

Enclosure in No. 4.

Captain HALL to the UNDER SECRETARY of STATE for the COLONIES.

SIR,— Admiralty, 18th May, 1874.

With reference to previous correspondence, and to your letter of the 9th instant, in regard to the representation of the Governor of New Zealand of the advantages attending the visits of Her Majesty's ships to that colony, I am commanded by my Lords Commissioners of the Admiralty to request you will inform the Secretary of State for the Colonies that they are fully aware of the good effects which result from the periodical visits of Her Majesty's ships to New Zealand and all the Colonies of Australia, and instructions on the subject have been sent to the Commodore on the Australian station, as stated in my letter of the 16th March last.

2. My Lords would, however, observe, that taking into consideration the small number of vessels composing the squadron under his orders, Commodore Goodenough cannot without difficulty comply with all the requisitions of the Governors of the various colonies, however anxious and willing he may be to do so.

The Under Secretary of State for the Colonies.

I have, &c.,
ROBERT HALL.

No. 5.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to
Governor the Right Hon. Sir J. FERGUSSON, Bart.

(No. 20.)

SIR,— Downing Street, 20th May, 1874.

The reserved Bill to provide for the Surrender of Fugitive Criminals, which was transmitted in your Despatch No. 79, of the 4th November, 1873, has been carefully considered by the Secretaries of State for the Home and Foreign Departments, who have special cognizance of all questions relating to the extradition of offenders to foreign nations, and they have reported that, with every desire to give effect to the views of the New Zealand Legislature, they are unable to recommend that Her Majesty should be advised to assent to the Bill in its present shape.

2. The 17th section of the Imperial Extradition Act vests in the Governor of a colony all the powers vested by the Act in a Police Magistrate and Secretary of State, or either of them; and all the treaties since made with foreign nations, copies of which you have received from time to time, provide that the requisition for surrender shall be made in a colony to the Governor.

3. At the time when the Imperial Act was passed, it was felt that power should be reserved to Her Majesty to sanction any colonial legislation having for its object to facilitate extradition procedure in the colony, inasmuch as the same mode of procedure would probably not be applicable to every colony, and for this reason the 18th section was introduced into the Act, and a special clause has also been introduced into each treaty, providing for the exercise of this power on the part of Her Majesty.

4. In many colonies, and probably in all the larger colonies, it would be inconvenient to restrict to the Governor the performance of the duties vested in this country in the Police Magistrates, nor, indeed, would it be desirable that he should be called upon to perform such duties. But a doubt has been entertained whether the effect of the Bill as it now stands is not to prevent a requisition being made, if thought fit, to the Governor in the first instance, as it may be made to a Secretary of State in England, and as provided by the treaties made under the Act with foreign nations.

5. It will be seen, by reference to the 7th section of the Imperial Act, that it is provided that a requisition shall be made to a Secretary of State, who thereupon may give his order to a Police Magistrate to proceed, or may, if he is of opinion that the offence is one of a political character, refuse to send any such order, and may also at any time order the discharge of the criminal from custody. And by the 8th section a Magistrate may issue his warrant, either in accordance with the order of the Secretary of State, issued under the 7th section, or upon information or complaint made before him in the first instance; in the latter case a further reference has to be made to the Secretary of State.

6. These provisions were very carefully considered when the Act was framed, and were inserted with a special view to prevent any fugitive being surrendered for an offence of a political character.