

1881.

NEW ZEALAND.

ALLEGED UNJUST DECISION OF RESIDENT MAGISTRATE'S
COURT, MANGONUI,IN THE CASE OF HUTCHISON *v* SUBRITZKY*Return to an Order of the House of Representatives, dated 25th August, 1881.*

"That there be laid before this House the Correspondence between the Minister of Justice and Mr. Thomas Ball, J.P., of Mangonui, respecting a charge of alleged injustice by Mr. J. A. Subritzky, of Awanui, suffered by him on a decision of the Resident Magistrate's Court at Mangonui, with a copy of the complaint."—(*Mr. W J Hurst.*)

No. 1.

Mr. J. A. SUBRITZKY to the Hon. the MINISTER OF JUSTICE.

SIR,—

Awanui, 8th June, 1881.

I have the honor to bring under your notice the particulars of a case of very great injustice that happened in Mangonui at the Court in which I was defendant. A whaleship was wrecked at the entrance of the Awanui River through the captain mistaking it for the entrance to the Harbour of Mangonui. I was in Auckland when the affair happened. Captain Gifford, of the whaler, engaged my son, who runs a small schooner between Awanui and Auckland, to go down to the wreck and render assistance. The captain and one of his officers and a boat's crew came up to the landing at the Awanui to meet the American Consular Agent (Mr. Wyles) who has a store at the Awanui. My wife and family treated the officer and his men with kindness in providing them with food and sleeping accommodation, when they would otherwise have been left out all night. When my son took his vessel down to the wreck, Captain Gifford, in the presence of three witnesses, told my son that he could have anything he found going adrift. My second son picked up some things and put them in my receiving store, where they were seen for some time by both Natives and Europeans. Messrs. Lane and Brown agreed with the captain to discharge the ship for half goods, one-third oil, and ship for £20. About three weeks after these things had been picked up, the constable from Mangonui came to my place and said he was searching for some goods that were missed from the whaleship. I told him I had some and how I came by them, and showed them to him. He then produced a search-warrant, and took possession of the goods. I was summoned to appear before the Court in Mangonui to answer to the charge as contained in the summons of "having unlawfully in my possession two coils of whale-line, part of a cask of pork, and part of a cask of butter," and in the information it was "a cask of pork, a cask of butter, and cask of whale-line." The constable who was the prosecutor wished to amend the information, but the Bench would not allow him. The case was tried before Messrs. J. Ball, R. Wyles, and J. L. Chapman, J.P.s. I objected to Mr. Wyles being on the Bench, and I consider I had good grounds to object. He is a rival storekeeper, and I have had to complain very much lately of the conduct of his storeman. He is also Consular Agent, and has acted as agent for Captain Gifford, and Captain Gifford had been an inmate of his house since he came from the wreck. The Bench would not allow my objections.

I asked leave of the Court to go out a few minutes, and they sent the constable after me as if I had been a criminal. The Bench tried in every way possible to convict me, and, by the questions they put to the witnesses for the prosecution, it was evident the Bench had talked the matter over with the witnesses before. The Court adjourned for an hour, and as I had been up all the previous night, and ridden thirty miles to attend the Court, I wished to go to the hotel for some refreshment. Mr. Ball, the Chairman of the Court, turned back and ordered the constable to take me in charge. This he refused to do. He then told him not to allow me out of his sight and take me in charge; and had it not been for the humanity of the constable, who gave me dinner in his own house, I should have been obliged to go without food.

By four witnesses I proved that they heard the captain say to my son that he could have anything he found going adrift. Could have got four more witnesses if wanted. The three witnesses for the prosecution were allowed to make statements, and ask questions, and converse with each other in Court, while I was not allowed to speak to my witnesses.

Altogether the Bench showed a most vindictive spirit, and in giving judgment this was shown. The judgment was as follows: "We find the case fully proved, and inflict the highest penalty the Court can inflict, £20, costs £2 17s, and for goods deficient £8 1s. 10½d.; and, if not paid within a reasonable time, six months' imprisonment with hard labour."

There is one item in this, "for goods deficient £8 1s. 10½d.," I wish particularly to call your attention to. In this sum there is included 5s. freight on the "Vixen." This cutter belongs to Mr.