

WELLINGTON.—Constable W. J. Sleeth, No. 1610, Wellington police, has been awarded £3 for meritorious conduct in rescuing a child from being run over by a tram-car and probably killed. (10/2363.)

WELLINGTON.—Constables J. Cummings, No. 1282, and G. Munro, No. 1590, Mount Cook police, have been awarded £1 5s. each by the Customs Department for services in connection with the conviction of Now Bee of Wellington for permitting the smoking of opium. (10/2.)

WELLINGTON.—Constable W. J. Taylor, No. 1312, has been awarded 10s. for services in connection with the conviction of G. Tinney for taking liquor into a no-license district without being labelled. (10/2477.)

CHRISTCHURCH.—Sergeant J. Burrows, No. 472A, has been awarded £1 for services in connection with the conviction of Adolphus Schultz for sly-grog selling. (10/2478.)

CHRISTCHURCH.—Acting-Detectives C. Osborn, No. 985, and C. A. E. Snow, No. 1151, have been awarded 15s. each for the arrest of three absentees from H.M.S. "Encounter." (10/2.)

CHRISTCHURCH.—Sergeant W. Miller, No. 719, and Constable J. Fox, No. 1526, have been awarded 10s. each for the apprehension of Harry James Gundry, an absentee from H.M.S. "Powerful." (10/2.)

CHRISTCHURCH.—Detectives T. Gibson, No. 1030, and R. J. Ward, No. 1066, have been awarded £1 10s. each, and Acting-Detective C. Osborn, No. 985, £1, for the arrest of absentees from H.M.S. "Powerful." (10/2.)

DUNEDIN.—Sergeant A. T. Emerson, No. 623, has been awarded £1 by the Customs Department for services in connection with the conviction of Margaret Parker for a breach of the Beer Duty Act. (10/2.)

LAW REPORT.

[IN THE COURT OF APPEAL.]

REX v. GRBICH.

("N.Z. Law Reports," Vol. xxix, page 1045.)

Criminal Law—Evidence—Indecent Assault and Carnal Knowledge—Subsequent Marriage of Parties—Wife not compellable to give Evidence against her Husband.

A wife will not be compelled to give evidence against her husband where he is charged with indecently assaulting and carnally knowing her before marriage.

So held by the Court of Appeal (*Williams, Edwards, Cooper, and Chapman, JJ.; Stout, C.J., dubitante*).

CASE stated by Chapman, J., for the opinion of the Court of Appeal under sections 442 and 443 of the Crimes Act, 1908. The following is the case stated: "The prisoner was indicted at the May sittings at Auckland on a charge of indecently assaulting and carnally knowing Eunice Rosalie Baker, a girl over the age of twelve years and under the age of sixteen years, and, being arraigned, pleaded 'Not guilty.'

"The Crown Prosecutor opened the case for the Crown, and proposed to call the girl, who was between the age of fifteen and sixteen. Prisoner's counsel objected to her being examined, on the ground that she was now the wife of the prisoner. A certificate of marriage was produced, and it was proposed to examine E. R. Baker as to her identity with the person named in the certificate. She said that she objected to being sworn and giving evidence against her husband. I explained to her that she might be sworn on the *voir dire* to prove the marriage without losing her right to object to be sworn or examined in the cause. She was accordingly sworn in this way, and proved the marriage, which had taken place before the Registrar in the presence of her parents after the accused was committed for trial. Mr. Toke, K.C., proposed to ask the girl whether she had since cohabited with the prisoner. I did not think that this question arose under the Evidence Act, 1908, and held that I could not compel the witness to submit to be sworn or examined in the cause.

"The Crown Prosecutor then intimated that his case depended on the girl's evidence, and I directed the jury to acquit the prisoner. In view of the importance of the question, I have stated this case for the opinion of the Court of Appeal.

"The question is whether I could have compelled the witness to submit to be sworn or to give evidence against her husband. The more general question as to the admissibility of her evidence is also open, and may be considered."

STOUT, C.J.:—

The Court does not desire to hear counsel for the prisoner. I may say that I agree with what has been stated in Best's

book on evidence, and that the question as to whether compulsion can be used on a wife in a similar case to the present is doubtful. I do not think it is clear one way or the other, because of the wording of the proviso to section 5 of the Evidence Act, 1908. Section 5 enacts that "Every person charged with any offence shall be a competent but not compellable witness for himself upon the trial for such an offence; and the wife, or husband, as the case may be, of every such accused person shall be a competent witness for him or her upon such trial": and then says in the proviso that a wife or husband cannot be called as a witness without the consent of the accused, except in two cases—firstly, where the wife or husband is compellable to give evidence by some statutory provision, and secondly, where either husband or wife is charged with being a party to an offence. That implies that a wife or husband may be called to give evidence. If a wife or husband is called as a witness, are they compelled to answer questions? Seeing that it is a matter of doubt, I think I should leave it there. I cannot say that the judgment in the Court below was wrong. If the Legislature desires that the wife should be compelled to give evidence in such cases it should make a clear and undoubted provision to that effect.

WILLIAMS, J.:—

I agree. Even if there be some doubt whether, where an offence has been committed by a husband against the person or liberty of the wife, the wife is compellable to give evidence, I feel satisfied that in a case of this kind the wife would not be compellable to give evidence. It would be disgraceful, immoral, opposed to the whole relations of husband and wife if the wife were compelled to give evidence as to sexual passages between herself and her husband before marriage. Therefore I am inclined to agree with the learned Solicitor-General that in all cases a wife, though a competent, would not be a compellable witness where the offence had been committed by the husband against her person or liberty.

EXTRACT FROM NEW ZEALAND GAZETTE.

(From Gazette, 1910, page 4172.)

Restricting Fishing in the Oruru River, Mangonui and Whangaroa Acclimatization District.

ISLINGTON, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, this fifth day of December, 1910.

Present:

HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

WHEREAS it is provided by section 83 of the Fisheries Act, 1908, that the Governor may from time to time, by Order in Council gazetted, make regulations prohibiting or restricting from time to time, for any period the Governor thinks necessary, fishing in any waters in which young fish or spawn have been placed or deposited, or at the mouth or entrance of any such waters, or of any river, or stream, or lake:

And whereas it is desirable to make regulations restricting fishing in the Oruru River, in the Mangonui and Whangaroa Acclimatization District:

Now, therefore, His Excellency the Governor of the Dominion of New Zealand, in pursuance and exercise of the hereinbefore-recited power and authority, and of all other powers and authorities enabling him in that behalf, and acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby make the following regulations:—

REGULATIONS.

1. No person shall take or kill, or attempt to take or kill, any fish whatsoever, with the exception of eels, with any device whatsoever, in the Oruru River or at the mouth or entrance thereof:

Provided that any fish, with the exception of trout, may be taken or fished for within that portion of the said river extending from the bridge known as "Wilkinson's Bridge" to and including the mouth or entrance of the said river.

2. For the purposes of these regulations the mouth or entrance of the said river shall be deemed to include every outlet of the same and the sea-shore between such outlets, and shall extend for a radius of five hundred yards from the point or line where the waters of such river meet those of the sea at low-water spring tides.

3. Any person committing a breach of the above regulations shall be liable to a fine not exceeding £5.

J. F. ANDREWS,
Clerk of the Executive Council.