

the two statutes; but in point of fact it is specially provided for in the Order in Council itself, section 52, subsection 2:—"Where it seems to the Court for any reason expedient that the offence be inquired of, tried, determined, and punished, within Her Majesty's dominions elsewhere than in England, the accused may (under section 4 of 'The Foreign Jurisdiction Act, 1843') be sent for trial to a place in Her Majesty's dominions."

11. What created the difficulty here was, that the learned Judge found no authority for the converse of the case above-mentioned, viz. the authority for a Judge in New Zealand to send the prisoner who had committed the offence elsewhere to be tried within the jurisdiction in which the offence was committed.

12. The only method which appears to be competent is under the Imperial Act of 6 and 7 Vict., c. 34 (28th July, 1843), "For the better Apprehension of certain Offenders." Under that Act, section 2, the High Commissioner's Court may issue a warrant for an offence committed in the locality where this offence is said to have been committed. But in order that it may do so, it is necessary, both by that Act (section 4) and section 198 of the Order in Council, subsection 4, that sufficient evidence be before the Court to authorize the issue of a warrant.

13. It will therefore be necessary that some of the seamen—say two of those who were cognizant of the facts, and saw the occurrence—be sent here to give their depositions. They may be sent by any of the trading schooners, and their expenses will be paid out of the High Commission funds.

Should their evidence be sufficient, the High Commissioner's Court may grant a warrant, which, upon being indorsed successively by a Judge of any of the colonies, will be good all over Australia as well as in the Western Pacific.

14. The Act last cited, it will be observed, speaks of the offence as "committed in any part of Her Majesty's dominions," which the Gilbert Group is not; but this must be read along with "The Foreign Jurisdiction Act, 1843," section 1, which provides that it shall be lawful for Her Majesty to hold any jurisdiction which Her Majesty then had or might at any time thereafter have, within any place out of Her Majesty's dominions, in as ample a manner as if the jurisdiction had been acquired by conquest or cession of territory—and read also along with the Pacific Islanders Protection Act of 1875, giving jurisdiction to Her Majesty over British subjects in the Western Pacific.

15. I am aware, also, that Her Majesty's Government have under consideration a Bill to amend the Fugitive Offenders Act of 1843, and I will take care to bring to the notice of the Secretary of State the difficulties which have occurred in this instance.

His Excellency the Governor of New Zealand.

I have, &c.,

JOHN GORRIE.

No. 5.

The PREMIER to His Excellency the GOVERNOR.

Memorandum for His Excellency.

By a memorandum No. 18, of March 7th, 1879, the Premier had the honor of advising His Excellency the Administrator of the Government, to forward to the Secretary of State for the Colonies a memorandum by the Attorney-General, and other papers, respecting the charge of murder in the island of Boutaritari, South Pacific, brought against Thomas Rennell—the prosecution of Rennell in this colony—his discharge from custody by Mr. Justice Gillies, on the ground of want of jurisdiction in the Supreme Court—and the consequent necessity for certain powers being given to that Court to deal with like cases.

2. Ministers have considered a despatch from His Honor the Chief Justice of Fiji, in which Mr. Gorrie, as Acting High Commissioner under "The Pacific Islanders Protection Act," explains the jurisdiction of the Court created in accordance with that Act, and requests that, because of Mr. Justice Gillies's decision, the existence, and the powers, of the High Court may be made known in this colony.

3. Extracts from the Order in Council constituting the Court, and *Gazette* notices addressed to Resident Magistrates, master mariners, &c., have accordingly been published; and the papers respectfully sent herewith, for the information of his Excellency the Governor, will supply details of the action taken.

4. But, in the opinion of the Attorney-General, it remains, notwithstanding Mr. Gorrie's explanations, very desirable that jurisdiction over British subjects who may commit offences in the Pacific, should be conferred upon the Supreme Court of New Zealand; and Ministers have the honor to advise His Excellency to forward to the Secretary of State the copy of a memorandum by Mr. Stout, with respect thereto, which is enclosed.

Wellington, 17th May, 1879.

G. S. WHITMORE,
In the absence of the Premier.

Enclosure.

Memorandum for the Hon. the Premier.

REFERRING to the letter addressed by the Chief Justice of Fiji to His Excellency the Governor I would remark that the fact that there is located in Fiji a High Commissioner for the trial of offences committed in the Pacific does not, in my opinion, afford any reason why the Supreme Court of New Zealand should not have jurisdiction to try crimes committed by British subjects in the Pacific. The expense of forwarding persons charged with crimes from New Zealand to Fiji will be very heavy; and no provision is made as to what Government should bear that expense. I think, therefore, that the Imperial Government should still be pressed to confer the jurisdiction I have mentioned on the Supreme Court of New Zealand.

15th May, 1879.

ROBERT STOUT.