ABSCONDER FROM AN INDUSTRIAL SCHOOL.

LEVIN. — 7th instant, from Weraroa Training Farm, **Francis Charles Gomez**, age sixteen, height about 4 ft. 10 in., labourer, native of New Zealand, medium build, fresh complexion, brown hair, dark eyes, scars on left knee.

MISCELLANEOUS INFORMATION.

Memorandum.] Police Department,
Wellington, 22nd June, 1915.

List of Registering Authorities under the Motor Regulation Act, 1908, and the Distinguishing Letters and Numerals assigned to each.

The following memorandum from the Under-Secretary, Department of Internal Affairs, Wellington, is published for general information, and the list published in *Police Gazette*, 1914, page 374, is to be amended accordingly.

(P.14/868.) J. CULLEN,
Commissioner of Police.

Department of Internal Affairs,
Wellington, 22nd June, 1915.

Memorandum for the Commissioner of Police, Wellington.

Motor Regulation Act, 1908.

I have to advise you that the distinguishing letters and numerals assigned to the Gisborne Borough Council under the Motor Regulation Act, 1908, have been extended from "G. 1 to 500" to "G. 1 to 1000."

J. HISLOP,
Under-Secretary.

LAW REPORT.

("Times Law Reports," Vol. xxxi, page 384.)

[K.B. DIV.—(AVORY AND ATKIN, JJ.)—31ST MARCH, 1915.]

Ex parte MOSER.

Extradition — Fugitive Criminal — Conviction in France — Escape from Prison — Commitment — Extradition Act, 1870 (33 and 34 Vict., c. 52), s. 10.

The appellant was convicted in France of *vol et violence*, but before he had served the whole of his sentence he escaped from prison. Having come to this country he was committed with a view to his extradition. The extradition treaty with France provides for the surrender of persons who have been convicted of a crime in France.

Held, That even if prison breach were not an offence within the treaty, and although the applicant had not been convicted *en contumace*, the applicant was nevertheless a fugitive criminal within the meaning of section 10 of the Extradition Act, 1870, and the order of commitment was right.

MR. ABINGER applied for a rule *nisi* for a writ of *habeas corpus* on behalf of Maral Louis Albert Moser in the following circumstances.

The applicant, said counsel, was a French subject, aged twenty-six, who was at present in Brixton Prison. He stood committed on an extradition warrant for the offence of *vol et violence* committed in France. He was convicted of the offence, and was sentenced to four years' penal servitude, a sentence which was reduced on appeal to three years' penal servitude. When he had served eighteen months of the sentence he escaped from prison. He went first to Liége, and three or four years ago came to this country, where he earned his living as an hotel employee. When war broke out he went to the French Consul and volunteered to fight the Germans if the Consul would give him an undertaking that he should not be called upon to serve the rest of his sentence. The French police were communicated with, and they declined to accept the suggestion made, but as they had learned his address they applied for his extradition.

The extradition treaty between this country and France provided that "the High Contracting Parties engage to deliver up to each other those persons who are being proceeded against or have been convicted of a crime committed in the territory of the one party and who shall be found within the territory of the other party under the circumstances and conditions stated in the present treaty."

The Extradition Act, 1870, section 10, provided, by its second paragraph, that "In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, otherwise he shall order him to be discharged."

Mr. Abinger submitted (1) that the offence with which the applicant was charged had merged in the conviction, and (2) that as prison breach was not an extraditable offence the applicant was wrongly committed. He also contended that the words in the treaty "have been convicted of a crime" must mean convicted *en contumace*, for otherwise a man who had been convicted twenty-five years ago and had served his sentence would be liable to extradition.

Mr. Justice Avory.—Is not the question here whether the applicant is a fugitive criminal within the meaning of section 10 of the Extradition Act?

Mr. Abinger.—I submit that he is not a fugitive criminal, but a criminal who has escaped from prison, and in doing so has committed prison breach which is not an extraditable offence.

Mr. Justice Avory, in giving judgment, said that in his opinion there should be no rule. The order of commitment showed that the applicant had been committed with a view to his being surrendered in pursuance of the Extradition Act on the ground that he had been convicted of robbery with violence, as the offence was known in this country. Mr. Abinger admitted that the applicant was convicted of that crime and was sent to prison, and also that he had broken out of prison and had fled to this country, and he contended that the offence of prison breach was not one of the offences specifically mentioned in the treaty with France or in the Extradition Act of 1870.

The answer to this contention was that the applicant was undoubtedly a fugitive criminal within the meaning of section 10 of the Act. Admittedly he was a criminal who had not yet served his sentence, and who had fled from the place of his conviction in France to this country. The second paragraph of section 10 clearly dealt with the case of a fugitive criminal alleged to have been convicted of an extradition crime. All that the Magistrate had to consider was whether the evidence produced before him was such as under English law proved that the prisoner was convicted of such a crime. It was not suggested that the Magistrate had not such evidence before him, and therefore it appeared to him (Mr. Justice Avory) that the case clearly fell within the section. He also thought that the case came within the treaty because the applicant was convicted of one of the crimes mentioned in it. The Magistrate had properly exercised his jurisdiction, and the application must be dismissed.

Mr. Justice Atkin delivered judgment to the same effect.

Solicitors—Messrs. Claude Lumley and Co.

EXTRACTS FROM NEW ZEALAND GAZETTE.

(From *Gazette*, 1915, pages 2119, 2121, 2123, and 2124.)

Extending Close Season for Oysters between Albatross Point and the Urenui Stream.

LIVERPOOL, Governor.

ORDER IN COUNCIL.

At the Government House at Wellington, this twenty-first day of June, 1915.

Present:

HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

WHEREAS it is enacted by the fifth section of the Fisheries Act, 1908, that the Governor may from time to time by Order in Council make regulations for, amongst other things, prescribing a close season for oysters for a term not exceeding three years, and for further extending such close season:

And whereas by Order in Council dated the twenty-second day of July, one thousand nine hundred and twelve, and published in the *New Zealand Gazette* on the twenty-fifth day of the same month, a regulation was made prescribing a close season for oysters for a term of three years from the date of the order within all the bays, estuaries, and tidal waters on the west coast of the North Island of New Zealand lying between Albatross Point on the north and the mouth of the Urenui Stream on the south:

And whereas it is desirable to extend such close season:

Now, therefore, His Excellency the Governor of the Dominion of New Zealand, in pursuance and exercise of the