

ELLEN ROLFE is inquired for by the Dunedin police, at the instance of the Education Department, with a view to compel her to support her child in the Caversham Industrial School. Description: Domestic servant, about thirty years of age, 4 ft. 10 in. high, medium build, dark eyes, auburn hair, sallow complexion, delicate appearance, quiet silent disposition, generally wears a black dress and white sailor hat with black band. Was seen in August last at Mornington.

BROOM.—Information is requested concerning the whereabouts of John Broom, who is supposed to be in New Zealand, and was last heard of about twenty-eight years ago on some of the goldfields. He is a native of Camberwell, a seafaring man, about sixty years of age, about 5 ft. 4 in. high, blue eyes, rather smart-looking. Inquiry at the instance of Emma Broom, 27, Dragon Road, Camberwell, S.E., London. (02/2108.)

ROBINSON.—Inquiry is requested by the Durban police as to the whereabouts of a man named — Robinson, charged with theft of mules, which were disposed of at Durban by Trimble, an auctioneer. Description: A native of Ireland, about thirty years of age, 5 ft. 9 in. high, dark-brown hair, grey eyes, reddish-fair moustache; generally dressed in riding-breeches and brown-leather gaiters; is married, but has no family. He was in Ladysmith during the siege as Government Scab Inspector, and is now said to have come to New Zealand.

A special report will be forwarded from each district to the Commissioner's office, giving result of inquiries. (02/2102.)

Inquest.

FOXTON.—On the 16th ultimo the body of a man, name unknown, was found in the Manawatu River; an inquest was held on the following day and a verdict returned of "Found drowned." Description: About thirty-five or forty years of age, 5 ft. 10 in. high, well built, light-brownish hair mixed with grey, apparently clean-shaved except brown moustache, the two front teeth large and prominent, the two bottom front teeth decayed; he had all his teeth; clasped hands in heart tattooed in red and blue on left forearm; clothed in grey woollen singlet and drawers, cotton tennis-shirt (no collar) with pocket on left breast, dark-tweed trousers with green stripe forming a check; lace-up boot on left foot, size 8; a two-bladed buckhorn-handle knife, shield on side; a split ring with latch-key and portmanteau-key. The body was decomposed, and apparently had been in the water about two months.

Miscellaneous Information.

Appointments as Constables.

1st December, 1902.

LENNON, ARTHUR ADAM SMITH, No. 1054.
Jones, Edwin John, No. 1055.
Wilson, David, No. 1056.
Osborne, Oliver Henry, No. 1057.
Kyle, Harry Statham, No. 1058.
Donovan, John, No. 1059.
McAlister, John, No. 1060.
Gregan, Thomas, No. 1061.
Quill, Edward, No. 1062.
Nash, John, No. 1063.
Forbes, William, No. 1064.

Resignations.

30th November, 1902.

CONSTABLE HODGE, WILLIE, No. 1013.
Constable Kidd, William, No. 1051.

Rewards.

CONSTABLE T. HICKMAN, No. 504, Opuake police, has been awarded £4 for services in obtaining a conviction for sly-grog selling at Parihaka. (02/1717.)

Constable J. Larmer, No. 938, Christchurch police, has been awarded £1 for arresting an absentee from H.M.S. "Torch." (02/92.)

Station closed.

OHINGAITI, Wanganui and West Coast District, 30th November, 1902. (P. 02/2130.)

Law Reports.

THE Supreme Court decision in the case of Ireland v. Connolly is circulated for the general information of the

Force. The decision makes it necessary, in all cases where a previous conviction is to be proved as a precedent to a further conviction, to comply with the provisions of section 311 of "The Justices of the Peace Act, 1882."

J. B. TUNBRIDGE,

Commissioner of Police.

Wellington, 27th November, 1902.

IRELAND v. CONNOLLY.

[*New Zealand Law Reports*, Vol. xxi., pages 314-316.]

Appeal from Justices — "The Justices of the Peace Act, 1882," Sections 236 and 237—*Improper Admission of Evidence—No Evidence to support Conviction—Case stated—Points of Law not raised at the Hearing.*

On an appeal by way of case stated under section 236 of "The Justices of the Peace Act, 1882," the determination of the Magistrate may be reversed if there was no evidence to support the information or some material part thereof.

Appeal from a conviction by a Stipendiary Magistrate, by way of case stated under section 236 of "The Justices of the Peace Act, 1882." The facts of the case are sufficiently stated in the judgment.

WILLIAMS, J.—This is an appeal on a case stated under section 236 of "The Justices of the Peace Act, 1882," from the determination of a Magistrate on an information under subsection (1) of section 28 of "The Police Offences Act, 1884." The information alleged that the accused had no visible lawful means of support, and had been previously convicted as an idle and disorderly person. The Magistrate convicted the accused. By the above subsection the fact that the accused had been previously convicted as an idle and disorderly person is an essential ingredient of the offence charged in the information, and of which the accused was convicted. The only evidence the Magistrate had before him as to a previous conviction was that of Detective Campbell, who stated that he had seen recorded in the *Police Gazette* a conviction of the accused as an idle and disorderly person at Auckland on the 20th of September, 1896. The accused's counsel objected at the time to this statement being accepted as evidence of a previous conviction. Section 237 of "The Justices of the Peace Act, 1882," provides that no determination of a Justice shall be appealed against by a case stated on the ground of improper admission or rejection of evidence. It was contended on behalf of the respondent that this section prevented the above objection being taken: that it was open to the accused to have proceeded under section 248 by way of general appeal, or under section 266 by way of prohibition, and that under either of these sections the decision of the Magistrate in this particular could have been reviewed. The evidence admitted in proof of the previous conviction was, of course, not legal evidence of the fact of a conviction at all. It was simply hearsay upon hearsay. When it had been admitted, all that it proved was that Detective Campbell had seen a printed statement that the accused had been convicted. That is not proof that the accused actually was convicted. This Court now has before it all the evidence that was admitted in support of the prosecution, and from that it appears that there was no legal evidence that the accused had been previously convicted. An accused person can only be convicted of a crime on legal evidence, and if there is no legal evidence at all against him he is entitled to be acquitted. If the case had been before a jury it would have been the duty of the Judge, notwithstanding the evidence of Detective Campbell had been admitted, to have directed an acquittal. The accused would be entitled to an acquittal, not because the evidence was wrongly admitted, but because after it had been admitted there still remained no legal evidence against him. It is the want of evidence, and not the admission of evidence, that constitutes the objection here. The question whether in a criminal matter there is, taking the whole of the evidence, a case to go to the jury is a question of law, and is entirely distinct from the question as to whether any particular evidence has been improperly received. The case of *Knigh v. Halliwell* (L.R. 9 Q.B. 412), arising under similar sections of the English Act (20 & 21 Vict., section 43), decides that the Court will hear and determine questions of law arising on the facts stated by the Justices, though they were not taken before the Justices or expressly reserved for the consideration of the Court. Here the question as to whether there was any evidence before the Magistrate to justify the conviction of the accused directly arises from the facts as stated. If there is some legal evidence, then section 237 prevents the objection being taken that other evidence not legal has been received, which, in the absence of section 237, would be an objection fatal to the conviction: *Reg. v. Gibson* (18 Q.B.D. 537). But there must be some legal evidence. The determination of the Magistrate will be reversed.