

HAMILTON.—28th October last, from the Lake Reserve, the property of GEORGE T. WITT, farmer, Ngaruawahia, a bay hack pony filly, three years old, one white hind foot; value, £6. Identifiable.

MARTON.—21st ultimo, from outside complainant's office in Wellington Road, the property of ROBERT HARRIS, land agent, a gentleman's B.S.A. bicycle, No. 099, makers Neilsen Bros., Marton, one grip missing; value, £5. Identifiable.

OTAKI.—Between the 18th August and the 18th October last, from the farm of ROBERT WYNN FLEMING, seventeen bullocks, twelve to eighteen months old, mixed colours and breeds, some half-bred Jerseys, branded "T5" on rump; total value, £59 10s. Identifiable.

MASTERTON.—On or about the 22nd ultimo, from the men's quarters at Kahurangi Station, the property of H. W. SMITH, horse-breaker, a new brown-tweed sac suit, with green threads running through it, maker J. T. Lewis, Willis Street, Wellington; would fit a man about 5ft. 10 in.; value, £6. Identifiable. Suspicion is attached to **James Thompson**, age about thirty-eight, about 5ft. 10 in., labourer, supposed native of New Zealand, slim build, dark moustache. Supposed to have come from New Plymouth, and to be in the coal trade in Wellington.

WELLINGTON.—24th October last, from outside the New Zealand Insurance Company's Office, the property of JOHN KEIR AND CO., carriers, 76 Jervois Quay, a gentleman's B.S.A. bicycle, No. 28106, steel rims and pedals, free wheel, no grips, back-peddalling brake, front mud-guard broken; value, £7. Identifiable.

PICTON.—CHARLES PHILPOTT'S AND OTHERS' launches broken into: The suspect, **Edward Kenny**, was arrested for these offences by Constable King, Picton police, and committed for trial. The grand jury at Blenheim ignored the bill of indictment. One bannister-brush has been recovered. (See *Police Gazette*, 1913, page 447.)

CHRISTCHURCH.—24th October last, from Colombo Street, the property of THOMAS WILLIAM TOMLINSON, lamp-cleaner, 135 Aikman's Road, a gentleman's Bell bicycle, No. 3908, blue-enamelled, fixed wheel, one Dunlop tire, the other Oceanic, top bar nickel-plated, tape bound round handles; value, £18. Identifiable.

PALMERSTON SOUTH.—Between 8.30 a.m. and 5.30 p.m. on the 4th ultimo the dwelling of JAMES ROGER SMITH, linesman, care of Telegraph Department, Dunedin, was broken into, and the following articles stolen: A light-brown-tweed coat, size 7, "Ledgwood" on tab, value £2, identifiable, the property of complainant; a pair of light-brown-tweed trousers, value £1 5s., identifiable, the property of ALBERT DUNCAN; a gentleman's silver hunting-watch, key-winding, "J. Welsh" scratched inside, similar to No. 2 in *Police Gazette*, 1911, page 1, value £5, identifiable, the property of JAMES WELSH. Suspicion is attached to **John Anderson**, age about forty, height about 5ft. 8 in., swagger, stout build, dark complexion, dark moustache turning grey; dressed in dark clothes and black-felt hat. Carrying a large swag in grey blanket. He has been searched by the Hampden police without result.

PROPERTY RECOVERED.

TAURANGA.—WILLIAM HENRY POOLE'S mare has been found straying. (See *Police Gazette*, 1913, page 673.)

WAIPIRO BAY.—MURIEL GRAY'S stolen ring has been recovered, and **Robert Straith** arrested for theft of same by Constable Thomassen, Waipiro Bay police. (See *Police Gazette*, 1913, page 658.)

DUNEDIN.—H. F. MOSS'S bicycle has been found: not stolen. (See *Police Gazette*, 1913, page 709.)

ABSCONDERS FROM AN INDUSTRIAL SCHOOL.

LEVIN.—6th ultimo, from the Weraroa Training Farm, **Robert Campbell**, age fourteen, height about 5ft. 2 in., a half-caste Maori, pale complexion, straight black hair, brown eyes, slim build; pleasant appearance; dressed in dark suit and blue-striped cotton shirt.

LEVIN.—9th ultimo, from Weraroa Training Farm, **Albert William Burton**, age fifteen, height about 4ft. 11 in., native of New Zealand, slim build, pale complexion, fair hair, blue eyes, large mouth, rather prominent teeth; dressed in dark knickerbocker suit and tweed cap—probably numbered "S. 39."

MISCELLANEOUS INFORMATION.

Errata.

Circular No. 22/13, Uniform Clothing.—Frocks.—Sergeants' and constables': "1½ yards braid" should read "1¼ yards braid." (See *Police Gazette*, 1913, page 722.)

LAW REPORT.

("New Zealand Law Report," Vol. xxxii, page 1178.)

[S.C. IN BANCO, WELLINGTON.—(SIM, J.)—4TH AND 9TH JUNE, 1913.]

MURRAY v. REID AND ANOTHER.

Mandamus—Dismissal of Information by Magistrate—Decision on Merits—Appeal, not Mandamus, Procedure to question Decision—Charge of Offence under Section 41, Gaming Act, 1908—No Notice of Intention to prosecute—Notice not necessary—The Gaming Act, 1908, Section 74.

A was charged with an offence under section 41 of the Gaming Act, 1908, and pleaded "Not guilty." Her counsel, having obtained from the informant an admission that no notice in writing of the intention to prosecute had been given to her, thereupon contended that such a notice was necessary under section 74 of the Gaming Act, 1908, and that the information should be dismissed. The Magistrate held that this objection was fatal, and, without hearing evidence, dismissed the information. The informant moved for a writ of *mandamus* to command the Magistrate to hear and determine the information.

Held, 1. That no notice of intention to prosecute was necessary, section 74 being enacted for the protection of persons acting in pursuance or intended pursuance of the powers conferred by the Act, and not for the protection of persons charged with having violated the provisions of the Act.

2. That the Magistrate's decision was an adjudication on the merits, and that appeal, and not *mandamus*, was therefore the informant's proper remedy.

Sutherland v. McGimpsey (17 N.Z. L.R. 431; 1 Gaz. L.R. 28.) followed.

MOTION for writ of *mandamus*. The facts are set out in the judgment of Sim, J.

Macassey, for the plaintiff:—

Two points arise: 1. Was the Magistrate's ruling wrong? 2. Will a *mandamus* lie to compel the Magistrate to hear and determine the information? It was admitted the Magistrate's ruling was wrong. Section 290 of the Justices of the Peace Act, 1908, allows an appeal only after hearing and determination; so also sections 68 to 73. Here there was no hearing and determination, as the Magistrate decided a point preliminary to the laying of the information. The principle is, Is the objection such that whatever the merits of the case, whether the defendant be guilty or not, the Justices should hold that they cannot decide upon the merits owing to the objection in point of law—e.g., want of parties or of notice? Such holding is a declining of jurisdiction, and not an adjudication: *Reg. v. Brown* (7 E. & B. 757); *Paley on Summary Convictions* (8th ed. 93); *Shortt on Mandamus* (p. 248.); *Ex parte Deedo* (1 Legge (N.S.W.) 193); *Rex v. Gloucestershire Justices* (1 B. & Ad. 1). *Burgess v. Moody* (7 N.Z. L.R. 320) is distinguishable, because the Magistrate heard and decided a point going to the merits of