

DESPATCHES FROM THE GOVERNOR OF

Sub-Enclosure 2 to Enclosure in No. 7.

Mr. Justice JOHNSTON to the COLONIAL SECRETARY.

SIR,—

Judge's Chambers, Wellington, 7th June, 1871.

I have the honor to acknowledge the receipt (on my recent arrival from Napier) of your letter dated 10th May, in which you transmit for my consideration a copy of a Despatch from the Secretary of State for the Colonies, enclosing a copy of a Bill proposed to be introduced into the Parliament of the United Kingdom, relating to larcenies, accessories, &c., in the Australian Colonies.

In pursuance of your request, I have carefully examined the provisions of the proposed Bill, and have also considered the propriety of extending similar provisions to other offences; but as a serious difficulty has presented itself to my mind with respect to the practicability of carrying out the proposed measure, I am desirous of conferring with the other Judges—as I shall have an opportunity of doing in a few weeks—before conclusively expressing an opinion on the subject.

I have, &c.,

The Hon. the Colonial Secretary,
(Judicial Branch).

ALEXANDER J. JOHNSTON.

Sub-Enclosure 3 to Enclosure in No. 7.

Mr. Justice JOHNSTON to the COLONIAL SECRETARY.

SIR,—

Judge's Chambers, Wellington, 4th August, 1871.

Referring to my letter of the 7th June, 1871, in answer to yours enclosing a copy of a circular from Lord Kimberley and a copy of a Bill respecting "Accessories to felonies," I have the honor to add that I have conferred with my brother Judges on the subject, and to state my opinion that although the definition given of the word "felony" in the proposed Bill may possibly lead to an apparent inconsistency in cases (if any) where an offence is a felony in England which is not so in the Colony where the act was committed, the provisions of the proposed Bill seem very proper to be adopted, at all events unless a larger measure, such as that suggested by the Victorian Commission, should be introduced into the Imperial Parliament.

I have, &c.,

The Hon. the Colonial Secretary,
(Judicial Branch).

ALEXANDER J. JOHNSTON.

Sub-Enclosure 4 to Enclosure in No. 7.

OPINION of the ATTORNEY-GENERAL.

I THINK that the preamble should be altered, so as to include the cases intended to be met by the second section. That section includes all felonies, and is not limited to the case of accessories in thefts.

The Act may, I think, be found sometimes useful with regard to New Zealand, and think that an opinion in favour of it should be given: no doubt it is more especially likely to be useful on the continent of Australia.

The first section is founded on one contained in the English Larceny Act, with regard to offences in England, Ireland, or Scotland, being a re-enactment of a similar provision in 7 and 8 George IV. c. 29, s. 76.

It enables an offender who has been guilty of larceny in any Colony in Australasia to be tried in any other Colony into which he may take the goods stolen; also, it enables a receiver in any Colony in Australasia to be tried there though the goods received were stolen in another Colony.

The second section is founded on the seventh section of the 24 and 25 Vict. c. 94, with regard to felonies in England and Ireland, being a re-enactment of provisions contained in repealed Acts. It enables an accessory to a felony committed in one Colony to be tried either in the Colony in which the principal felony was committed, or in the Colony in which that act was committed which made him an accessory.

I do not know of any other crimes with regard to which similar provisions could be enacted with a due regard to the principles which secure to a person charged his trial near the place where the offence was committed and his witnesses are likely to be.

It might be well to provide, for the purposes of section three, what evidence may be received; it may be impossible to get an expert in all cases.

I think the fifth section should be made to extend to the terms "accessory," "theft," "larceny," and perhaps to all other terms, such as "valuable security," and probably it might be well to provide that the Court should take notice of such interpretation without proof of the law of England; for though the Courts will take notice of law of England in force in New Zealand, I do not know that they will take notice of English law generally. I think it would be well to send a copy of the Bill to the Judges for their opinion.

J. PRENDERGAST,
Attorney-General.

Wellington, 14th April, 1871.

No. 8.

COPY of a DESPATCH from Governor Sir G. F. BOWEN, G.C.M.G., to the
Right Hon. the Earl of KIMBERLEY.

(No. 85.)

Government House, Wellington,

MY LORD,—

New Zealand, 20th September, 1871.

I have the honor to transmit herewith copies of the annual Financial