

ings against any one on board a vessel cruising from island to island; while the limitation that all proceedings must be commenced within three months after the commission of the offence to which they relate, will, in a region where the distances are so enormous and the difficulties of communication so great, frequently, if not usually, secure absolute immunity to offenders.

54. A yet more serious example of the difficulties thus created is to be found in the doubt which, owing to the wording of Article 45 of the Order in Council, has been raised as to the power of Deputy Commissioners to imprison: a doubt which has led to the issue of an order by the Acting High Commissioner to the Deputy Commissioners directing them to refrain from pronouncing sentences of imprisonment at all, and in all cases to impose fines instead. This is, in fact, altogether to suspend the administration of justice by Deputy Commissioners throughout the Western Pacific; for, to secure the payment of a fine, it is requisite to possess the power to imprison in the event of failure to pay it. The class of persons who are brought before the Deputy Commissioners are not likely to possess property on which to distrain, while in any case the attempt to levy a distress on the property of men over whose persons and whose vessels the Deputy Commissioner has no power of detention is manifestly absurd. Moreover, it may be questioned whether, in the anxiety to avoid the appearance of a technical irregularity, a real illegality has not been committed. For many offences which may come under the cognizance of a Deputy Commissioner, the law provides no other punishment than that of imprisonment without the alternative of a fine, and we cannot think that the instructions of a High Commissioner, or even of a Secretary of State, can override the express provisions of an Act of Parliament.

55. Another cause is to be found in the inadequacy of the punitive sanctions under which the High Commissioner, as a legislative or executive officer, acts. On paper he possesses the most extensive powers for the issue of regulations having the force of laws for controlling the acts of British subjects in the Pacific. As, however, a fine of £10 or an imprisonment of three months are the highest penalties which can be imposed for their breach, the scope of such regulations is in fact exceedingly limited.

56. It may therefore be said that the Order in Council has been but very moderately successful in the accomplishment of those objects for which it was actually designed.

57. In not having done that which it was never intended to do, it cannot be said to have failed; but it must be borne in mind that, although no jurisdiction over natives was given, or meant to be given, to the High Commission by the Orders in Council, the question of offences committed by natives is one most intimately bound up with that of offences committed by white men; and that, as regards their repression, the High Commission can hardly be said to have worked advantageously, for it is undeniable that it has to some extent tied the hands of naval officers, who were before accustomed to deal freely with such matters.

58. The naval authorities and High Commission have hitherto worked cordially together, owing to personal good understanding between the heads of both. But great danger of friction is involved in the official relations which exist between them.

59. The instructions sent to the Commodore touching his relations with the High Commission have varied from time to time, but they have invariably been so worded that it was quite possible to place more than one construction on them, while replies to questions touching the punishment of natives have been answered in such vague language as to throw upon the naval officer the whole responsibility of the action taken. It is impossible for the navy to do the duty required of it, and at the same time to limit its action strictly to "acts of war." For instance, the execution of the murderers of the commanding officer and men of H.M.S. "Sandfly" was an act of retribution rather than of war, and, as such, it was distinctly within the province of the High Commission to call the naval authorities to account for their action. This is, however, but one of many cases where the navy, in the performance of its duties, has unavoidably placed itself within the jurisdiction of the High Commission, and which, but for the excellent personal relations to which we have referred, must have led to grave official scandal. It is hardly possible to expect that, where the duties of two important departments are so ill-defined, they can long rely entirely on personal goodwill for co-operation in a difficult and complicated service, in which it is beyond everything essential that harmony and unity of purpose should exist between them.

60. Previously to the establishment of the High Commission in the Western Pacific, the navy, in its own way, kept order amongst the islands. When a British subject was guilty of any serious crime, or became generally obnoxious, he was either taken to Australia for trial, or more often deported to some other island, or to a neighbouring colony. The powers, such as they were, exercised by British naval officers, had a strong deterrent effect, and the traders were, as a rule, quite ready to bow to their decision in matters of dispute which came before them. In like manner, when outrages were committed by the natives, the captain of the next ship visiting the place, after a careful investigation on the spot, dealt with the case as he thought best.

61. Since the institution of the High Commission, no British subject can be reached except through a regular legal process, whatever his crime may be, or however desirable his speedy arrest may appear. Where distances are so great, and means of communication so limited, this becomes a serious difficulty, as it must necessarily enable many offenders to escape the law. We have before shown how much the great legal powers of the High Commission are rendered inoperative by the want of an executive to enforce its orders; and that, whilst it has extinguished the assumed jurisdiction over British subjects practised by the navy, its own powers, especially amongst the more remote islands, remain in abeyance from the impossibility of exercising them.

62. As regards the natives the case is different: the High Commission Court has no power to deal with them, but it clearly can restrain naval officers (since they are British subjects) from performing any acts beyond their legal powers. The navy is thus restricted to "acts of war" as the sole means open to it to punish outrages, or other less serious offences, committed by natives against British subjects. So far, with every wish on the part of the navy to support the High Commission and aid in working out the provisions of the Western Pacific Order in Council, the presence of the