1889.
NEW ZEALAND.

CORRESPONDENCE
RELATING TO THE CONVICT GASPARINI.

Transmitted by Message from His Excellency the Governor: Return to an Address of the House of Representatives of 26th June, 1889.

No. 1.

Vice-Consulat de France en Nouvelle-Zélande,
Wellington, le 11 Septembre, 1888.

MONSIEUR LE GOUVERNEUR,—

Les deux cas d'extradition qui ont fait l'objet des dépêches que j'ai eu l'honneur de vous addresser, en date des 25 Avril, 21 Juin, et 6 Juillet derniers, se sont dénoués pendant l'absence de vôtre Excellence.

Des deux criminels dont Son Excellence Sir James Prendergast, Député-Gouverneur, avait accordé l'extradition sur mes réquisitions, l'un, le nommé Cury, banqueroutier frauduleux, a bénéficié d'une décision d'*habeas corpus* prononcée par le Juge de la Cour Suprême.

Tandisque le second, François Gasparini, condamné pour vol, dont la demande d'*habeas corpus* avait été rejetée par le même Juge, a été remis entre mes mains, uniformément aux stipulations du traité Anglo-Français du 14 Août, 1876, et dirigé, par mes soins, sur Sydney, pour être, de Sydney, reconduit en Nouvelle-Calédonie.

La Direction de la Police locale avait bien voulu mettre à ma disposition les services d'un de ses agents, le Détective John Mitchell Walker, pour accompagner le dit Gasparini jusqu' à Sydney, et assurer sa remise entre les mains du Consul de France en cette ville, représentant le Gouverneur de la Nouvelle-Calédonie.

Le prisonnier en question a été embarqué, en ma presence, sur le *steamer* "Wakatipu," à la date du 11 Août dernier, à trois heures dix minutes après midi.

J'ai appris par un message télégraphique de M. le Comte de Séguier, Consul de France à Sydney—message portant la date du 31 Août—que le prisonnier Gasparini n'avait pas été remis entre ses mains, et que le Détective J. M. Walker, qui en avait charge, était reparti pour la Nouvelle-Zélande.

Je crois devoir conclure de cette information que le prisonnier extradé Gasparini a échappé à la surveillance de son gardien, et a disparu mystérieusement.

La manière dont le Détective Walker s'est acquitté de ses fonctions, pendant la cours du voyage du "Wakatipu," a fait l'objet d'un échange de communications écrites entre Monsieur le Commissaire-Général de la Police et moi-même.

Pendant le cours d'une procédure d'extradition qui a duré près de quatre mois, j'ai trouvé auprès de vôtre Excellence l'appui le plus bienveillant; et j'ai obtenu tout le concours désirable, compatible avec la loi Anglaise et les traités, de la part de l'Honorable Ministre de la Justice et de M. le Commissaire-Général de la Police.

Mais je crois devoir porter jusqu' à vôtre Excellence l'expression du profond regret que m'a causée l'intervention ostensible, dans cette affaire d'extradition, d'un Ministre de la Couronne en faveur des criminels susdésignés. En effet, cette intervention n'a pas seulement doublé les difficultés de ma tâche, mais, bien plus, elle a mis à néant les efforts combinés des autorités coloniales Neo-Zélandaises et des autorités Françaises, en vue d'assurer l'extradition des deux criminels en question.

L'Honorable Ministre de l'Education, qui était présent pendant la procédure d'extradition devant Son Excellence le Député-Gouverneur, a en effet prêté son concours et son influence au forçat Gasparini, en vue d'obtenir sa mise en liberté. A peine Sir J. Prendergast avait-il accordé l'extradition de ce forçat, en lui notifiant qu'il avait un delai de quinze jours pour se pourvoir en appel, par une demande d'*habeas corpus*, que l'Honorable Ministre de l'Education disait à haute voix devant dix témoins, dont Son Excellence: "*I will see to it*" ("J'en fais mon affaire"), et se mettait en communication avec le dit forçat, par l'entremise de l'interprète Robertson.

Si cette intervention d'un membre du Gouvernement ne s'était pas produite, j'ai lieu de croire que les décisions d'extradition de Son Excellence le Député-Gouverneur seraient devenues définitives; qu'il n'y aurait pas eu d'appel à la Cour Suprême. En effet, le défenseur du prisonnier Cury s'était, dès lors, retiré; et le prisonnier Gasparini n'était pas défendu, lorsqu'une liste de souscription a été ouverte et circulée par l'Honorable Ministre de l'Education, en vue d'engager les services d'un avocat de renom pour la défense du dit Gasparini.

Cette même intervention d'un membre du Gouvernement colonial a eu pour effet de créer, dans une portion considérable de la population Neo-Zélandaise, un mouvement de sympathie vis-à-vis de deux forçats réclamés par le Gouvernement Français.

La contagion de cette sympathie me paraît avoir malheureusement gagné jusqu'au Détective Walker, qui en a négligé mes instructions, et, par suite, laissé disparaître son prisonnier.

En effet, l'Honorable Ministre de l'Education s'est rendu sur le *wharf*, le 11 Août, à deux heures 45 minutes, au moment de l'embarquement du prisonnier Gasparini. Il était accompagné de son secrétaire particulier, de son avocat, de son interprète, et a eu avec le dit prisonnier extradé une conversation d'environ quinze minutes, à laquelle Monsieur l'Inspecteur Thomson a dû mettre un terme.

L'Honorable Ministre de l'Education et son avocat ont même chargé le Détective Walker, qui voyageait à mes frais, de messages pour Sydney—messages qui ne pouvaient avoir pour objet que de soulever de nouvelles difficultés de procédure, et d'empêcher, si possible, l'extradition définitive du forçat Gasparini.

Tels sont, Monsieur le Gouverneur, les éléments principaux de l'intervention personelle et publique de l'Honorable Ministre de l'Education en faveur des criminels Cury et Gasparini, et plus particulièrement de ce dernier.

J'ai l'honneur de soumettre les faits relatés ci-dessus à la haute appréciation de vôtre Excellence.

J'ai l'honneur, etc.,
JOUFFROY D'ABBANS,
Vice-Consul de France en Nouvelle-Zélande.

Son Excellence Sir William Jervois, G.C.M.G., C.B.,
Gouverneur de Nouvelle-Zélande, &c., Wellington.

[TRANSLATION.]

The FRENCH CONSUL to the GOVERNOR.

SIR,— French Consulate, Wellington, 11th September, 1888.

1. The two cases of extradition which formed the subject of my despatches of the 25th April, 21st June, and 6th July last were finally dealt with in your Excellency's absence.

2. The extradition of both criminals was granted to me by Sir James Prendergast on my requisition; but one of them, Cury, the fraudulent bankrupt, obtained a decision in his favour on suing out a writ of *habeas corpus* from the Judge of the Supreme Court.

3. The other, F. Gasparini, convicted of larceny, obtained an adverse decision, on the writ of *habeas corpus*, before the same Judge, and was surrendered to me agreeably to the stipulations of the Anglo-French treaty of 14th August, 1878. He was sent by my direction to Sydney, to be from thence returned to New Caledonia.

4. The Superintendent of Police in Wellington was good enough to place at my disposal the services of one of his detectives, John Mitchell Walker, to accompany the said Gasparini, and insure his delivery at Sydney to the French Consul in that city, as representative of the Governor of New Caledonia.

5. The prisoner was embarked in my presence on the steamer "Wakatipu" on the 11th August last, at 3.10 p.m.

6. I have since learnt by telegraph from M. le Comte de Séguier, French Consul at Sydney under date 31st August last, that the prisoner Gasparini was not delivered to him, and that Detective Walker, who had charge of him, had left again for New Zealand.

7. I cannot but conclude from this information that the surrendered prisoner Gasparini has escaped from the custody of his guard, and mysteriously disappeared.

8. The manner in which Detective Walker has performed his functions during the voyage on the "Wakatipu" has formed the subject of correspondence between the Chief of Police and myself.

9. During the course of these extradition proceedings, which have lasted over four months, I have met with the most cordial support from your Excellency, and obtained all the co-operation, consistently with the English law and the treaties, that I could wish for from the Hon. the Minister of Justice and the Chief of Police.

10. But I deem it my duty to lay before your Excellency an expression of regret that I have felt owing to the ostensible intervention in favour of these criminals by a Minister of the Government. Indeed, this intervention has not only doubled the difficulties of my task, but, more than that, has neutralised the combined efforts of both the colonial and the French authorities to insure the extradition of these criminals.

11. The Hon. the Minister of Education, who was present at the proceedings before Sir James Prendergast, did, in fact, lend his co-operation and influence on the side of the convict Gasparini, with a view to obtaining his release. Sir J. Prendergast had hardly granted the extradition of this convict—notifying at the same time that he had fifteen days wherein to appeal against it by suing out a writ of *habeas corpus*—than the Hon. the Minister of Education said aloud before ten witnesses—of whom His Excellency Sir J. Prendergast is one—"I will see to it," and put himself in communication with the said convict by means of the interpreter, Robertson.

12. But for this intervention on the part of a member of the Government, I have reason to believe that the decision of His Excellency the Deputy-Governor for extradition would have been final, and that there would have been no appeal to the Supreme Court. Indeed, the prisoner Cury's counsel had retired after the judgment had been given; and the prisoner Gasparini was undefended until a subscription-list was opened and circulated by the Hon. the Minister of Education, with the object of engaging the services of a well-known lawyer for his defence.

13. This same intervention of a member of the Government has had the effect of creating in a considerable portion of the New Zealand population a movement of sympathy with the two convicts claimed by the French authorities.

14. The contagion of this sympathy, as it appears to me, has unfortunately spread to Detective Walker, who neglected my instructions, and consequently permitted his prisoner to vanish.

15. As a matter of fact, the Hon. the Minister of Education appeared at the wharf at 2.45 on the 11th August, at the time of Gasparini's embarkation. He was attended by his private secretary, his lawyer, and his interpreter, and had a conversation of about fifteen minutes with the extradited prisoner—a conversation to which Inspector Thomson should have put a stop.

16. The Hon. the Minister of Education and his lawyer went so far as to intrust Detective Walker, who was travelling at my expense, with messages for Sydney—messages which could have no object but the raising of new legal difficulties, and preventing, if possible, the final extradition of the convict Gasparini.

17. Such, sir, are the main features of the intervention—personal and public—of the Hon. the Minister of Education in favour of the criminals Cury and Gasparini, and particularly of the last-named.

I have the honour to submit the above-mentioned facts for your Excellency's consideration.

I have, &c.,
JOUFFROY D'ABBANS.

No. 2.

MEMORANDUM from His EXCELLENCY the GOVERNOR to the PREMIER.

Extradition Case, Cury and Gasparini.—Respecting Action of Minister of Education.

The Hon. the Premier.

Please furnish me with any remarks that the Hon. the Minister of Education may wish to offer with reference to the statements made in these papers.

13/9/88. W. F. D. J.

For the Hon. the Minister of Education.—H. A. ATKINSON.

The Hon. the Premier.

My remarks are contained in a separate memo. enclosed.—GEO. FISHER.
29/9/88.

No. 3.

The Hon. the Premier.

I confess I have read the letter of the French Consul with surprise. The accusation that I attempted to defeat the action of the French authorities and the Government of New Zealand in their desire to secure the surrender of the French convicts Cury and Gasparini is a charge of a most serious nature, and I have to say that it is entirely without foundation. Nothing could have been further from my thoughts than the desire to embarrass the action of the French authorities or the New Zealand Government. Such action as I did take was taken as Italian Consul, and every step I took I can justify and explain. I am quite at a loss to see how any act of mine could have caused embarrassment to the authorities.

The regret which the French Consul feels at the so-called "intervention of a Minister of the "Crown" cannot exceed my own regret that he should have assumed that I desired, or in any way furthered, the escape of Gasparini from justice.

I am prepared to prove that the French Consul is mistaken in his assumptions as to my action, and that the grave charges he has made against me are entirely groundless.

I shall be glad to be informed that the French Consul is fully satisfied with this statement, as, unless I am assured of this in writing, I will at once take steps to prove in detail the general statement I have made above.

Wellington, 5th October, 1888. GEO. FISHER.

No. 4.

Vice-Consulat de France en Nouvelle-Zélande.

Annexe à la lettre du 11 Octobre, 1888.

LE Vice-Consul de France en Nouvelle-Zélande a pris connaissance du memorandum adressé par l'Honorable Ministre de l'Education à l'Honorable Premier Ministre de la colonie, et portant la date du 5 Octobre courant.

Le Vice-Consul saisit cette occasion d'exprimer à ceux des membres du Ministère Neo-Zélandais qui étaient appelés, par la nature de leurs fonctions, à intervenir légitimement dans la question de l'extradition des forçats Cury et Gasparini, sa sincère et reconnaissante appréciation de leur parfaite courtoisie, et de leur concours empressé, énergique et absolument loyal. Il n'a eu qu'à se louer, notamment, des excellents procédés de l'Honorable Premier Ministre, de l'Honorable Attorney-Général, et de l'Honorable Ministre de la Justice.

En ce qui concerne l'Honorable Ministre de l'Education, le Vice-Consul de France lui donne acte de sa déclaration qu'il n'a jamais eu l'intention d'entraver l'œuvre de la justice ni l'action des autorités compétentes. Le Vice-Consul ne met pas en doute la sincérité de l'Honorable Ministre; et il écartera, en conséquence, du débat en ce qui concerne l'Honorable Ministre et son entourage, toute question personnelle et toute allégation d'intention. Il ne retiendra que les faits, ou de notoriété publique, ou dont il a été lui-même (le Vice-Consul) le témoin, ou bien établis par documents, et qui semblent montrer que l'Honorable Ministre de l'Education ne partage pas la manière de voir du Vice-Consul de France en matière d'interprétation de traités, d'usages internationaux et de juridiction consulaire.

Les questions engagées seront, dès lors, principalement d'ordre technique.

Leurs solutions, auxquelles s'attache un réel intérêt international, n'auront que plus d'autorité si elles résultent de l'échange de vues et de l'accord des seuls juges compétents, en pareille matière, à savoir, les Ministres des Affaires Extérieures des Métropoles intéressées.

Aussi le Vice-Consul de France soussigné n'hésite-t-il pas à faire connaître à l'Honorable Ministre de l'Education de Nouvelle-Zélande que les Ministères des Affaires Etrangères et de la Marine, à Paris, sont déjà saisis officiellement par diverses autorités diplomatiques, consulaires et coloniales françaises de la question d'extradition mentionnée plus haut, ainsi que des principaux incidents qui s'y rattachent.

Les éclaircissements, explications, ou interprétations que l'Honorable Ministre de l'Education est en mesure de produire, faciliteront, s'ils parviennent en temps utile aux autorités métropolitaines compétentes de la Grande Bretagne, la discussion des faits et points de droit, et aideront à la conclusion d'arrangements satisfaisants.

JOUFFROY D'ABBANS.

[TRANSLATION.]

THE Vice-Consul for France in New Zealand has read the memorandum addressed by the Hon. the Minister of Education to the Hon. the Premier, bearing date the 5th October.

The Vice-Consul seizes this opportunity of expressing to those members of the New Zealand Government who, from the nature of their functions, were called upon to take part legitimately in the question of the extradition of the convicts Cury and Gasparini, his sincere and grateful appreciation of their perfect courtesy, and their zealous, energetic, and most loyal co-operation. He has particularly every reason to be pleased with the excellent action of the Hon. the Premier, the Attorney-General, and the Minister of Justice.

As regards the Hon. the Minister of Education, the Vice-Consul for France fully accepts his declaration that he never had any intention of hindering the course of justice or the action of the competent authorities. The Vice-Consul does not call in question the Hon. the Minister's sincerity, and consequently will eliminate, so far as concerns the Hon. the Minister and his *entourage*, all personal questions, and all allegations of motives. He will only retain the facts, whether of public notoriety, or witnessed by himself, or well established by documents, which seem to show that the Hon. Minister of Education does not share the Vice-Consul's views in the matter of the interpretation of treaties, of international usage, and of consular jurisdiction.

The questions at issue will from henceforth be mainly of a technical nature.

Their solution, to which a real international interest is attached, will only have the greater authority if they be the result of exchange of opinions and agreement between the only competent judges in such matters—namely, the Ministers of Foreign Affairs in the capitals concerned.

The Vice-Consul further does not hesitate to inform the Hon. Minister of Education that the Ministers for Foreign Affairs and for Marine at Paris are already officially apprised by different French authorities, diplomatic, consular, and colonial, of the extradition case before mentioned, as well as of the principal incidents belonging thereto.

The elucidations, explanations, and interpretations that the Hon. Minister of Education is about to produce will, if they reach the authorities in England in sufficient time, facilitate the discussion of the facts and points of law, and will assist the conclusion of satisfactory arrangements.

JOUFFROY D'ABBANS.

No. 5.

MEMORANDUM from His Excellency the GOVERNOR to the PREMIER.

Extradition of Prisoner Gasparini.—Reply to Hon. Mr. Fisher's Memorandum, 5th October, 1888.

The Hon. the Premier.

The French Consul sent me the enclosed memorandum yesterday evening. It will be observed that it eliminates all personal considerations and allegations of motive from the matter which has been under discussion.

It remains only that Mr. Fisher should offer his explanation on the other statements of the Consul.

13/10/88. W. F. D. J.

For the Hon. the Minister o Education.—H. A. ATKINSON.
14/10/88.

No. 6.

The Hon. the Premier.

The French Consul's letter, dated 11th October, is to me of an exceedingly unsatisfactory nature. I therefore request that my memorandum of 29th September, which, under advice, I withheld, may without delay be forwarded to His Excellency the Governor. I regard it as a cause of justifiable complaint that the French Consul should have forwarded to the Minister for Foreign Affairs and the Minister for Marine at Paris letters containing such seriously inaccurate statements as those contained in the letter of 11th September to His Excellency the Governor; and I further regret that I should only now, at this late date, be informed of this for the first time. I desire to be informed whether the French Consul is to be permitted to peruse my memorandum of 29th September, and to comment upon it. I claim the right to answer him.

15/10/88. GEO. FISHER.

No. 7.

MEMORANDUM for His EXCELLENCY.

16th October, 1888.

THE Premier has the honour to forward the attached memorandum from the Hon. Mr. Fisher with reference to the letter of the French Vice-Consul of the 11th September last. In justice to Mr. Fisher, the Premier has to state that the memorandum was not forwarded on the date it bears, as the Premier was desirous that a correspondence on the subject should, if possible, be avoided. The memorandum of the 5th October was therefore written in the hope that the French Vice-Consul would, upon reflection, see that the charges made against Mr. Fisher were groundless, and the correspondence would be withdrawn. The Premier still hopes that may be done, but thinks that this memorandum should be put upon record, as satisfactorily explaining the action of Mr. Fisher in respect to the convicts Cury and Gasparini.

H. A. ATKINSON.

The Hon. the Premier.

The letter of the French Consul to His Excellency the Governor is inaccurate in every essential particular.

It reflects upon me unjustifiably and unwarrantably, but its every statement regarding myself is so easy of disproof that it gives no cause for uneasy apprehensions of any kind. Each separate direct statement I will refute fully and completely.

Before dealing seriatim with the statements contained in the French Consul's letter, I propose to make clear my position relatively to the case. Being already a Minister of the Crown, I was asked, you will remember, to accept the position of Consular Agent for Italy at Wellington. Nothing was done hurriedly or without full consideration. The question of compatibility or incompatibility of offices was submitted to Cabinet, when it was decided that, in the event of any case arising while I held the office of Minister in which it became necessary to exercise the *exequatur* of the Italian Consul, a Deputy-Consul should be temporarily appointed in order to avoid any possible inconvenience that might result from my exercise of the consular functions. No such case has yet arisen.

In several paragraphs of the French Consul's letter reference is made to me as acting in my Ministerial capacity, or as a member of the Government. I ought at once to say that no action whatever has been taken by me in this matter as a member of the Government or in my capacity as Minister of Education. What I have done has been done as Consular Agent for Italy, nor have I as such Agent at any time improperly interposed at any stage of the Gasparini case. On the contrary, I was throughout careful not to give cause of offence by any unguarded or thoughtless act, well knowing, notwithstanding that Gasparini was an Italian, a native of Spezzia, that the Italian Consul had no power to interfere as between the French authorities and their prisoner. The only occasion, I now see, in regard to which, at this late date, and in the light of subsequent events, it may be urged that I was guilty of a slight technical impropriety was the occasion of the short interview with the prisoner on the Wellington wharf on the 11th August prior to his embarkation for Sydney. If that be considered an impropriety, in answer I have to say that I spoke to Gasparini with the tacit consent of the French Consul. In its proper place I will afford an explanation of the interview.

Having explained the position I occupied relatively to the case, I now shortly outline the case itself. On the 16th July I received by post the following letter:—

"Wellington, le 15 Juillet, 1888.—Monsieur le Consul d'Italie, Wellington.—Contrairement "aux droits des gens, le Gouvernement de la Nouvelle-Zélande vient de prendre une initiative "d'expulsion dont je suis l'objet. Je viens d'être acquitté par le Tribunal d'Auckland, et néan-"moins on m'expulse. Je vous prie, à cet effet, de venir me voir à le prison de Wellington, où "je viens d'arriver. Là, je vous expliquerai ma situation. Venez de suite, je vous prie, Mon-"sieur, car je présume que l'on veut me faire partir par le premier bâteau pour Sydney. En ma "qualité d'Italien je proteste, et j'en appelle à votre bienveillance pour me faire faire justice. Croyez, "Monsieur le Consul, à mes remerciements anticipés, dans l'attente de votre visite.—F. GASPARINI."

This letter, I afterwards ascertained, was written by Cury, the Frenchman, but it is signed by Gasparini. It is one of two letters written by Cury on the voyage from Auckland to Wellington; the prisoners, who had already been once arrested and released, having been re-arrested in Auckland on an extradition warrant issued out by His Excellency the Governor. The other letter was addressed by Cury on his own behalf to the French Consul at Wellington.

At much inconvenience, but in compliance with the request contained in the letter, I, as Italian Consular Agent, visited Gasparini at the Wellington Terrace Gaol, where, through an interpreter, I informed him, in answer to questions, that the question of his arrest and extradition was not at all affected by his nationality; that he was a French criminal at large; that the jurisdiction of the French authorities over him could not be questioned; but that His Excellency the Deputy-Governor, before whom the proceedings on the extradition warrant would be heard, was also Chief Justice of the colony, and would, no doubt, in accordance with the abstract principle of justice observed, without fear or favour, in all English Courts of justice, see that he laboured under no legal or other disadvantage through not being represented by counsel. I informed him that Consular Agents were not provided with funds for the defence of prisoners: and, of course, he had no funds of his own. He said that in that case he was altogether without hope; but he thanked me for my courtesy in taking the trouble to come and see him.

Two days later, on the 18th July, the prisoners were brought before His Excellency the Deputy-Governor, Sir James Prendergast, at Government House, and were charged on the extradition warrant with being prisoners at large who had been convicted of extradition crimes. Cury was represented by counsel, Gasparini was not. I did not attend the proceedings. My departmental and parliamentary duties were of a pressing nature and would not admit of my absence from them; but

I observed, in a report of the proceedings which appeared in an evening newspaper, that Gasparini made complaint that he was not even provided with the services of an interpreter. The following extract from the published proceedings appears in the *New Zealand Times* of the 19th July, 1888:—

"The prisoner requested a few moments' conversation with the French Consul, in which he said "that he was an Italian, and would like an interpreter of that language, as he did not understand "sufficient of the French language to make his case good. The Consul replied to him, 'You speak "French sufficiently well for your purpose, and, having lived for some seven years in France, you by "this time can fully understand all that is required.' Mr. Gully said that there would be no difficulty "in getting an Italian interpreter if required."

It occurred to me then that as Consular Agent I was neglecting my duty, for it is, I believe, the duty of a Consul, in extradition cases, to see that a prisoner of the nationality of the country he represents is provided with an interpreter, and to take care that his identity is fully established. Up to this point he watches the case, and, the identity of the prisoner being established, he leaves it. Consequently, late in the afternoon of the 18th July, as Italian Consul I wrote the following letter to the Hon. the Minister of Justice, asking him to be good enough to direct that His Excellency's Court should be attended by an Italian interpreter; pointing out that Gasparini had complained of being unable to understand the proceedings:—

"SIR,— "Wellington, 18th July, 1888.

"I have the honour to bring under your notice the fact that F. Gasparini, one of the two "French escapees who have been brought before His Excellency the Governor under an extradition "warrant, proves to be an Italian subject; and, as Gasparini, in a personal interview (conducted "through an interpreter),* informed me that he does not understand the English language, and "that he very imperfectly understands the French language, may I request that you will be "good enough to direct that His Excellency's Court may be attended by an Italian interpreter, so "that Gasparini may be fully informed of the nature of the proceedings, and so that in that way "any suggestion that he labours under a disadvantage in this respect may be dispelled.

"I have, &c.,
"GEO. FISHER,
"Italian Consular Agent.

"The Hon. T. Fergus, Minister of Justice."

The Minister of Justice intimated, in his reply, that instructions would be given to have an interpreter provided. The Court next sat on the 20th July, when Cury's case was taken. I was present; but, as the proceedings were prolonged, and it became known that Gasparini's case would not be reached that day, I did not remain. Gasparini's case was taken next day, the 21st July, when everything was interpreted to Gasparini by Mr. George Robertson, the interpreter, and the proceedings of the Court were thereby greatly facilitated. As I entered the room, at the beginning of the proceedings, His Excellency the Deputy-Governor asked if I attended as Italian Consul. I answered, "Yes," and retired to a part of the room far from where the prisoner stood. I did not wish to appear to take any active part in the proceedings, even by sitting in a forward place. I took no part in the proceedings. At their conclusion His Excellency ordered the prisoner to be extradited, but announced to him that, under the provisions of "The Extradition Act, 1870," he would not be surrendered until after the expiration of fifteen days, during which time he had a right to apply for a writ of *habeas corpus* to show cause why His Excellency's decision should not be reversed. The prisoner despairingly asked how it was possible for him to move in the matter; and I said, quite quietly, from the retired part of the room in which I sat, "I will see to that matter." I had intended to ask some young lawyer to move for the prisoner gratuitously, but within a few hours I was informed that I need take no steps to do so, as some Italian residents had taken the matter into their own hands, and were about to raise the funds necessary to retain the services of a lawyer to make application to the Supreme Court for the writ of *habeas corpus*. From that moment my connection with the case ceased; and I welcomed the cessation, for I was overborne by my departmental and parliamentary labours. I was not in any way connected with any subsequent proceedings. It will thus be observed that from the 21st July, when Gasparini was brought before His Excellency the Deputy-Governor at Government House, at which proceedings I had no opportunity of speaking to him, and did not speak to him, to the 11th August, when he was put on board the steamer "Wakatipu" to be sent to Sydney, I had no connection with his case. So far from my having taken an active interest in him, my only object in seeing him on the 11th August, when he was to leave these shores finally and for ever, was to explain to him that I had been so overwhelmed with parliamentary work that I had not had time to take any interest in him whatever, even to the extent of conveying to him the result of the motion for the writ of *habeas corpus*, which result I then communicated to him.

That is the history of the case.

I will now deal specifically with the allegations affecting myself contained in the French Consul's letter to His Excellency the Governor. For easy reference, I have numbered the paragraphs in the translated version of the letter, and I now give my answers under corresponding numbers:—

10. This paragraph of the letter contains the first reference to the Minister of Education. It embodies an expression of regret which the Consul feels "owing to the ostensible intervention in "favour of these criminals by a Minister of the Crown," and it dwells upon the statement of a belief that this intervention has neutralised the combined efforts of the colonial and French authorities in securing the extradition of these criminals.

To this statement I make answer that it is a gratuitous assertion of opinion, totally devoid of any foundation in fact. I never spoke to Cury, or in any manner influenced any proceedings taken by him or on his behalf; yet in this paragraph, and also in paragraph 17 of his letter, the French Consul couples the prisoners together, and assumes that my action had reference to both.

* The interview at the Terrace Gaol above referred to.

11. In this paragraph is contained an allegation that at the proceedings before Sir J. Prendergast I lent my co-operation and influence on the side of the convict Gasparini. Upon reflection, and after the fullest consideration of the several allegations contained in the letter, I concluded it to be unwise to allow their refutation to rest upon any unsupported testimony or contradiction of my own. I therefore adopted this plan: I decided to write to the person most familiar with, and therefore best qualified to express an opinion upon, the circumstances surrounding the supposed act upon which a specific allegation is based by the French Consul. Here it is alleged that at the extradition proceedings I lent my co-operation and influence on the side of the convict Gasparini. I deemed His Excellency the Deputy-Governor, Sir James Prendergast, to be the person best qualified to speak firmly and with authority upon that point. I accordingly wrote to him, and he was good enough to send me a reply. (Enclosure No. 1.)

Again, the paragraph contains the statement that on the same day, and during the same proceedings, I "put myself in communication with the said convict by means of the interpreter Robert-"son." Mr. Robertson I concluded to be the person best qualified to decide the question as to the correctness or incorrectness of that statement. I wrote to Mr. Robertson, and he kindly sent a prompt reply. (Enclosure No. 2.)

As to the use of the words "I will see to it," the use of those or similar words is admitted; but I call attention to the circumstance that the French Consul's letter omits all reference to the prisoner's appeal, to which the words formed a very natural response. The notes made at the time by the newspaper reporters present at the proceedings were these:—

Evening Post, 21st July, 1888.—"Accused asked to be informed as to how he could move for a "*habeas corpus*. The Hon. G. Fisher (Italian Consul) said he would see that that matter was "attended to."

Evening Press, 21st July, 1888.—"The prisoner asked what was the mode of procedure in "moving the Supreme Court. Mr. Fisher (Italian Consul) said he would see to that for the prisoner."

New Zealand Times, 23rd July, 1888.—"The prisoner wished to know how he could move for a "*habeas corpus*. Mr. Fisher said he would attend to that matter."

12. The direct allegation here is that there would have been no appeal to the Supreme Court, and the decision of His Excellency the Deputy-Governor for extradition would have been final, had not the Minister of Education (1) opened and circulated a subscription-list, with the object of (2) engaging the services of a well-known lawyer for Gasparini's defence. As to the first of these two statements, it appeared to me that the person most capable of affirming its accuracy or otherwise would be the person who opened the subscription-list. I accordingly asked Mr. N. Fernandos by letter if he would be good enough to put into writing what he knew of the matter; and he also, without hesitation, kindly sent me a reply. (Enclosure No. 3.)

In regard to the second statement in this paragraph, that I engaged the services of a well-known lawyer, I could think of none more likely to be able to say who engaged the well-known lawyer than the well-known lawyer himself. Mr. Jellicoe accordingly was the next person I wrote to; and, with his customary courtesy, he forwarded a reply, which needs no preliminary explanation. (Enclosure No. 4.)

13 and 14. These paragraphs contain merely gratuitous assertions of opinion. I have already shown that there was no intervention on my part other than the performance of my duty as Consular Agent, and that if there was a movement of sympathy with the two convicts, as stated by the French Consul, it was certainly not due to any action of mine, either as respects the public or Detective Walker.

15. This paragraph should be reprinted entire. It is as follows:—

"As a matter of fact, the Hon. the Minister of Education appeared at the wharf at 2.45 on "the 11th August, at the time of Gasparini's embarkation. He was attended by his private secre-"tary, his lawyer, and his interpreter, and had a conversation of about fifteen minutes with the "extradited prisoner—a conversation to which Inspector Thomson should have put a stop."

August 11 was a Saturday—a bright summer day in the middle of winter. The weary work of the week was over, and after lunch, remembering that as Consul I had so far forgotten the existence of Gasparini that I had not even taken any step to make known to him the result of the application for the writ of *habeas corpus*, which was against him, I walked alone from my home toward the wharf for the purpose of telling him that of which he must, of course, have been already painfully aware. But, however needless and futile, I regarded it as a consular official duty to tell him. On my way I accidentally met my private secretary (Mr. A. M. Smith), and he and I and some others walked to the wharf together. Arrived there I met the French Consul walking at the side of the steamship "Wakatipu," and, as had been our uniform custom at all our previous meetings, we shook hands. I left Mr. Smith and the gentlemen who were with him, and walked with the French Consul, awaiting the arrival of Gasparini. I mentioned to the Consul that I wished to explain to Gasparini that I had been so much engaged in attendance upon my parliamentary duties that I had had no time to perform the bald function of informing him of the result of the legal proceedings in his case. The Consul uttered no word of objection. Upon Gasparini's arrival in charge of the New Zealand police-officer, and after he had alighted from the cab in which he was conveyed, I approached him, Mr. Jellicoe, who had in the meantime arrived, approaching him at the same time from another direction. Through Mr. Robertson, the interpreter, I explained to Gasparini that, in consequence of the pressure of my parliamentary duties, I had been unable to see him, or to do anything for him, but that he had had the benefit of the services of a most able advocate in the person of Mr. Jellicoe, and that, as Mr. Jellicoe had failed, there could have been from the first no possibility of succeeding. I mentioned, also, that he should ask to be allowed to see the Italian Consul in Sydney, just as he had applied to see me on arrival here. Then, in a spirit of curiosity, I asked a question about his adventurous voyage from New Caledonia, to which his only reply was that he had to do all the work, Cury being asleep nearly the whole time. The interview lasted only a few minutes—certainly not more than five—the con-

versation being rapid and mixed, as Mr. Jellicoe was speaking of his legal business with the prisoner at the same time. Upon the conclusion of my interview with the prisoner the French Consul handed to Inspector Thomson a document to be given to Detective Walker, constituting him a French military warder, which document Inspector Thomson handed to Walker, when he at once took the prisoner on board the "Wakatipu." The prisoner being put on board, the French Consul and I left the side of the ship and walked home together, our conversation being of the most friendly character. He gave expression to no feeling of displeasure, and urged no objection or protest against the interview. On the contrary, he said he was glad I had spoken a few words to the prisoner, who, he said, "now seemed quieter, and less likely to give trouble on the voyage"—from which I inferred that the prisoner had been expected to give great trouble. My own recollection of the interview and its attendant circumstances is fresh and vivid, and it is very substantially confirmed by the statement of Mr. A. M. Smith, my private secretary (Enclosure No. 5). Mr. Smith's statement is clear upon the point that I spoke to the French Consul immediately upon arrival at the side of the "Wakatipu," and that I left the wharf with him immediately after the embarkation of the prisoner. This testimony goes to the point that the French Consul was not incensed or estranged by the fact of the interview having taken place.

All persons present at the interview—Inspector Thomson, Mr. Jellicoe, Mr. Robertson, Mr. Smith, and myself—agree that the French Consul made no objection to it, and entered no protest against it. Inspector Thomson is very emphatic upon the point (Enclosure No. 6). To him should have been made the objection, if objection were desired to be made.

It is singular, however, that no objection or inquiry regarding the interview is made until twenty-four days afterwards. The interview took place on the 11th August: on the 4th September, after the escape of Gasparini, and when it became necessary, I presume, to discover a reason of some kind to account for the escape, a mysterious letter finds its way to the Police Department at Wellington (Enclosure No. 7).

In answer to that letter a very accurate general description of the whole of the proceedings at the interview was furnished by Inspector Thomson (Enclosure No. 8).

The only inaccuracy in Inspector Thomson's report to which I deem it necessary to refer is the use of the word "accompanied" in the phrase, "Mr. Jellicoe, Gasparini's solicitor, accom-"panied by the Italian Consul (the Hon. Mr. Fisher)," &c. Inspector Thomson explains his use of the word (Enclosure No. 6).

Under ordinary circumstances I should not have called attention to the composition of this sentence, but the use of the word gains importance from the fact that it is part of the allegation contained in paragraph 15 that "the Minister of Education appeared at the wharf at the time of "Gasparini's embarkation, attended by his private secretary, his lawyer, and his interpreter." I was not "accompanied" by Mr. Jellicoe.

Clearly the impression intended to be conveyed by the use of this extravagant language is that I appeared on the scene in all the panoply of state, attended by a retinue of officials, and that the effect, as alleged in paragraph 10 of the letter, was to "neutralise the combined efforts of both the "colonial and the French authorities," and to "double the difficulties of the French Consul's "task."

The statements of Mr. Jellicoe and Mr. Smith, apart from my own, disprove this allegation very completely: they should with equal completeness remove the impression attempted to be created by the use of such language. Mr. Smith's statement shows that I was not "attended" by my private secretary. Mr. Jellicoe's statement shows that I was not "attended" by my lawyer. Mr. Robertson's letter shows that I was not "attended" by an interpreter. I went to the wharf in my capacity as Italian Consular Agent, not "attended" by any person, and without ostentation or display.

It is not undeserving of mention that the document constituting Detective Walker a French military warder was not put into his possession until after the conclusion of my interview with the prisoner. It is true Inspector Thomson says the document was handed to Walker during the interview, and near its termination (Enclosure No. 9). That statement would apply, strictly speaking, to the interview of Mr. Jellicoe, but not to my interview, for Mr. Jellicoe remained speaking to the prisoner on his legal business after I had concluded what I had to say; but, still, the whole was within the compass of five minutes. I saw the document handed by Inspector Thomson to Detective Walker after I had taken up a position away from the prisoner. I assumed throughout that I was speaking to Gasparini while he was yet in the custody of a New Zealand police official, and before he was taken possession of by the French authorities. I observed that the moment the French Consul came forward and handed the document to Inspector Thomson, the officer of police in charge, who in turn handed it to Detective Walker, every one present appeared to understand that the French authorities had taken over their prisoner. All then stood back, and the prisoner was put on board the "Wakatipu." However much he may condemn it in his letter of September 11 to His Excellency the Governor, the French Consul tacitly favoured the interview on August 11, for he delayed arming Detective Walker with his appointment as a French military warder, and he delayed asserting the right of the French authorities to the possession of their prisoner, until the interview was over.

16. The lawyer, by whom I presume is meant Mr. Jellicoe, who was not acting for me, has answered for himself. (Enclosure No. 4.) As relating to me, I treat the statement as pure assumption.

The French Consul, as was his undoubted right, made all arrangements on board the steamship "Wakatipu" for the transport of the warder and his prisoner. These were the arrangements: He provided for the French warder (Detective Walker) a saloon berth at one end of the ship, and he provided for the prisoner a steerage berth at the other end of the ship. These arrangements being made by the Consul, the police authorities had no power to interfere; but I cannot help thinking that a much more prudent course to have adopted, if the safe

custody of the prisoner was the end to be desired, would have been to observe the arrangement always insisted upon by the New Zealand police authorities—namely, that the police-officer and his prisoner shall be placed together in one compartment of the ship, where they are compelled to undergo an enforced companionship, which insures a vigilant watchfulness on the part of the officer until the safe delivery of his prisoner. I do not suggest that the escape of Gasparini is to be accounted for by this difference of arrangement, but I do suggest that it more readily accounts for the escape of the prisoner than the purely hypothetical and wholly imaginary reason given by the French Consul in his letter.

Such is my answer to the French Consul's letter to His Excellency the Governor.

Throughout I have avoided the use of harsh language, although the unfounded nature of the grave accusations made against me would justify the use of strong terms of resentment. I desire to point out that the charges contained in the letter are of a most grave and serious character, and, if true, would not only have endangered my position as a Minister of the Crown, but would have had the far-reaching and more serious consequence of for ever destroying my reputation as a good and honourable citizen. The charges, by independent testimony, have been abundantly proved to be totally unfounded, and the feeling of indignation and scorn which I at first experienced has passed away. But I regard it as nothing short of providential that I was able to secure from Sir James Prendergast and other gentlemen testimony of a character which so crushes out the allegations that not a vestige of them remains.

Wellington, 29th September, 1888. GEO. FISHER.

Enclosure 1 in No. 7.

Hon. Mr. FISHER to Sir JAMES PRENDERGAST.

MY DEAR SIR JAMES,— Wellington, 20th September, 1888.

In a letter to His Excellency the Governor, complaining generally of my connection with the Gasparini case, the French Consul uses this language: "The Hon. the Minister of Education, "who was present at the proceedings before Sir J. Prendergast, did, in fact, lend his co-operation "and influence on the side of the convict Gasparini, with a view to obtaining his release. Sir J. "Prendergast had hardly granted the extradition of this convict, notifying at the same time that he "had fifteen days wherein to appeal against it by suing out a writ of *habeas corpus*, than the "Minister of Education said aloud before ten witnesses, of whom Sir J. Prendergast is one, 'I will "see to it,' and put himself in communication with the said convict by means of the interpreter, "Robertson."

Will you kindly say, in short terms, whether I said or did anything that could create the impression in the mind of any impartial person that I was lending my co-operation and influence on the side of the convict, with a view to obtaining his release?

If I may be permitted to refresh your memory, you may call to recollection that, upon my entry to the chamber in which the extradition proceedings took place, you said, in a pleasant, perhaps chatty, way, "I suppose you are here as Italian Consul?" I answered, "Yes," and then retired to a seat far behind you, so that I should not appear to take any prominent part in the proceedings, well knowing that the Italian Consul had no power to interfere as between the French Government and their prisoner.

All I felt called upon to do, as Consul, was to see that the prisoner, being an Italian, should be provided with an interpreter, and that his identity should be fully established.

When you ordered the prisoner to be extradited, and announced that he would have fifteen days within which to make application for a writ of *habeas corpus*, I did say, when the prisoner despairingly asked how he was to make the appeal, "I will see to that matter."

What I would very much like to have from you is a statement as to whether I in any manner attempted to influence the proceedings, or whether I did anything more than, as Italian Consul, I ought to have done.

Believe me to be yours sincerely,

His Honour Sir James Prendergast. GEO. FISHER.

Hon. Mr. FISHER to Sir JAMES PRENDERGAST.

MY DEAR SIR JAMES,— Wellington, 21st September, 1888.

As an addendum to my letter of yesterday, what I wish particularly to receive from you is an expression of opinion as to whether I obtruded myself upon your Court, or in any way became an active participator in the proceedings in the direction of specially identifying myself with the criminal.

As I attach great weight to anything you may say upon this point, I venture to hope, if it is not going too far to ask you to do so, that you will give the statement a clear refutal.

I may say that the French Consul's letter has shocked me beyond measure.

Yours sincerely,

His Honour Sir James Prendergast. GEO. FISHER.

Sir JAMES PRENDERGAST to the Hon. Mr. FISHER.

DEAR MR. FISHER,— Wellington, 21st September, 1888.

The suggestion that anything occurred at the Gasparini extradition proceedings which could lead any one to suppose that you either did anything or wished to do anything to influence the inquiry or the result is too ridiculous to need from me a statement that there is no ground for the suggestion.

On your coming into the room I inquired of some one—I think, Mr. James, who was acting as clerk on the occasion—whether he knew why you should take a special interest in the case, and I was informed that you were the Italian Consul. That led me to make the remark to you that I supposed you had come on that account. It is always a matter of satisfaction when a judicial inquiry is proceeding to find that the person to be affected by it has the benefit of legal advice and advocacy. It would, I think, have been a matter for regret, seeing the result of the Cury case, if Gasparini had not had his case conducted in the Supreme Court by a competent advocate.

I am not well acquainted with what consular duties are with regard to a subject of the country for whom a Consul acts; but I should, myself, suppose that the providing an interpreter and legal advice and legal assistance, with the view that the subject should have all the protection the law will give him, is as little as a Consul could do.

I dare say a Consul is not bound to do either—probably is not furnished by his country with funds for the purpose. Such acts on the part of the Consul seem to me acts of mere charity, and that any one should question the propriety of them is to me inexplicable. I am not aware whether you or some others provided funds for the purposes I refer to. I write on the supposition that this may have been so.

Yours very truly,
JAMES PRENDERGAST.

Enclosure 2 in No. 7.

Hon. Mr. FISHER to Mr. G. ROBERTSON.

DEAR SIR,— Wellington, 20th September, 1888.

In a letter to the Governor, complaining of my connection with the Gasparini case, the French Consul says, "Sir J. Prendergast had hardly granted the extradition of this convict, "notifying at the same time that he had fifteen days wherein to appeal, than the Hon. the Minister "of Education said aloud before ten witnesses, of whom Sir J. Prendergast was one, 'I will see to "it,' and put himself in communication with the said convict by means of the interpreter "Robertson."

Will you kindly say whether the statement is true or untrue that, either then, or at any other part of the extradition proceedings, the Minister of Education "put himself in communication with "the said convict by means of the interpreter Robertson"?

Will you also kindly put into writing the few words which you were good enough to translate for me to Gasparini on the occasion of my interview with him on the 11th August, when he was sent to Sydney in the "Wakatipu," and say also how long the interview lasted. Also please state whether the French Consul witnessed the interview, and whether he made any objection.

Yours very truly,
GEO. FISHER.

G. Robertson, Esq.

Mr. G. ROBERTSON to the Hon. Mr. FISHER.

SIR,— Wellington, 21st September, 1888.

I have the honour to reply to your letter of yesterday in reference to the matter of Gasparini, and the statement of the French Consul that "Sir J. Prendergast had hardly granted the "extradition of this convict, notifying at the same time that he had fifteen days wherein to appeal, "than the Hon. the Minister of Education said aloud before ten witnesses, of whom Sir J. Prender-"gast was one, 'I will see to it,' and put himself in communication with said convict by means of "the interpreter Robertson."

I beg to state that at the proceedings before Sir J. Prendergast, at which I treated you in the capacity of Italian Consul, no communication with the convict from you took place through me as interpreter at any stage of the proceedings.

At the termination of the proceedings, when the convict was notified that he had fifteen days wherein to appeal, Gasparini, who was in a very desponding state, asked His Excellency, through me, how it was possible for him to make an appeal, and it was then that you said, from the part of the room where you were sitting, at some distance from the prisoner, "I will see to it."

On the occasion of Gasparini's leaving for Sydney you requested me on the wharf to say that as your time had been so taken up with parliamentary duties you had been unable to see him, but that you felt sure his lawyer, Mr. Jellicoe, had done everything that could be done for him. You also recommended him to apply to the Italian Consul on arrival in Sydney, in the same manner as he had applied to see the Italian Consul here. As apart from this portion of your conversation you also asked a question about the voyage in the boat from New Caledonia; when Gasparini said that he did all the work—that Cury was asleep nearly all the time.

The interview in question only lasted about five minutes, and I may add that the French Consul, who was close at hand on the wharf all the time, made no objection whatever to the interview.

I have, &c.,
GEO. ROBERTSON.

The Hon. G. Fisher, Italian Consul.

Enclosure 3 in No. 7.

Hon. Mr. FISHER to Mr. FERNANDOS.

SIR,— Wellington, 20th September, 1888.

In a letter to the Governor, complaining of my connection with the Gasparini case, the French Consul uses these words: "The prisoner Gasparini was undefended until a subscription-list "was opened and circulated by the Hon. the Minister of Education, with the object of engaging "the services of a well-known lawyer for his defence."

I have ascertained that you started a subscription to provide funds for Gasparini. Will you kindly say whether it is true or untrue that Gasparini was undefended until a subscription-list was opened by the Hon. the Minister of Education with the object of providing a lawyer for Gasparini's defence? Yours truly,

Mr. N. Fernandos, Wellington. GEO. FISHER.

SIR,— Wellington, 21st September, 1888.

In reply to your letter of the 20th instant, I have to certify that I know nothing about any subscription-list being started by the Hon. Minister of Education. I started the subscription-list myself, to get a lawyer to apply for a writ of *habeas corpus* on behalf of Gasparini, and collected sufficient money to employ Mr. Jellicoe for that purpose. The Minister of Education had nothing to do with it; and so the statement of the French Consul is not true.

The money collected was paid to Mr. Jellicoe; it was not paid to Mr. Fisher, who has had nothing to do with the subscription-list from beginning to end.

The subscription-list was opened and circulated by me. I remain, &c.,

Hon. G. Fisher, Minister of Education. N. FERNANDOS.

Enclosure 4 in No. 7.

Hon. Mr. FISHER to Mr. E. G. JELLICOE.

SIR,— Wellington, 20th September, 1888.

I forward for your perusal copy of a letter laid before His Excellency the Governor by the French Consul, who complains generally of my connection, as a member of the Government, with the Gasparini case.

I have already explained to the Premier that as a member of the Government I had nothing whatever to do with the case, but that as Italian Consul I did take certain action in connection with it, such action being that I requested the Minister of Justice to provide an Italian interpreter at the extradition proceedings, the prisoner being an Italian, and that I had myself attended those proceedings to see that the identity of the prisoner was properly and fully established. The allegations contained in the letter, I think, are singularly erroneous.

May I ask if you will be good enough to give me your view of the letter as a whole, because you, of course, are familiar with the whole proceedings.

Specially may I ask you to say whether you appeared in the case for the Italian Consul, or at the instance of some other persons; and may I ask, further, whether you will be good enough to give me your opinion as to the truth or otherwise of this passage of the letter: "As a matter of fact, the Hon. "the Minister of Education appeared at the wharf at 2.45 on 11th August, at the time of Gasparini's "embarkation. He was attended by his private secretary, his lawyer, and his interpreter, and had "a conversation of about fifteen minutes with the extradited prisoner, a conversation to which "Inspector Thomson should have put a stop."

Will you say—(1) Did you attend as my lawyer? (2) Did you know I should be at the wharf? (3) Did we not meet there without communication and without concert? (4) How long did the conversation last? (5) Was the French Consul a witness to the interview, and did he object or protest?

I hope I do not put you to too much trouble, but I should feel greatly obliged if you would answer this letter at your earliest convenience. I have, &c.,

E. G. Jellicoe, Esq., barrister and solicitor, Wellington. GEO. FISHER.

Mr. E. G. JELLICOE to the Hon. Mr. FISHER.

DEAR MR. FISHER,— Wellington, New Zealand, 21st September, 1888.

I acted for Gasparini with a view of obtaining his release on *habeas corpus*, and, as I was not present when the man was brought before the Deputy-Governor, and you, as Consul, were, it became necessary for me to apply to you for information of what had actually occurred.

The allegation that I acted for the Minister of Education or any person other than the prisoner is untrue. The subscription-list which is referred to was opened, as I always understood, by an Italian named Fernandos, through the instrumentality of the Italian interpreter, Mr. Robertson.

The circumstances are these: I found it necessary to speak to the prisoner, before his embarkation, respecting proceedings I proposed taking for his release at Sydney, and, with the aid of Mr. Robertson, as interpreter, I conversed with the prisoner for a few minutes before he left the wharf. I found you and a crowd there, and after I had finished my conversation I distinctly recollect your coming forward and asking the man to give you an account of his passage from New Caledonia. The latter made some answer about Cury's illness; and then Inspector Thomson, who was present all the time, inquired whether I had anything further to communicate, and on my replying in the negative he ordered Walker to take the man on board the "Wakatipu." The French Consul was present the whole time, and did not object to my interference, and he was within a few paces of myself and Walker when I asked the latter to deliver a letter to my agents at Sydney, and I am positive he heard the nature of my request, and offered no opposition. I am equally certain that the prisoner was not on the wharf more than five minutes altogether, and this from the time he left the prison-cab until he joined the vessel. Yours very truly,

The Hon. George Fisher. E. G. JELLICOE.

Enclosure 5 in No. 7.

Hon. Mr. FISHER to Mr. A. M. SMITH.

SIR,— Wellington, 20th September, 1888.

Will you oblige me by relating shortly what took place at the interview with Gasparini, at which you were present, on the wharf on the 11th August?

Please be particular to say whether or not the French Consul was present, and whether he in any way objected to the interview taking place, or protested against it.

Yours truly,

A. M. Smith, Esq., Wellington. GEO. FISHER.

Mr. A. M. SMITH to the Hon. Mr. FISHER.

SIR,— Wellington, 21st September, 1888.

In reply to your letter of yesterday's date, I would state that on Saturday, 11th August —the day on which the "Wakatipu" left Wellington with Gasparini on board—I happened to lunch at the Occidental Hotel, and there met Messrs. Ames and Maginnity. After lunch we went for a stroll on the Queen's Wharf, and met you on our way there. You made the remark that you were going to see Gasparini embark, and that, owing to the pressure of parliamentary work, you had not had an opportunity of seeing him. We joined you and walked together to the "Wakatipu." On the wharf we met the French Consul, and you entered into conversation with him. Presently a cab drove up, having Gasparini and Detective Walker inside; and you left the French Consul and, joining Mr. Robertson, went up and spoke to Detective Walker; and, as far as I could see, you spoke through the interpreter to Gasparini. The conversation lasted but a few minutes; and all the time you were speaking to Gasparini the French Consul was standing near Mr. Maginnity and myself. He seemed to take no notice whatever of what you were doing, and certainly did not appear to be annoyed at your conversing either with the detective or with Gasparini. After a short time the detective and Gasparini went on board the "Wakatipu," and I left, and you went away with the French Consul. I might add that I certainly did not go down to the wharf with the idea of seeing Gasparini. Another steamer was leaving by which some friends of mine were going to Auckland, and I went down to say "Good-bye" to them; but when I heard Gasparini was going to embark, my curiosity was aroused to see him, and I went to the "Wakatipu" instead.

I have, &c.,

The Hon. G. Fisher. AMELIUS M. SMITH.

Enclosure 6 in No. 7.

Hon. Mr. FISHER to Inspector THOMSON.

SIR,— Wellington, 21st September, 1888.

In your report upon the Gasparini interview at the wharf, which I have already said is very correct, there is one word which is misleading.

You say Mr. Jellicoe approached Gasparini "accompanied" by the Italian Consul. It is true we together approached him when he got out of the cab; but the use of the word "accompanied" would imply that Mr. Jellicoe and I went to the wharf together specially to meet the prisoner, and that Mr. Jellicoe was connected with me, or was acting for me. As a fact, I did not go to the wharf with Mr. Jellicoe, and had no previous knowledge that he would be there.

Will you therefore kindly say whether, by the use of the word "accompanied," you mean that Mr. Jellicoe and I accompanied each other to the wharf, and that it appeared to you that he was acting for me?

I have, &c.,

Inspector Thomson, Wellington. GEO. FISHER.

Hon. Mr. FISHER to Inspector THOMSON.

SIR,— Wellington, 20th September, 1888.

Please inform me whether, on the occasion of the interview with Gasparini on the wharf on the 11th August, the French Consul made any form of protest to you against myself or Mr. Jellicoe speaking to Gasparini, or whether he referred to the subject by way of objection in any manner whatever.

I have, &c.,

Inspector Thomson, Wellington. GEO. FISHER.

Mr. Inspector THOMSON to the Hon. Mr. FISHER.

SIR,— Police Department, District Office, Wellington, 22nd September, 1888.

I have the honour to state, in reply to your memorandum of the 21st instant, that on the occasion of the interview held by yourself and Mr. Jellicoe with the prisoner Gasparini on the Wellington wharf the French Consul made no protest or objection to me against such conversation being allowed. *Immediately* after the conversation was ended I went on board the "Wakatipu," and did not come ashore again for at least ten minutes, at which time the French Consul had left the wharf.

With reference to your query *re* that portion of my previous report wherein it is stated that "Mr. Jellicoe, Gasparini's solicitor, accompanied by the Italian Consul (the Hon. Mr. Fisher), and "Mr. George Robertson, interpreter, came up and spoke for a few minutes with the prisoner," I would now state that I used the word "accompanied" quite inadvertently, as, to be correct, I should have written that you both approached Gasparini together, for I was not in a position to state that Mr. Jellicoe and yourself were *in company*; and, as a matter of fact, upon my passing that portion of the wharf a few minutes previously, Mr. Jellicoe was standing some distance away from Mr. Robertson and yourself, and, so far as I could observe, not in company with you.

I have, &c.,

J. BELL THOMSON,

The Hon. Mr. Fisher. Inspector 1st Class.

Enclosure 7 in No. 7.

Count D'Abbans to Major Gudgeon.

Vice-Consulat de France en Nouvelle-Zélande, Wellington,
le 4 Septembre, 1888.

Sir,—

When acknowledging, with thanks, the receipt of your letter of the 3rd instant, containing two enclosures, I have the honour to suggest to you to ask Inspector Thomson to make a report of the circumstances of the *embarking* of the convict Gasparini on board the s.s. "Wakatipu" on Saturday, the 11th August last, at about three o'clock. Detective Chrystal was also on the wharf.

It would be of use to ascertain officially what took place between the moment the said convict left the cab and the moment he went on board, about fifteen minutes later; which persons were there, and which interviewed the said convict; which messages were handed to Detective Walker for being delivered to Sydney; what thing was in a parcel, wrapped in paper, carried by the convict, &c.

As I was myself on the wharf, I have noticed circumstances which will be recorded in a despatch I am preparing for the information of His Excellency the Governor of New Zealand.

I have, &c.,
Jouffroy d'Abbans.

Major Gudgeon, Commissioner for New Zealand Constabulary.

Enclosure 8 in No. 7.

Inspector Thomson to the Commissioner of Police.

Sir,— Police Department, District Office, Wellington, 8th September, 1888.

Referring to the attached correspondence, I have the honour to state that I was on the Wellington wharf on the afternoon of the 11th ultimo, when Detective Walker brought down the prisoner Gasparini in a cab for the purpose of taking him on board the steamer "Wakatipu," then nearly ready to sail for Sydney. Upon the detective and prisoner getting out of the cab in front of the steamer, Mr. Jellicoe, Gasparini's solicitor, accompanied by the Italian Consul (the Hon Mr. Fisher) and Mr. George Robertson, interpreter, came up and spoke for a few minutes with the prisoner before he went on board; and I assume that the reason the prisoner's custodian, Detective Walker, did not prevent this conversation was owing to the fact that a prisoner's solicitor has invariably free access to his client while the latter is in custody of the police, and is, in fact, the only one, as you are aware, who is privileged to confer with a prisoner *alone*, as any other person who is permitted to converse with a prisoner must do so *in the presence of a police official*. During the interview in question I was standing sufficiently near to hear all that was said to Gasparini; and, so far as I can recollect, nothing was said to him beyond directions from Mr. Jellicoe to him to send word, immediately on his arrival in Sydney, to a certain firm of solicitors there, who had been instructed by wire to act for the prisoner, and directions from the Hon. Mr. Fisher to send also for the Italian Consul, Sydney, on arrival of the "Wakatipu" there. To enable Gasparini to do so Mr. Jellicoe wrote each address on a separate card while talking, and gave same to him, and I believe he also gave the address of each of these parties to Detective Walker, with a request that he would have them communicated with as soon as he delivered up his prisoner at Sydney; but this, of course, can be ascertained from the detective, also *re* the contents of the parcel carried by the prisoner, of which I know nothing. The foregoing is the substance of what was said to Gasparini within my hearing (so far as I can remember), but I may state that during a portion of the conversation I was talking to Detective Walker while delivering to him an official document that I had received a short time previously from the French Consul, appointing the detective temporarily a military warder under the French Government, for the purpose of enabling him to escort the prisoner Gasparini to Sydney. The whole conversation in question, I am of opinion, lasted only about five minutes (certainly not more than ten), although to the French Consul, if he was annoyed at the interview taking place, the time would naturally seem longer; but, as all that was said on either side was interpreted by Mr. George Robertson, he could give the most reliable account of the conversation, and, as he is a Government Officer, I would respectfully suggest that, if thought necessary, he may be requested to do so. I did not observe Detective Chrystal on the wharf at the time referred to, but if he was about there he was not sufficiently near to hear anything of the conversation between Mr. Jellicoe and his client.

I have, &c.,
J. Bell Thompson,
Inspector 1st Class.

Major Gudgeon, Commissioner of Police.

Enclosure 9 in No. 7.

Commissioner Gudgeon to Police Inspector Thomson.

Sir,— Police Department, Commissioner's Office, Wellington, 21st September, 1888.

I am instructed by the Acting-Minister for Defence to request you to state whether the authority from the French Consul to Detective Walker to act as a French military warder for the purpose of taking charge of and conveying the prisoner Gasparini to Sydney, was handed by you to Detective Walker before or after the interview of the Italian Consul with Gasparini on the Wellington wharf, on the occasion of the embarkation of Gasparini on the 11th ultimo.

I have, &c.,
W. E. Gudgeon,
Commissioner.

Inspector Thomson, in charge of Police, Wellington.

For the information of the Commissioner.

I handed the document in question to Detective Walker during the progress of the interview, and near its termination.—J. Bell Thomson, Inspector of Police.—22nd September, 1888.

Enclosure 10 in No. 7.

Major GUDGEON, Commissioner of Police, to the ACTING MINISTER of DEFENCE.

(Telegram.) Auckland, 10th October, 1888.

I DID not advise French Consul to give saloon passage to Walker. I remember telling him that a detective was not equal in rank to a first-class military warder, and not entitled to the allowances given to such men. W. E. GUDGEON.

No. 8.

SIR,— Wellington, 7th March, 1889.

I have the honour to inform you that it is the wish of my Government that the correspondence *re* extradition of certain prisoners should not be published, pending the consideration of the question by the metropolitan competent authorities.

I have, &c.,
JOUFFROY D'ABBANS,
Vice-Consul de France.

Hon. Sir Harry Atkinson, Premier, Wellington.

No. 9.

SIR,— Wellington, 4th July, 1889.

I have received an address from the House of Representatives of New Zealand requesting that I would direct that there be laid before the House a copy of a correspondence between my predecessor (Sir William Jervois), the late Vice-Consul for France (Count Jouffroy d'Abbans), and the late Minister for Education (Mr. Fisher), relative to the escape of the convict Gasparini. On examination of the correspondence in question, I observe that on the 7th March last M. Jouffroy d'Abbans wrote to the Premier requesting that the publication of the correspondence might be deferred "pending the consideration of the question by the metropolitan competent authorities." It appears, however, that the papers in question have been printed without the knowledge or sanction of the Officer Administering the Government, and apparently on the authority only of Mr. Fisher, at that time Minister for Education, without consulting his colleagues.

Some two hundred copies of the print referred to have been already struck off, and are no longer to be found in the possession of the Government.

I have to express my deep regret, and that of my Ministers, that the fulfilment of M. Jouffroy d'Abbans's wish should thus have been frustrated by the unjustifiable act of Mr. Fisher.

I have already communicated the facts and similar expressions of regret to the Secretary of State.

The communications on the question of extradition of criminals between the Governments of Her Majesty and of the French Republic, to which I am led to believe M. d'Abbans referred to in his letter of the 7th March, appear, from a despatch received by me a few days since, to have been now brought to a conclusion.

I propose, therefore, to accede to the request contained in the address from the House of Representatives, but before doing so I shall be glad of any observations which you may feel disposed to address to me.

I have, &c.,
ONSLOW.

M. de Lostalot de Bachoué, Vice-Consul for France, Wellington.

No. 10.

Vice-Consulat de France en Nouvelle-Zélande, Wellington, le 5 Juillet, 1889.

MONSIEUR LE GOUVERNEUR,—

Nous partageons sans réserve les regrets que votre Excellence a bien voulu nous manifester dans sa lettre du 4 Juillet dernier, au sujet de la publication abusive de la correspondance échangée entre Sir William Jervois, le Comte de Jouffroy d'Abbans et M. Fisher lors de l'évasion du condamné Gasparini.

La demande actuelle de l'ancien Ministre de l'Instruction Publique, transmise à votre Excellence par l'intermédiaire de la Chambre des Représentants de la Nouvelle-Zélande, n'est que la continuation fâcheuse de procédés injusticiables qu'il eût sans doute été préférable d'arrêter net; mais votre Excellence, nous le reconnaissons, se trouve en présence d'une situation dont la responsabilité ne lui incombe pas, et dans ces circonstances nous ne pouvons que nous en remettre au tact et à la courtoisie dont elle nous a donné des preuves répétées.

Veuillez agréer les assurances du respect avec lequel j'ai l'honneur d'être,
Monsieur le Gouverneur,
De votre Excellence le très-obéissant serviteur,
F. J. DE LOSTALOT.

À son Excellence Lord Onslow,
Gouverneur de la Nouvelle-Zélande.

[TRANSLATION.]

SIR,— Vice-Consulate of France in New Zealand, Wellington, 5th July, 1889.

We unreservedly share with your Excellency the feelings of regret which you have been good enough to express to us in your letter of the 4th July last, as to the unwarranted publication of the correspondence exchanged between Sir William Jervois, Count Jouffroy d'Abbans, and Mr. Fisher at the time of the escape of the convict Gasparini.

The request under consideration, made by the late Minister of Education, and transmitted to your Excellency through the instrumentality of the House of Representatives of New Zealand, is but an unfortunate continuation of unjustifiable proceedings which it would undoubtedly have been preferable to have put a stop to. But we recognise that your Excellency is placed in a position in which the responsibility does not lie with you, and in these circumstances we can only rely upon the tact and courtesy of which you have given us repeated proof.

Have the goodness to accept the assurances of respect with which I have the honour to be,

Sir,

Your Excellency's most obedient servant,

F. J. DE LOSTALOT.

To His Excellency Lord Onslow,
Governor of New Zealand.

[*Approximate Cost of Paper.*—Preparation, nil; printing (1,350 copies), £8,15s. 6d.]

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