DESERTERS FROM HIS MAJESTY'S SERVICE.

From H.M.S. "Powerful."

On 28th February, 1911.

SYDNEY.—**Percy Griffiths Madeley**, age twenty-five, height 5 ft. 10 in., A.B., native of England, dark-brown hair and eyes, fresh complexion, two moles on back of left upper arm.

John Henry Aldridge, age twenty-two, height 5 ft. 6 in., cook's mate, native of England, light-brown hair, grey eyes, fresh complexion.

A reward of £3 will be paid for the apprehension of each.

From H.M.S. "Pioneer."

On 2nd March, 1911.

SYDNEY.—**Alfred E. Philpott**, age twenty-four, height 5 ft. 6 in., stoker, native of Wellington, New Zealand, dark-brown hair, light-blue eyes, fresh complexion, clasped hands through heart, flag, eagle, ribbon with "Phœbe" tattooed on right arm.

Bertie Blackmore, age twenty-two, height 5 ft. 8½ in., stoker, native of Christchurch, New Zealand, brown hair, grey eyes, fair complexion.

Charles M. R. Petersen, age twenty-two, height 5 ft. 8 in., stoker, native of Masterton, New Zealand, brown hair, light-blue eyes, fresh complexion, tattooed profusely over arms and legs.

MISSING.

TAIHAPE.—Since about 1st January last, **Annie Hamilton**, age sixteen, height about 4 ft. 6 in., native of New Zealand, fresh complexion, fair hair worn down her back, stout build, large grey eyes. She may be accompanied by William Rees, age about thirty-five, height 5 ft. 6 in., carpenter's labourer, dark complexion, medium build, small moustache only. She was seen at Rangataua, near Ohakune, about the 18th ultimo, dressed in boy's clothes and her hair cut short, and was then accompanied by William Rees. (See *Police Gazette*, 1911, page 90.)

MISCELLANEOUS INFORMATION.

Rewards.

AUCKLAND.—Constable T. Newman, No. 1580, has been awarded £3 for the arrest of Harold James, Patrick Hickey, and Louis Smith, for absconding from the Takapuna Industrial School. (10/846.)

WELLINGTON.—Constables H. Carmody, No. 979, and S. Brown, No. 1174, have been awarded 10s. each for services in connection with the conviction of John Collins for unlawfully taking liquor into a no-license district. (11/563.)

WELLINGTON.—Detective J. J. Cassells, No. 677, has been awarded £2 by the Post and Telegraph Department for services in connection with the conviction of two boys for damaging insulators on the Hutt Road. (11/597.)

LAW REPORT.

("Times Law Reports," Vol. xxvii, page 132.)

[K.B. DIV. (LORD ALVERSTONE, C.J., PICKFORD AND AVORY, JJ.)—8TH DECEMBER, 1910.]

ROSE *v.* KEMPTHORNE.

Criminal Law—Assault—Process-server putting Document inside Coat of Person served — Offences against the Person Act, 1861 (24 and 25 Vict., c. 100), s. 42.

The respondent, who was the defendant in a County Court action, was met in the street by the appellant, who, acting on behalf of the solicitor to the plaintiff in the action, tendered to the respondent an order for discovery which had been made in the action. The respondent declined to accept the document, whereupon the appellant thrust it into the inner fold of the respondent's coat, which was unbuttoned at the time, and as the respondent opened his coat the document fell on to the street, where he left it. On an information preferred by the respondent against the appellant for assault in so touching him, the Justices were of opinion that the order of the County Court would have been effectually served by the appellant drawing the respondent's attention to the document and by dropping it on to the street in his presence upon his declining to accept it, and that the appellant was not justified in laying hands upon him. They accordingly convicted the appellant.

Held, That the appellant was entitled to serve the document on the respondent personally, and that as there was no evidence that the appellant touched the respondent further than was necessary to bring the document home to him, the Justices were wrong in convicting the appellant.

THIS was a case stated by the Justices for the Borough of Harwich.

An information was preferred by A. E. Kempthorne, physician and surgeon (hereinafter called the respondent), under 24 and 25 Vict., c. 100, s. 42, against F. J. Rose (hereinafter called the appellant), for that the appellant on the 18th May, 1910, did unlawfully assault and beat him, the respondent.

At the hearing the following facts were proved:—

(*a.*) That the respondent was, on the 18th May, 1910, the defendant in an action in the County Court of Harwich, in which action an order for discovery of documents had been made against him.

(*b.*) That the respondent was proceeding along Church Street, Harwich, to the Great Eastern Railway-station to catch the 12.30 p.m. train when he was overtaken by the appellant, who, acting on behalf of the solicitor to the plaintiff in the said County Court action, said to him, "Wait a minute, doctor; I have something for you," at the same time tendering him the said order for discovery, which the respondent declined to accept, saying, "You know perfectly well who is representing me in the County Court. I refuse to accept and peruse documents in the public street."

(*c.*) The appellant thereupon thrust the document into the inner fold of the respondent's coat, which was unbuttoned at the time, and the respondent opened his coat, causing the document to fall into the gutter in the street, where it remained until taken to the police-station.

On the part of the appellant it was contended that as the County Court rules provided that the order for discovery above-mentioned should be served personally, the appellant had not committed an assault by merely opening the respondent's coat, without any violence, and endeavouring to place the order for discovery in his breast-pocket, and it was further contended that the appellant was acting within the law in serving the said process in such a manner, and was justified in the course he took.

On the part of the respondent it was contended that service of the order could have been equally well effected by the appellant without the necessity of touching the clothing or person of the respondent, and that an assault had been committed.

The Justices decided that the contention of the respondent was right, and that an assault had been committed by the appellant upon the respondent, inasmuch as the appellant had unnecessarily and against the will of the respondent touched him in a manner likely to cause a breach of the peace. They were further of opinion that the order of the County Court would have been effectually served by the appellant's drawing the attention of the respondent to the document and by dropping it into the street in his presence upon his declining to accept it, but that the respondent's person was sacred, and that the appellant was not justified in laying hands upon him. They accordingly convicted the appellant of the offence charged, and fined him 1s., with 10s. costs.

The question for the opinion of the Court was whether the Justices, upon the above statement of facts, came to a correct determination in point of law.

MR. FRANK PHILLIPS, for the appellant, contended that the conviction was wrong. Under the County Court Rules there was a right to serve the respondent personally, and nothing was done by the appellant beyond what was necessary to bring the document home to the respondent. It had been decided that a process-server was entitled, in certain circumstances, to lay hands on the man whom he had to serve—see Harrison *v.* Hodgson (10 B. & C., 445). The Justices seem to have thought that throwing the document down in front of the respondent would have been good service. That was not so—see Heath *v.* White (2 Dowl. & L., 40).

MR. GERALD DODSON, for the respondent, said it had to be remembered that solicitors were acting for both sides in the County Court action; the appellant knew this, and ought to have served the document on the respondent's solicitor The appellant's action in attempting to put the documen into the respondent's coat was unnecessary, and would b likely to cause a breach of the peace. The Justices regarde