

The Colenso Cases: A Perspective of Law in Nineteenth Century Natal

John William Colenso, Bishop of Natal, was a recurrent figure in litigation in Natal, during the 1850s and 1860s. The cases in which he featured ranged from *Colenso v Acutt* (1856),¹ in which he appeared on behalf of the Bishop of Cape Town, in a dispute with the churchwarden of St Paul's, Durban; to *Lloyd v Colenso* (1859),² in which he was sued by the Colonial Chaplain for £1 12s 6d damages for libel and illegal suspension from office; to the numerous wrangles of the late 1860s with the Bishop of Cape Town, Dean Green and other local opponents.³ The judgements handed down in these cases provide graphic evidence of the legal context in which Bishop Colenso and his contemporaries operated.

Between 1846 and 1858, the chief legal tribunal in Natal was the District Court,⁴ comprising one judge styled the Recorder.⁵ In 1858, this Court was transformed into the Supreme Court,⁶ composed of three judges.⁷ This Court had jurisdiction in all causes and over all residents within Natal, unless this power was specifically curtailed by statute.⁸ Of particular relevance, the Court asserted its right to decide upon ecclesiastical causes: in *Bishop of Natal v Wills* (1867),⁹ the Chief Justice declared that the Court had 'as much jurisdiction within the colony . . . as the Master of the Rolls has in England'.¹⁰ Final judgements of the Supreme Court, in civil cases without a jury, could be appealed against to 'Her Majesty in Her Privy Council'.¹¹ This step was very rarely taken, because of the huge costs and extensive delays involved,¹² and the few appeals that occurred were at the suit of large, corporate bodies or powerful institutions wishing to vindicate a major principle. A conspicuous example was the case *Bishop of Natal v Bishop of Cape Town* (1866),¹³ and here the Privy Council gave judgement nearly two years after the judgement of the Supreme Court. For the overwhelming majority of litigants in Natal, the Supreme Court was effectively the highest legal tribunal to which they could turn.

It was within this legal framework that the judges of Natal deliberated upon the legal troubles of Colenso. These Colenso disputes offer insights into the characters of those on the Bench. They reveal, firstly, that the man at the helm, Chief Justice Walter Harding,¹⁴ was a simple homespun character, of limited ability and training.¹⁵ Harding's awareness of his own limitations was clearly expressed in *Bishop of Natal v Wills*, where he stated:

I should indeed be delighted if the disputes now existing here . . . could have been dealt with by men in England far, very far, my superiors in every respect. Their position and their learning would have carried a weight with their decision which mine cannot possess.¹⁶

Harding nevertheless strove, to the best of his ability, to produce justice in his decisions. In the *Bishop of Natal v Wills* case, he declared that his decision would be 'what my conscience dictated as the right step'.¹⁷ Harding's good intentions led him, on occasions, to try to get Colenso and his opponents to settle their differences out of Court. In *Bishop of Natal v Green, Robinson, Williams, Spence and Jenkyn* (1868),¹⁸ he twice asked the litigants if they would refer their dispute to arbitrators, to be settled amicably.¹⁹ This same impulse led Harding to phrase his Colenso judgements as blandly and succinctly as possible, to avoid stimulating passions and prejudices further.²⁰ This was all the more admirable, as the religious disputes evidently caused Harding much anguish. In the first draft of his judgement in *Bishop of Natal v Bishop of Cape Town*, he included the following observations (later omitted):

We all know and deplore the state things have been reduced to in the Colony in reference to the affairs of the Episcopal Church. Subjects connected with religion are never considered with calmness.²¹

Harding's efforts in the Colenso disputes were further assisted by the knowledge which he had of the local populace and its affairs. In *Bishop of Natal v Green* (1868),²² the Court was asked to confirm Colenso's order depriving Dean Green of the right to officiate as a minister of the Church of England in Natal. In deciding on the power of Colenso to issue this order, Harding C.J. said that the Anglican Church in Natal was merely a 'voluntary association'. To illustrate, in concrete terms, what this expression meant, he cited the law of 1843 regulating the constitution of the Dutch Reformed Church in Natal. This stated that the regulations of a voluntary association would affect persons connected with it only if they subscribed to or recognised these rules as being binding on them (and this, Harding C.J. said, Green had done).²³ It was because of knowledge such as this that Harding was called 'the connecting link between the past and present of the colony, and between its Dutch and English inhabitants'.²⁴

Assisting Harding on the Bench was the first puisne judge, Henry Connor.²⁵ Connor's judgements on the Colenso issues stamped him as a man of great talent, learning and ability. His pronouncements were backed by extensive research, and the authorities he quoted were wide-ranging.²⁶ Connor was also blessed with clear and logical reasoning and an extremely lucid mode of expression. In *Bishop of Natal v Wills*, he argued that the clergy of the Natal Anglican Church (a 'voluntary association') were bound to yield obedience to the Bishop in conscience but *not* in law, and reasoned thus:

Common law is the unwritten will of a nation.

Statute law is the written will of a legislature.

But law, whether written or unwritten, has jurisdiction because of its being law. It governs all to whom it is law, without any consent or contract by them. And this governing power of law, and the right in some men to exercise it . . . independently of any contract or personal or pecuniary relations or the like with them, is jurisdiction. The rules of

a voluntary association are not law, even to those who have voluntarily subjected themselves to them, because law governs irrespectively of there having ever been consent.²⁷

At times, Connor would enliven his learned, carefully-reasoned judgements with an attractive and lively mode of expression. In *Lloyd v Colenso*, the plaintiff objected to Colenso's decree of suspension for certain alleged wrongs, on the ground that the offences charged against him (Lloyd) had not been committed in Natal. Connor J. rejected this defence, and asked rhetorically:

Is there any locality but that of the mind and soul in morals? Can a person commit an immoral act and then by leaving the scene of its performance leave his immorality behind him too? If a person acts wrongly in England and then comes to Natal, does he by his voyage change his nature as well as his sky?²⁸

Also on the Natal Supreme Court Bench was the third puisne judge, Henry Lushington Phillips.²⁹ His judgements in the Colenso cases were generally short, direct statements, containing a small amount of legal authority, and a large measure of personal assessment.³⁰ The highly subjective nature of his judgements was shown in *Ex parte Wheeler* (1866).³¹ Here the applicant sought an order calling on Dean Green to produce the baptismal register of St Peter's, so as to allow an entry to be made of Colenso's baptism of Wheeler's child. Phillips J. declined to grant the order, saying that he did not see the importance of the matter, as 'he had not been baptised'.³² In expressing his opinions, Phillips was often extremely forthright. In *Williams v Brooks and Fraser* (1867),³³ he decided to impose only a small fine on certain Colenso supporters, for contempt of court. After condemning the 'desecration' of the church through the holding of 'orgies and committing brawls', he went on to:

blame a Christian Bishop [Twells], who, if he did not proclaim, allowed his partisans to proclaim, that he would invade the diocese and usurp the functions proper to the Bishop of Natal alone in his Cathedral Church. If this invading Bishop does not follow the precepts of peace and charity which were inculcated by his master, he ought at all events to show that delicacy of feeling which is observed between one gentleman and another.³⁴

On occasions, one of the above judges would be absent from duty, and an acting judge would be appointed to officiate on the Bench. During the 1860s, Connor was twice called to serve on the Bench in the Cape Colony.³⁵ During his first absence, Henry Meller³⁶ officiated as acting second puisne judge. Meller was an English barrister, with very limited knowledge of the local legal system.³⁷ Therefore, his judgements were usually in line with those of the Chief Justice, supplemented by personal opinions. In *Bishop of Natal v Green, Williams and Dickinson* (1866),³⁸ Colenso applied for an order that he be allowed access to the baptismal register of St Peter's, held by the respondents. Meller A.J. supported Harding's decision to grant the application, and then (gratuitously) went on to condemn Dean Green's mode of conduct in the dispute.³⁹

On the occasion of Connor's second absence, Henry Cope⁴⁰ was appointed. Cope was a lowly English solicitor, with barely an elementary knowledge of Natal law.⁴¹ He achieved his elevation to the Bench through

zealously promoting his cause before the local authorities, and by working to the very best of his limited abilities.⁴² On the Bench, he produced pompous, longwinded judgements, perilously deficient in sound legal reasoning and authority. In *Bishop of Natal v Green*, he produced a judgement far longer than those of Harding and Phillips, and said that this was because the main issues had 'not been as fully noticed by the Chief Justice in his judgement, nor do I think by Mr Justice Phillips, . . . as I deem it advisable they should be'. He then went on to outline his conclusions, which were, he admitted, 'adverse in many respects' to those of the judges of the Privy Council on the matter!⁴³

The Colenso cases thus reveal a Bench of sharply contrasting abilities: encompassing the talent of Connor and the abysmal ignorance and subjectivity of Phillips and the temporary judges. The next issue to be examined is the kind of law that these judges applied to the disputes in hand. A statute of 1845 had established Roman-Dutch law as the official legal system of Natal.⁴⁴ In *Bishop of Natal v Wills*, the Court considered the application of Colenso for an interdict restraining Wills from officiating as a minister in any Anglican Church in Natal, without the licence of Colenso to do so. Harding C.J. affirmed that the 'foundation or constitution' of the Supreme Court was based upon 'the law adopted and modified in Holland from the [Roman] civil law, and commonly called the Roman-Dutch Law'. He said that '[t]he process of interdict is well known in the practice of the Roman-Dutch Law, and to the Courts which like this Court are founded on that system', and so proceeded to consider the Dutch authorities on this issue.⁴⁵ Following Harding C.J.'s judgement, Connor J. also canvassed the Roman-Dutch law on the matter.⁴⁶

However, Roman-Dutch law was a legal system which had, by the 1860s, long since ceased to operate in its country of origin, and so was becoming out-dated and obsolete.⁴⁷ Furthermore, many of the major Roman-Dutch works were untranslated from the original Dutch and Latin in which they were written.⁴⁸ Harding knew Dutch, but no Latin; Connor knew Latin but no Dutch; and the other judges on the Bench displayed scant knowledge of either language.⁴⁹ Thus, reference to Roman-Dutch law was at best spasmodic, and in the case of Phillips, Meller and Cope, hardly at all.⁵⁰ Where recourse was made, this would often be to English translations of Roman-Dutch works. In *Bishop of Natal v Wills*, Connor J. relied upon Johannes van der Linden's *Koopmans Handboek* translated as *Institutes of the Laws of Holland*.⁵¹ This reference was unsatisfactory for two reasons: this work was written for Dutch laymen, not for legal experts; and the translation used was done by an English barrister, who at times incorporated notions of English law in his rendering of the text.⁵² Connor certainly did possess the intellectual capacity for a thorough grasp of the Roman-Dutch law, and this was evidenced to some extent in his Colenso judgements.⁵³ But at the time of these cases, his interest in and mastery of Roman-Dutch law had not yet reached the levels he was to attain in the late 1860s and beyond.⁵⁴

Because of the deficiencies in Roman-Dutch law, and the judges' limited grasp of it, recourse was had to other sources. In particular, as the Colenso cases show, the judges used English law extensively, to supplement and even supplant Roman-Dutch law. This was hardly surprising, in view of the

complexion of Natal society and the Bench at this time. A correspondent to a local newspaper, in urging the wisdom of applying English law in Natal, remarked:

The great majority of cases coming before the Courts here are suits between Englishmen . . . the members of the Bench here will be selected from the British Bar . . . the law of England is daily going on, reports are published and learned men devote their energies and time to clear up difficulties. [English law] has kept pace with improvement and is adapted to the nineteenth century . . . [Roman-Dutch law] has long since ceased to move, even if not to exist, and thrusts on the people of 1861 the notions and ideas of the fifteenth century.⁵⁵

In certain legal spheres, the practice of referring to English law was expressly sanctioned by statute. For instance, an ordinance of 1852 had introduced the English institution of trial by jury in civil cases,⁵⁶ and provided that all matters relating to jury trial not expressly provided for by the ordinance had to be determined according to 'the law and usage of England'.⁵⁷ Thus, in *Lloyd v Colenso*, where the judge at the initial jury trial had nonsuited⁵⁸ the plaintiff, the full Court, on review, upheld this ruling on the basis of English cases.⁵⁹ Here Harding C.J. stated specifically that the ordinance bound him to the law of England.⁶⁰

But on many other occasions, the judges turned to English law for guidance, where this was not required by statute. In *Bishop of Natal v Wills*, Harding C.J. was careful to qualify his commitment to Roman-Dutch law with the following statement:

No man has a higher respect or is willing to pay greater deference to the wisdom and the justice of the laws of England, . . . than I have.⁶¹ Therefore, after he had canvassed the Roman-Dutch law of interdict, he turned to 'see how the English law stands on this part of the subject'.⁶² Connor J. did the same, and when he went on to deal with constitutional, ecclesiastical and other issues related to English affairs, he relied exclusively on English law.⁶³ This trend was even more marked in the judgements of Phillips J. and the temporary judges.⁶⁴ In *Bishop of Natal v Wills*, when the Court issued a provisional order prohibiting Wills from acting as a minister in the Anglican Church in Natal, Phillips J. said that here 'the Court was following the practice adopted at home, and which experience showed to be the most efficient method of trying a matter of that sort'.⁶⁵

Thus, Natal law was an amalgam of two different legal systems. In this fluid, sometimes confused mix, free rein was given to the entry of another source of legal decision-making: the judges' subjective opinions. The judges' attitudes were partly dictated by their own personal preferences, and instances of these have been considered above.⁶⁶ Besides this, the judges' decisions were also shaped by the desires and needs of the society in which they operated. The judges of Natal took cognisance of the views of Natal colonial society, and sometimes Court decisions were dictated by the effects which the judges perceived their judgements would have on the local community. In *Bishop of Natal v Green*, the Court refused to impose a fine or term of imprisonment on Green for refusing to obey an order of Court, as 'it did not wish to make a martyr of Dean Green'.⁶⁷

The presence of subjective, non-legal elements in the decisions of the Natal judges proved to be extremely unfortunate, within the emotion-

charged atmosphere of the Colenso cases of the 1860s. Most of the judges were seen to have decided views either for or against Colenso, and their judgements were seen to follow these preconceived opinions. Thus, Harding was held to be on the side of Colenso,⁶⁸ and on one occasion, in *Bishop of Natal v Wills*, bets were freely offered on his judgement, long before the case came up for hearing.⁶⁹ Harding's line was adopted with even greater fervour by Cope and Meller: the latter's judgement in *Bishop of Natal v Green, Williams and Dickinson*, which was sharply critical of Green's conduct, was reportedly presented with 'face white with rage, his teeth all but clenched with fury'.⁷⁰

Ranged on the side of Colenso's opponents was the redoubtable Connor. As seen above, Connor's legal ability was of the highest order, and he was generally esteemed as an impartial, scrupulously careful and level-headed judge.⁷¹ However, on the personal level, Connor lived a very narrow, at times eccentric existence: he never married, and 'lived all alone in a cottage bare of anything but the most primitive and cheap furnishings [and] plank shelves round the rooms, full of books'.⁷² Within these limited confines, he devoted his time and energies to his studies, and to the handful of non-legal subjects that interested him. This was done with great intensity, and it is not surprising that the views which he formed on his pet topics tended to be rigid and dogmatic. Perhaps the most important amongst his interests was religion: he was said to be 'a devout [Anglican] churchman'.⁷³ Connor's brand of Anglicanism was traditional and precise, and he was reportedly 'very particular in his interpretation of the rubrics'.⁷⁴ It was, then, to be expected that when Colenso began to expound his controversial ideas in the 1860s Connor would be deeply affected, and would find his own religious views sharply opposed to those of Colenso. Connor proceeded to attend services held by Colenso's opponents, and when he and Colenso happened both to be in Durban, he ostentatiously left the church as soon as Colenso began the reading of prayers.⁷⁵

What was highly unfortunate was that Connor brought his personal religious views to bear on his decisions in the Colenso cases. Connor consistently gave judgements in favour of Colenso's opponents, and often appended personal comments adverse to Colenso's position. In *Bishop of Natal v Bishop of Cape Town*, he noted that:

if a new trustee [of the Natal Anglican Church] were to be appointed I should say it ought not to be the plaintiff; . . . Every trustee is duty bound to look to the interests of all, and not of any particular member, or class of members of his [trust].⁷⁶

Then his dissenting judgement in *Bishop of Natal v Wills*, concerning the grant of a provisional order, was emotional, repetitive and punctuated by strong statements.⁷⁷ On the return day of this matter, Advocate Pinsent, counsel for the Bishop, appealed to Church of England members, from 'every principle of decency', to submit quietly while Colenso remained Bishop of the local Church. To this Connor J. replied: 'Of course there are a good many answers to that'.⁷⁸ He later went on to indicate fairly explicitly his own position in the conflict, when he noted that:

the question was a most important one to all persons in the Church of England. The principles in this case would affect every single worshipper in the English Church in Natal.⁷⁹

Again, in *Williams v Brooks and Fraser*, he concluded his judgement by stating that:

The one side has as much right as the other to say that it was against their consciences that the rite of confirmation should be performed by a certain Bishop, and they had also as much right as the other to reject the Bishop they did not choose to have over them.⁸⁰

The result was that Connor was accused by the Bishop's supporters of 'palpable' and 'unbecoming' partiality, caused by him being 'unduly influenced by the principles of the party to which he belongs'.⁸¹ In fairness to Connor, his performance in the Colenso cases was exceptional, but undeniably it constituted a serious lapse — probably the most serious in Connor's lengthy judicial career in South Africa.

It is evident, then, that the Natal Supreme Court was hardly the ideal legal forum within which to settle the heated Colenso disputes. Far from being the firm, sure and dispassionate institutions that they should have been, the Supreme Court and the legal system it administered were fluid and changeable, depending much on the personalities of those on the Bench. An advocate of the time, Arthur Walker, reportedly said that 'the law (here at all events) is a wax nose capable of taking any shape you choose to give it'. Whether that nose was to assume a shape corresponding with Colenso's views or those of his opponents, depended on the legal knowledge, acumen and personal preferences of those who manipulated it.

REFERENCES

Abbreviations: SC = Supreme Court;

PRO CO = Public Records Office, London: Colonial Office

- ¹ Natal Archives, SC, 1/5/46: case 501.
- ² Natal Archives, SC, 1/8/1: case 56.
- ³ See references 9, 13, 18, 22, 31, 33 and 38.
- ⁴ Ordinance 14 of 1845 (Cape), section 1.
- ⁵ Ordinance 14 of 1845 (Cape), section 3.
- ⁶ Law 10 of 1857, section 4.
- ⁷ Law 10 of 1857, section 6.
- ⁸ Law 10 of 1857, section 25.
- ⁹ Natal Archives, SC, 1/8/28: case 2599.
- ¹⁰ 1867 *Natal Law Reports*, p. 61.
- ¹¹ Law 10 of 1857, section 39.
- ¹² In 1863, a Natal advocate estimated the total cost of an appeal to be at least five hundred pounds (*Natal Witness*, 6 June 1863: letter by S. Pinsent).
- ¹³ Natal Archives, SC, 1/5/67: case 1072. See also (1869) 39 *Law Journal* (New Series) Privy Council cases, p. 58).
- ¹⁴ 1813-1874. See P.R. Spiller, 'The Natal Supreme Court: Its origins (1846-1858) and its early development (1858-1874)', (Ph.D., University of Natal, Durban 1982), pp. 106-129.
- ¹⁵ Harding was born in Scotland, but reared in the Cape Colony, where he spent the first half of his life, before moving to Natal in 1845. Harding never passed a legal examination, attended a university or was admitted in his own right as an advocate. His appointment as Natal's first Chief Justice in 1858 rested on a twenty-nine year long career of faithful service as a legal official and later as public prosecutor (*ibid.*).
- ¹⁶ 1867 *Natal Law Reports*, p. 60.
- ¹⁷ *Ibid.*
- ¹⁸ Natal Archives, SC, 1/8/30: case 2842.
- ¹⁹ 1868 *Natal Law Reports*, pp. 169-170.
- ²⁰ *Times of Natal*, 9 February 1867: judgement of Harding C.J.
- ²¹ Natal Archives, SC, 1/5/67: case 1072.
- ²² Natal Archives, SC, 1/5/71: case 1198.

- 23 1868 *Natal Law Reports*, pp. 140-141.
 24 *Times of Natal*, 22 April 1874: editorial.
 25 1817-1890. See Spiller, 'Natal Supreme Court', pp. 130-154.
 26 Connor was born in Ireland, obtained the BA and LLB degrees at Trinity College, Dublin, and was admitted to the Bar in England and in Ireland. He practised at the Irish Bar between 1841 and 1854, and then became Chief Justice and Acting Governor of the Gold Coast. He was appointed first puisne judge of Natal in 1857, and arrived in Natal in 1858. On the death of Harding in 1874, he became Chief Justice of Natal, a post he held until his death in 1890 (*ibid.*).
 27 1867 *Natal Law Reports*, p. 65.
 28 PRO, CO 179/55: judgement of Connor J. in *Lloyd v Colenso*.
 29 1825-1896. See Spiller, 'Natal Supreme Court', pp. 155-185.
 30 Phillips was admitted to the English Bar in 1850, and practised as a barrister for seven years. He was a clever, capable man, but expressed disdain for Roman-Dutch law, and rarely exerted himself in the way of legal research (*ibid.*).
 31 Natal Archives, SC, 1/8/20: case 1790.
 32 *Natal Witness*, 5 January 1866: judgement of Phillips J.
 33 Natal Archives, SC, 1/8/27: case 2530.
 34 1867 *Natal Law Reports*, pp. 22-23.
 35 During 1865-1866 and 1867-1868 (Spiller, 'Natal Supreme Court', p. 130).
 36 1808-1881. See Spiller, 'Natal Supreme Court', pp. 186-191.
 37 *Ibid.*
 38 Natal Archives, SC, 1/8/21: case 1929.
 39 *Natal Witness*, 3 April 1866: judgement of Meller A.J.
 40 1806-1880. See Spiller, 'Natal Supreme Court', pp. 192-198.
 41 *Ibid.*
 42 Also a major factor was 'the unfortunate scarcity in Natal of lawyers of good character' (PRO, CO 179/84: Keate to Buckingham 6 September 1867).
 43 1868 *Natal Law Reports*, p. 146.
 44 Ordinance 12 of 1845 (Cape), section 1.
 45 1867 *Natal Law Reports*, pp. 60-61.
 46 1867 *Natal Law Reports*, p. 63.
 47 Roman-Dutch law was abolished in Holland in 1809, and was soon replaced by Napoleon's *Code civil* (H.R. Hahlo and E. Kahn *The South African Legal System and its Background* (Cape Town, 1973), p. 564).
 48 E.g. the *Commentarius and Pandectas* of J. Voet, regarded as an encyclopedia of Roman-Dutch law, was untranslated from Latin.
 49 *Natal Witness*, 31 July 1863: letter by T. Phipson.
 50 Spiller, 'Natal Supreme Court', pp. 335-336.
 51 1867 *Natal Law Reports*, p. 63.
 52 The translator was J. Henry 'of the Middle Temple, Barrister at Law'.
 53 See e.g. 1867 *Natal Law Reports*, p. 63.
 54 Spiller, 'Natal Supreme Court', pp. 335-345.
 55 *Natal Courier*, 1 May 1861: letter by 'Anon'.
 56 Ordinance 7 of 1852 (Natal).
 57 Section 15.
 58 I.e. prevented the plaintiff's case from being decided by the jury, as the plaintiff had failed to make out a legal case.
 59 PRO, CO 179/55: judgement of Harding C.J. in *Lloyd v Colenso*.
 60 *Ibid.*
 61 1867 *Natal Law Reports*, p. 60.
 62 1867 *Natal Law Reports*, p. 61.
 63 1867 *Natal Law Reports*, pp. 63-67.
 64 See e.g. Cope A.J.'s judgement in *Bishop of Natal v Green*, in 1868 *Natal Law Reports*, p. 149.
 65 *Times of Natal*, 11 May 1867: judgement of Phillips J.
 66 See notes 32, 34 and 39.
 67 *Natal Witness*, 4 May 1866: judgement.
 68 Harding was not a church-goer, but had close ties with the Natal establishment (notably the Shepstones), and his funeral service was held at St. Peter's (Spiller, 'Natal Supreme Court'), pp. 106-129.
 69 *Natal Herald*, 8 August 1867: letter by 'G'.

- ⁷⁰ *Natal Witness* 6 April 1866: letters by 'An Eye Witness' and 'A Churchman'.
⁷¹ See e.g. PRO, CO 179/90: Keate to Buckingham 1 September 1868.
⁷² C. Bird, 'Natal Judges of Former Days', 1936 *South African Law Times*, 5, p. 215.
⁷³ A.F. Hattersley *Later Annals of Natal* (Pietermaritzburg, 1938), p. 204.
⁷⁴ Ibid.
⁷⁵ *Natal Mercury*, 13 August 1867: comment by 'Maritzburg Correspondent'.
⁷⁶ *Times of Natal*, 9 February 1867: judgement of Connor J.
⁷⁷ *Times of Natal*, 11 May 1867: judgement of Connor J.
⁷⁸ 1867 *Natal Law Reports*, p. 15.
⁷⁹ 1867 *Natal Law Reports*, p. 17.
⁸⁰ 1867 *Natal Law Reports*, p. 23.
⁸¹ *Times of Natal*, 8 May 1867 and 18 May 1867: letters; and *Natal Witness*, 6 August 1867: editorial.

P.R. SPILLER

