charitable trust was not in issue in the suit. There could be no issue in that suit between the Crown and the charity. There was no evidence adduced on behalf of the Crown. There was no one put forward by the Crown who could be cross-examined on behalf of the charity. The Native donors, whose claim would at any rate be superior to that of the Crown, and whose interest is alternately magnified and ignored by the Solicitor-General, were not represented either directly or indirectly. Then on the hearing of the appeal the Solicitor-General applied for and obtained leave to amend his defence. A formal order for the amendment was afterwards obtained on the ground that such amendment was necessary "to more clearly define the grounds of defence of the Crown." But the amendment only made the confusion worse. It was a medley of allegations incapable of proof, and statements derogatory to the Court. But the Court accepted it and treated it with extreme deference. The learned Judges intimate pretty plainly that, if they had not been able to find satisfactory reasons for deciding in favour of the Crown, the amendment would of itself have prevented their making an order in favour of the trustees. The amendment divides itself into two parts. In the first place it asserts that the Crown has come under some undefined and undisclosed obligations to the Natives. The Court seems to think that this assertion must place the Court in a considerable difficulty. Why? Why should a Court which acts on evidence and not on surmise or loose suggestions pay any attention to an assertion which, if true, could not have been proved at that stage of the proceedings, and which the evidence in the cause shows to have been purely imaginary. According to the evidence, the only obligation which the Crown undertook was to waive its right of pre-emption.

The view of the Court of Appeal is to be found in a passage towards the end of their judgment, which runs thus: "What the original rights of the Native owners were, what the bargain was between the Natives and the Crown when the Natives ceded the land, it would be difficult if not impossible for this Court to inquire into, even if it were clear that it had jurisdiction to do so." Their Lordships are unable to follow this observation. The land was part of the Native reserves, as appears from the Government minute of the 7th October, 1848. At the date of the cession to Bishop Selwyn the rights of the Natives in their reserves depended solely on the Treaty of Waitangi. There is not in the evidence the slightest trace of any cession to the Crown or of any bargain between the Crown and the Native donors. Of course, if the Crown comes forward as plaintiff the transaction may assume a different complexion. There may be in existence evidence which has not yet been disclosed. But if the Crown seeks to recover property and oust the present possessors, it must make out its case just like any other litigant. All material allegations must be proved or admitted. Allegations unsupported go for nothing. Notwithstanding the doubts expressed by the Court of Appeal, it is perfectly clear that the Court has jurisdiction to deal with a claim to property made on behalf of the Crown when properly brought forward. It has no right to decline jurisdiction, still less has it a right to stay its hand at the instance of a claimant who may present a case, into which it may be difficult if not impossible for the Court to inquire, even though that claimant be the Crown. The second part of the amendment, to which also the Court seemed disposed to yield, is more extraordinary still. It asserts that the executive Government has determined . . . that any departure from the precise terms of the grant by the application *cy-près* of the . . . land and funds without the assent of the Parliament of the colony would contravene the terms of the . . . cession, and be a breach of the trust thereby confided in the Crown." "We see great difficulty," say the learned Judges, "in holding that in such circumstances the Court could or ought to interfere." The proposition advanced on behalf of the Crown is certainly not flattering to the dignity or the independence of the highest

Court in New Zealand, or even to the intelligence of the Parliament. What has the Court to do with the Executive? Where there is a suit properly constituted and ripe for decision, why should justice be denied or delayed at the bidding of the Executive? Why should the Executive Government take upon itself to instruct the Court in the discharge of its proper functions? Surely it is for the Court, not for the Executive, to determine what is a breach of trust. Then, again, what has the Court to do with the prospective action of Parliament, as shadowed forth by the Executive? No one disputes the paramount authority of the Legislature. Within certain limits it is omnipotent. But why should it be suggested that Parliament will act better if it acts in the dark, and without allowing the Court to declare and define the rights with which it may be asked to deal? The present Chief Justice, who was not a party to the judgment of the Court of Appeal, took a truer view of the situation, when he said that the approval of a scheme could not "in any way hamper either the Government or the Parliament in dealing with this trust."

In the opinion of their Lordships the respondent has been wrong in every step from first to last. Their Lordships will therefore humbly advise His Majesty that the order of the Court of Appeal should be discharged, except as to the direction therein contained for payment of the costs of the trustees; that any costs paid under that order to the Solicitor-General should be returned; that this appeal should be allowed with costs, to be paid by the respondent, and that the trustees should be at liberty to retain any extra costs incurred by them as between solicitor and client, out of the trust funds in their hands.

Approximate Cost of Paper.—Preparation not given; printing (1,375 copies), £25 1s.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1903.

Price 1s. 3d.]

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