

Inspector of Factories appointed.

Department of Labour,
Wellington, 24th September, 1901.

HIS Excellency the Governor has been pleased to appoint the under-mentioned person to be an Inspector under "The Factories Act, 1894," and to assign to him the district set opposite his name, viz. :—

Name.	District.
Constable MICHAEL MADDEN.	The Middle Island of the Colony of New Zealand, and the islands adjacent thereto.

R. J. SEDDON,
Minister of Labour.

Inspectors of Weights and Measures, Counties of Waitaki, Tuapeka, and Southland, &c., appointed.

Colonial Secretary's Office,
Wellington, 27th September, 1901.

HIS Excellency the Governor has been pleased to appoint the under-mentioned persons to be Inspectors of Weights and Measures under "The Weights and Measures Act, 1868," and the Acts amending the same, for the districts set opposite their names respectively, viz. :—

Name.	District.
Sergeant THOMAS KING ..	Counties of Waitaki and Waihemo, and Boroughs of Oamaru, Hampden, and Palmerston.
Sergeant PATRICK BOWMAN	County of Tuapeka, and Boroughs of Roxburgh, Lawrence, and Tapanui.
Sub-Inspector HENRY GREEN	Counties of Southland, Wallace, Fiord, and Stewart Island, and all boroughs therein.

J. G. WARD.

Clerks of Courts appointed.

Department of Justice,
Wellington, 1st October, 1901.

HIS Excellency the Governor has been pleased to appoint

Constable PATRICK CREAN

to be Clerk of the Magistrate's Court at Kawakawa, Waimate, and Kaikohe, and also to be Clerk of the Licensing Committee for the District of Bay of Islands, from the 25th September, 1901, *vice* Constable B. Sheehan, transferred; and

Constable SAMUEL THOMPSON

to be Clerk of the Magistrate's Court at Dargaville, from the 24th September, 1901, *vice* Constable A. F. Gordon, transferred.

JAMES MCGOWAN.

Licensing Officers under "The Arms Act, 1880," appointed.

Police Department,
Wellington, 27th September 1901.

HIS Excellency the Governor has been pleased to appoint

Constable PATRICK CREAN and
Constable SAMUEL THOMPSON,

of the New Zealand Police Force, to be Licensing Officers under "The Arms Act, 1880."

JAMES MCGOWAN.

Inspectors of Factories appointed.

Department of Labour,
Wellington, 26th September, 1901.

HIS Excellency the Governor has been pleased to appoint the under-mentioned persons to be Inspectors under "The Factories Act, 1894," and to assign to them the districts set opposite their names, viz. :—

Names.	District.
Constable GEORGE HASTIE ..	The North Island of the Colony of New Zealand, and the islands adjacent thereto.
Constable SAMUEL THOMPSON ..	Ditto.

R. J. SEDDON,
Minister of Labour.

Law Report.

THE following decision is published for general information :—

In re BIGGINS.

"The Licensing Act, 1881," Section 155—*Sunday Trading—Exposure for Sale—Dismissal of Information for selling—Presumption arising from such Dismissal.*

In proceedings under the Licensing Act, if the case is one which a Judge could have left to a jury the conviction must stand. *Ex parte Day* (4 N.Z. Jur. N.S. S.C. 34) approved.

If the slide of the bar of an hotel is up so that any one looking into the bar could see what was in the bar, the contents of the bar are exposed; and if the circumstances are such as to lead to the conclusion that liquor could be had on paying for it, the liquor is exposed for sale.

The dismissal of an information against the same accused for selling liquor on the same occasion, which was heard together with the information for exposing for sale, on the same evidence, means in law no more than that there is not sufficient proof of sale, and is not an affirmative finding that there was no sale.

Argument of rule nisi granted under section 266 of "The Justices of the Peace Act, 1882," calling on the Magistrate and the informant to show cause why they should not be prohibited from proceeding on the conviction hereinafter mentioned.

On the 19th of January, 1901, one Joseph Biggins was charged, first, that he, being the holder of a publican's licence under "The Licensing Act, 1881," did in his licensed premises known as the Great Northern Hotel, on Sunday, when licensed premises are by the said Act directed to be closed, sell liquor to Edward Dermer and others; secondly, that on the same Sunday he exposed liquor for sale. By consent the charges were heard together on the same evidence. The Magistrate reserved judgment, and subsequently, without giving any reasons, dismissed the first charge and convicted on the second. From the affidavit filed in support of the application it appeared that on the hearing of the informations no suggestion was made by the prosecution in favour of there being an exposure for sale, and the accused's counsel directed no argument or evidence to that branch of the case, nor did the Magistrate in any way refer to it during the hearing.

Fraser showed cause: If there was any evidence in support of the conviction that could have been left to a jury, the conviction must stand; the Court will not dissect the evidence: *Reg. v. Mellish* (2 N.Z. Jur. 127); *Ex parte Day* (4 N.Z. Jur. N.S. S.C. 34).

[Solomon.—We cannot argue that the conclusion of the Court below was wrong if there was any evidence to support it: *Nutt v. Bishop* (13 N.Z. L.R. 656).]

The statement in paragraph 5 of the affidavit in support of the rule has no bearing on the case. The accused was charged, and knew he was charged, with exposure for sale. The conviction for exposing for sale was right. The slide was open, giving a clear view of the bar. The landlord was in the bar, and there were men standing by drinking. The landlord stood by and heard them give wrong names and addresses. The back door was open. *Crane v. Lawrence* (59 L.J. M.C. 110); *Smith v. Vaux* (6 L.T. 46); *Batt v. Cullen* (16 N.Z. L.R. 17); *Finch v. Blundell* (5 L.T. 672).

Solomon and Sim, in support of the rule: The argument for the accused and the cases cited apply to an information which might have been laid but was not laid—viz., keeping open for sale. The question of exposing for sale is one of fact, and not of inference. Paragraph 5 of the affidavit has a material bearing. There was no suggestion at the hearing that the evidence would support the charge, and the case of the accused was not framed to meet it. The case is governed by *White v. Nestor* (13 N.Z. L.R. 751). The Magistrate must have come to the conclusion that the defence to the charge of selling—viz., that the liquor was a gift—was true; otherwise it was his duty to convict: *Schultheis v. Wilson* (13 N.Z. L.R. 295). The case of a gift of liquor is dealt with in *Ryland v. Foley*, (16 N.Z. L.R. 670) where it was held that there is nothing unlawful in such a gift. There could be no exposure for sale unless there were intending purchasers; and there was no evidence that there were any. This is a stronger case than *White v. Nestor*. *Crane v. Lawrence* (59 L.J. M.C. 110) is referred to in *White v. Nestor*, and that case decides that in order that there may be an exposure for sale there must be an intending buyer. *Cur. adv. vult.*

Fraser in reply.

Williams, J.: In proceedings by way of prohibition under section 266 and the following sections of "The Justices of the Peace Act, 1882," I agree with the opinion expressed by Richmond, J., in *Ex parte Day* (4 N.Z. Jur. N.S. S.C. 34) with respect to similar sections in an earlier Act, that if the case is one which a Judge could have left to a jury the con-