

1894.
NEW ZEALAND.

PACIFIC ISLANDS

(CORRESPONDENCE RELATING TO THE).

[In continuation of A.-5, 1893.]

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

Mr. F. J. Moss to His Excellency the GOVERNOR.

(No. 12.)

MY LORD,—

British Residency, Rarotonga, 5th August, 1893.

I have the honour to inform your Excellency that H.M.S. "Ringdove" arrived on the 25th July, with Mr. Ross, as special Judicial Commissioner, from Fiji, to adjudicate at Penrhyn Island on the seizure of the schooner "Norval," reported in my despatch No. 3/93, of 28th February. The "Ringdove" called here in order that Mr. Ross might obtain an interpreter. A.-5, 1892, No. 7.

2. Mr. Ross found the Native schooner "Omaka" lying at Rarotonga. She had arrived from Penrhyn on the 18th, a week before his arrival, with information that H.M.S. "Hyacinth" had been instituted by His Excellency the High Commissioner, in ignorance apparently of the proceedings.

3. Very little is yet known definitely of Captain May's decision. The only information I have been able to obtain is contained in the enclosed letter to me from the Penrhyn Hau (received by the "Omaka"), and in a statement made by Mr. Benson (the master of that vessel). Mr. Benson states that he arrived at Penrhyn from Rarotonga on the 3rd July, that the "Norval" left for Rarotonga on the 1st, and that the "Hyacinth" left later on the same day.

The dates in the Native letter differ from this, but they are seldom accurate coming from Natives so isolated as those of Penrhyn. It is to be regretted that the "Omaka" did not reach Penrhyn a few days earlier, as I sent by her the information to the Hau that the High Commissioner would send an officer to adjudicate.

3A. The "gentleman from Tahiti," referred to in the Native letter as having helped them from his own pocket, is, I learn, a Mr. George Dexter, a trader from Tahiti, who has in return secured the right to introduce diving-dresses and divers, and obtained practically a monopoly of the pearl-shell fishery in the island. Unless precautions have been taken, the lagoon will thus be swept clean, and some years be required for its recovery, while the trade of the island will be diverted from Rarotonga to Tahiti.

4. Mr. Ross was placed in a position of considerable difficulty, but as the Penrhyn natives who had come to Rarotonga on the "Omaka" applied to him for a summons to recover the money in the hands of Donald and Edenborough, of Rarotonga, in connection with the "Norval" case, he decided, after careful consideration, to hold his Court here, and applied for the use of a building for the purpose.

5. I enclose copy of Mr. Ross's application, and of the reply sent by the Ariki Makea, acting under my advice. The Parliament House was placed at Mr. Ross's disposal for this occasion; but on the grave question of jurisdiction, I deemed it my duty to advise Makea to state explicitly that the holding of the Court was not to be regarded as a recognition on her part that the Order in Council of 15th March, 1893, placed the Cook Islands within the High Commissioner's jurisdiction.

6. Makea's contention is based on the 6th Article of the Order in Council, which excepts from the jurisdiction places "excluded by the 4th Article." Among such places, "any place for the time being within the Protectorate of any civilised Power" is specially mentioned; and this is clearly the status of the Cook Islands, with the exception of Aitutaki.

7. On the other hand, the same Article (the 4th) expressly includes "as within the limits" of the Order in Council, "places under the protection of Her Majesty," while it as expressly excludes those "within the Protectorate of any civilised Power." Mr. Ross holds that the term "civilised Power" is thus meant to apply to foreign Powers only, and should be so read in the Article defining (the 6th) the limits "of the jurisdiction."

8. Respecting Aitutaki, I may observe that, in accordance with my instructions from His Excellency Lord Onslow, of the 25th February, 1891, it was not included in the Protectorate, but remained in the position in which it was placed by the Proclamation of Captain Bourke, of A.-1., 1891, Sess. II., Enclosure No. 2.

H.M.S. "Hyacinth," when the flag was hoisted on the 27th October, 1888 (New Zealand Parliamentary Papers, Session II., 1891, A.-3, p. 21). In this Proclamation Captain Bourke engaged that the Native administration over Aitutaki, as well as over the other islands, would not be disturbed, and enjoined obedience to the Native laws on persons of all nationalities who might remain in the islands.

9. Aitutaki was subsequently included in the Federation of the Cook Islands (1st June, 1891), subject to Her Majesty's pleasure being known (New Zealand Parliamentary Papers, Session II., 1891, A.-3A., p. 7).

10. Each of the Arikis in some of the islands, and of the local Governments in others, has retained the Courts which were in existence when the flag was hoisted, and had been in existence from what may be termed time immemorial. I look forward to their being reduced in number, and placed upon a more regular footing; but that cannot be done until the revenue enables provision to be made for the payment of magistrates and police. None of them at present receive any official salary; but they are generally men of rank and means, content to divide the fines and fees of the Court among them. In the meantime these Courts are doing useful work, have maintained law, and aided the Government effectively in preserving order, and, however defective in theory, excite no serious complaint. Their decisions are also always subject to an appeal to the British Resident, whose duty it has been to protect not only the Natives, but persons of all nationalities within the islands.

11. The only statutory Court is the Federal Court, whose jurisdiction is expressly limited to offences against laws made by the Federal Parliament, charges of murder against either Maoris or foreigners, and cases between foreigners who may demand transference of their cases from the local Courts (Parliamentary Papers, Session II., 1891, A.-3A, p. 13).

12. The appointment of a properly qualified lawyer as, at all events, an Assistant Judge would be very desirable, and is only a question of time. Possibly it may be considered that the appointment of the British Resident as a Deputy-Commissioner may meet the case; but I would respectfully submit that this would be confounding a political, and, in some respects, an executive, with a judicial office; that it would make the officer too powerful; and that a different training and different order of mind is required in each. Even as Deputy-Commissioner the jurisdiction would be confined to British subjects, and among the foreign residents in these islands are persons of various nationalities, who would very unwillingly submit to Native Courts from which an exception of any kind is made.

13. Believing that the points thus likely to be raised by the mishap in the "Norval" case affect very gravely the existence of the Federation, and with it the form of protectorate which British authority has taken, I respectfully submit them for your Excellency's consideration.

I have, &c.,

FREDERICK J. MOSS,
British Resident.

His Excellency the Earl of Glasgow, G.C.M.G.,
Governor of New Zealand.

Enclosure No. 1.

To our Chief Mr. Moss.

Penrhyn, 6th July, 1893.

SALUTATIONS to you in the Lord Jesus Messiah. Amen.

It is I, Tautaitini, and the Government that are writing this letter to you regarding our troubles with Captain Harris, which we have already placed in your hands. We have waited for some one to come and settle our troubles, and we always thought the ship of war would have come from your direction; we never thought it would have come from any other part.

The vessel arrived on the 24th June. Captain Harris first went on board the ship to the captain. Our Governor also went to put our troubles before the Captain. He tried to explain the trouble, but on the 27th he came on shore (that is, the captain) to hold an inquiry. Captain Harris was there to explain his own case, and laid all papers he had written before him. We also stated everything on our side in writing, because we could not understand the White-man's language, and did not know how to properly state our case to him in English.

This is another. We were heavily fined, and the money in Captain Harris's hands has gone towards the fine, which all in Rarotonga know about, the balance being paid for us by a gentleman from Tahiti, which was a great help to us, he having paid it out of his own pocket.

From

TAUTAITINI and the AU OMAKA.

Enclosure No. 2.

SIR,—

Rarotonga, 2nd August, 1893.

I have to acknowledge the receipt of your letter of 31st July, and I thank the Cook Islands Government for the use of the Parliament House conveyed therein.

It is possible I may find it desirable formally to hold a Court in connection with the "Norval" case, and questions arising thereon. I have, therefore, to ask if the use of Parliament House will also be granted for that purpose.

It will be understood that, in the event of an action arising between the Penrhyn Natives and any person residing on this island, I shall have full concurrent jurisdiction with the local Courts for the purposes of such action.

I have, &c.,

JOHN ROSS,
A Special Judicial Commissioner.

F. J. Moss, Esq., British Resident.

Enclosure No. 3.

SIR,—

British Residency, Rarotonga, 2nd August, 1893.

I have the honour to acknowledge the receipt of your letter of this day's date.

I am desired by the Ariki Makea, chief of the Federal Government of these islands, to state that she recognises the unexpected difficulties which have arisen in connection with the "Norval" case, and, under the circumstances, consents to your holding your Court as requested. The Ariki gladly places the Parliament House at your disposal for the purpose.

With reference to jurisdiction, the Ariki is quite willing to recognise it as concurrent with that of the Cook Islands and local Courts in this case, but desires to add that the recognition is not to be regarded as a precedent, or an admission on her part that the Order in Council of 15th March, 1893, includes the Cook Islands among places within the jurisdiction of His Excellency the High Commissioner. In this the Ariki is moved by the consideration that, if British subjects are to be exempted from the authority of the Cook Islands Courts, the like exemption will be claimed by the subjects of other Governments, and the authority of the Courts of the Federation be destroyed.

I have, &c.,

FREDERICK J. MOSS,

British Resident.

No. 2.

Mr. F. J. Moss to His Excellency the GOVERNOR.

(No. 13.)

MY LORD,—

British Residency, Rarotonga, 6th August, 1893.

By the "Richmond," from Tahiti, Mr. Ross has received the report of the finding of the Naval Court at Penrhyn, in the "Norval" case, and has allowed me to make the enclosed copy for your Excellency's information.

I have, &c.,

His Excellency the Earl of Glasgow, G.C.M.G., &c.

FREDERICK J. MOSS.

Enclosure.

The Case of the Schooner "Norval."

In this case Mr. Thomas Harris, master of the schooner "Norval," and acting for Messrs. Donald and Edenborough, claims damages from the Government of Omaka. Firstly, because after the said Government had commissioned Mr. Thomas Harris to buy the schooner "Norval" they refused to take the schooner from him, or pay him for the same, after she had been sent from Auckland to Penrhyn in accordance with the commission given him. For this he claims \$1,000, Chili coin. Secondly, because the said schooner and her master and crew was unlawfully detained at Omaka, from the 5th December, 1892, to the date of the trial of this case. For this he claims \$400 per month demurrage, amounting for the six and three-quarter months to \$2,700, Chili coin.

Sitting in the Courthouse at Omaka, on the 27th and 28th June, 1893, with Lieutenant Harry H. Stillman and Mr. Francis B. Pritchard, paymaster, as assessors, I most fully investigated this case and I find—

1. That Mr. Harris was duly commissioned by the Government of Omaka to buy them a schooner, and that the arrangements made by him and his principals, Messrs. Donald and Edenborough, were just and honourable, and that there was no good or sufficient cause which would justify the Government in repudiating the purchase made on their behalf.

2. That the schooner "Norval" together with her master and crew are and have been unlawfully detained by the Government of Omaka since December 5th, 1892. Also, that said Government is therefore liable to pay all expenses for the period extending from 5th December, 1892, to the date of her release.

I therefore direct, either that the Government of Omaka pay to Messrs. Donald and Edenborough, as damages for the repudiation of their purchase and for the expenses incurred in conveying the "Norval" to Penrhyn, the sum of \$800 Chili coin, and for the unlawful detention of the schooner, six and three-quarter months, \$2,700 Chili coin: a total sum of \$3,500 Chili coin; and that the schooner "Norval" be at once released. Or that, in case the schooner is now accepted by the Government, and they pay in addition to the price of \$4,000 Chili coin originally agreed to, the sum of \$2,000 Chili money to meet the cost of wages and provisions of the master and crew during their illegal detention. For in the first case, in accordance with the statements of accounts appended, the Government of Omaka will have to pay to Messrs. Donald and Edenborough \$1,445.90, Chili coin; and in the second case, \$3,945.90, Chili coin.

H. J. MAY,

Captain, H.M.S. "Hyacinth."

No. 3.

Mr. F. J. Moss to His Excellency the GOVERNOR.

(No. 16.)

MY LORD,—

British Residency, Rarotonga, 5th September, 1893.

I have the honour to report to your Excellency that H.M.S. "Ringdove" left Rarotonga on 19th August, having been detained for twenty-five days in connection with the necessarily protracted proceedings of the Judicial Commissioner, Mr. Ross, to which I have referred in another despatch.

I enclose a copy of a letter written by me to Lieutenant Commander Bain on his departure, covering letters of thanks from the Ariki Makea, and from Judge Tepou to Dr. Andrews, who had been indefatigable in his attendance on the sick, and performed many operations among them.

There being no resident medical man in these islands, Dr. Andrews' report on the health and condition of the Natives, which I hope to receive from him by an early mail, is likely to be of great value.

The "Ringdove" is to call at Penrhyn, Manahiki, and Palmerston Islands on her return to Samoa and Fiji.

I have, &c.,

FREDERICK J. MOSS,
British Resident.

His Excellency the Earl of Glasgow, G.C.M.G., &c.

Enclosure.

SIR,—

I have the honour to enclose letter from Queen Makea. Also, letter from Judge Tepou, thanking Dr. Andrews for the kind services he has rendered to the Natives of this island during your ship's stay.

I shall feel obliged by your giving the letters to Dr. Andrews; and I take the opportunity of adding a request that Dr. Andrews would kindly send me, at his earliest convenience, a report on the health and condition of the Natives of this island. His opportunities of investigation have been very great, and a report would be proportionally valuable.

I am also asked by Queen Makea to express her own and her people's appreciation of the courtesy shown by yourself and your officers. To this you will permit me to add that the excellent behaviour of your men during an unusually prolonged stay has been to the Natives a very gratifying example.

I have, &c.,

FREDERICK J. MOSS,
British Resident.

Lieutenant Commander Bain, R.N., H.M.S. "Ringdove."

No. 4.

Mr. F. J. Moss to His Excellency the GOVERNOR.

(No. 18.)

MY LORD,—

British Residency, Rarotonga, 5th September, 1893.

In continuance of my despatches of 5th and 6th August respectively, I have the honour to inform your Excellency that Mr. Judicial Commissioner Ross formally opened his Court on the 4th August, in the Parliament House, which this Government had lent him for the purpose.

2. Three actions were laid in connection with the Penryhn case:—

(1.) The Penrhyn Hau claimed from Donald and Edenborough \$3,600 money in their hands in Rarotonga. The defendants pleaded that the money was paid to them by Thomas Harris as part-payment of the purchase of the schooner "Norval."

(2.) Donald and Edenborough claimed \$1,567·90 from the Hau for goods sold and delivered.

(3.) Donald and Edenborough claimed from the Hau \$2,700 for the detention of the "Norval" at Penrhyn; and \$800 as the expense of bringing her from Penrhyn to Rarotonga—in all \$3,500.

The Natives were represented by Mr. F. G. Moss, who has been here for the last few months, from Tahiti. Messrs. Donald and Edenborough were represented by Mr. Exham; and the cases were fully argued. On the 11th Mr. Exham applied for an adjournment in order that Mr. Harris might be examined, he being then in the "Norval," but the time of his arrival in Rarotonga uncertain. The cases were accordingly adjourned till the 11th December, at Suva, Fiji, with the exception of the claim for \$800, which was struck out by the Court.

3. The "Ringdove" was about to leave when the "Norval" arrived. The Court was thereupon re-opened. On the 15th Mr. Harris's examination began, and on the 18th Mr. Ross gave judgment as follows:—

Item 1: That no valid contract had been made with the Hau for the purchase of a vessel, and that the sum claimed (\$3,600) be repaid to the Hau, with costs, but without interest.

Item 2: The Hau admitted the debt of \$1,567·90, and they were ordered to pay the amount, with £2 2s. costs.

Item 3: \$400 were awarded, without costs, for the illegal detention of the "Norval" at Penrhyn, and the Hau was ordered to pay the same to Mrs. Charlotte Donald, the owner of the vessel.

4. One of the Penrhyn Hau was allowed to take passage in H.M.S. "Ringdove," which conveyed to Penrhyn the sum of \$1,632·10, paid by Donald and Edenborough, in accordance with the above judgments. Mr. Ross will, no doubt, when there, make full inquiry into the circumstances attending the agreement made with Mr. Dexter, from whom the money to pay the award of Captain May, of H.M.S. "Hyacinth," was obtained.

5. The order, impartiality, and patience in the conduct of the Court, and its evident power to enforce any judgment given, as well as the independent representation of the suitors by their attorneys, made a strong impression upon the Natives. The proceedings were altogether new to most of them, and in striking contrast to their own Courts, by whom, until recently, not even a record was kept. I may, however, observe that the decision given by Mr. Ross is exactly the same as that of Judge Tepou, reported by me to your Excellency on 28th February last. The difference lies in the respective powers to enforce the judgment when given.

6. Lieutenant Commander Bain, and Lieutenant Sykes, of H.M.S. "Ringdove," sat as assessors, and no notice of appeal against the judgment was given.

I have, &c.,

FREDERICK J. MOSS,
British Resident.

His Excellency the Earl of Glasgow, G.C.M.G., &c.

No. 5.

Mr. F. J. Moss to His Excellency the GOVERNOR.

(No. 19.)

MY LORD,—

British Residency, Rarotonga, 7th September, 1893.

I have the honour to inform your Excellency that, after the close of the cases between the Penrhyn Hau and Donald and others, an action was brought by the Ngati Kareki, or sub-tribe of Kareka, also against the same defendants, for recovery of the value of certain produce supplied at different times in 1889 and 1890 towards the purchase of the schooner "Torea." The purchase was never completed, and each side blamed the other for the failure. The value of the produce was stated at \$4,000, equal to £600 sterling.

2. The case had been several times before Judge Tepou, but without definite result. The Ngati Kareka, impressed with Mr. Ross's conduct of his Court in the Penrhyn cases, and with the Court's evident power to enforce its judgments, applied for a hearing of their case.

3. Mr. Ross, after hearing argument, decided, as the claim originated in 1889, that he could not take it under the Order in Council of 1893, but would do so under that of 1877, which would render necessary the agreement of the Native Government to the hearing.

4. Application to the Government was made accordingly on the 18th August by the attorney for the plaintiffs. I advised the Government to reply that they had no objection, but that their assent was not to be regarded as a waiver of the objection already made to the claim of jurisdiction under the order of 1893. It seemed to me that any other course would lay the Government open to the charge of obstructing justice, and place them in a false position.

5. The case was heard on the 19th August. The delivery of the produce was admitted by the defendants, and judgment given in the plaintiffs' favour for \$3,000, to be paid in monthly instalments of \$250 each.

6. There are now no unsettled disputes outstanding, and the moral effect on the Native mind of the sitting of this Court is unquestionable. If a sitting could be held at intervals—once a year would, I believe, be found amply sufficient, and always provided that means could be found to give the Court jurisdiction over foreign residents of all nationalities—it would be of great service. Meanwhile, I am taking advantage of the opportunity to urge the Natives to improve their own local or Arikis' Courts, by placing the Judges, police, and officials on regular pay, instead of their present old but reprehensible system of making them depend on the fines or costs levied upon those who appeal for justice, or are brought for offences before them.

7. In my first despatch of the 21st November, 1890, and on various occasions since, but especially on the 22nd July and 16th October, 1891, I have referred to the very objectionable constitution of these Courts, and the difficulties in the way of their effecting a change. Some of these difficulties—the great number of police for one—have been gradually removed; but the chief difficulty, that of providing the requisite revenue, still exists. To resort to additional Customs duties would lead to a very disproportionate addition to the departmental expenditure in the necessary skilled oversight in this and the other islands. To levy a poll-tax or a fixed sum on each district would be practically continuing the present system, by inducing the strong to throw the burden on those least able to bear it. It appears to me that the only proper course is to initiate some system of taxation, both equitable and elastic, and that the opportunity is favourable for the attempt.

8. The key to success would be in such an alteration of the constitution of the Rarotonga Council as will make it a more fully representative body, and so strengthen it as to enable it to impose the necessary taxation. I have, therefore, opened the subject to the Ariki Makea, and she has had meetings with her Mataiapos for its consideration. The strong class feeling, the prejudices and long-established habits and ideas of the people of this island, as well as their tribal jealousies, must, however, take time to overcome. So far as the Ariki Makea is concerned, she comprehends the position, and is, I am glad to say, quite anxious to see the administration of justice in the Arikis' Court placed on a more fitting basis.

9. I should state that these remarks do not apply to the Supreme, or more properly, the Federal Court. But that Court was primarily established for the protection of the revenue from the import duty. The jurisdiction is so limited by statute that the Court enters hardly at all into the ordinary life of the people. To extend its operation would be to bring the Court into collision with the Courts of the different Arikis, and with the strong insular jealousy in the several islands.

10. Only two cases, one for smuggling, and one for non-delivery of the mail, have been brought before the Federal Court since its formation. On the other hand, the Arikis' Court, presided over by Judge Tepou, has, during the same period, settled many cases between foreign residents of various nationalities. Among others: On 3rd July, 1891, between two Americans, \$651; 1st September, 1891, between two British subjects, \$985; 21st June, 1892, between a British subject and an American, \$1,911; also between a British subject and a German, \$1,114; 20th September, 1892, between British subjects, \$250; and similar cases, ending with one between a German and a British subject, so late as August 15th, for \$527. As the foreign residents are nearly all within Judge Tepou's district, the proceedings of the other Courts are in this respect of little consideration.

11. I also enclose, for your Excellency's information, one of the only two remaining copies (English and Maori) of the Proclamation issued in each of the islands, and by which a formal Protectorate was established instead of their continuing under Her Majesty's protection. I am not aware that this Proclamation has been included among the documents printed and laid upon the table of the Parliament of New Zealand.

I have, &c.,

FREDERICK J. MOSS,
British Resident.

His Excellency the Earl of Glasgow, G.C.M.G., &c.

A.—1., 1892,
Sess. II., p. 23.

No. 6.

To the Hon. the Premier.

1. THE proceedings of Mr. Ross, Deputy Commissioner, at Rarotonga, appears to require some notice, as, while making every allowance for the difficulty of the position, no reason is apparent why any Court should have been held by Mr. Ross at Rarotonga at all. (See Despatch No. 12.)

2. The Governor considers that the Penrhyn natives who arrived at Rarotonga in the "Omaka" should have been referred to the proper constituted authority in the islands, instead of to Mr. Ross, when they desired to apply for the recovery of the money in the hands of Donald and Edenborough, and that Mr. Ross's accidental presence in the Group was no reason for allowing him to hold a Court outside his proper jurisdiction.

3. The Governor looks upon it as established, by the authority quoted by Mr. Moss in his despatch, that the High Commissioner has no jurisdiction over the Cook Group, whether it be the Island of Aitutaki (which he believes belongs to the Crown) or the other islands which form the Protectorate.

4. It is true that the Resident has been careful to make it clear that no admission that the High Commissioner has any jurisdiction in the Cook Group was to be inferred from the permission given to Mr. Ross to make use of the Courthouse.

5. This incident is therefore only of trifling import save in itself; but in the abstract, and as bearing on the relative position which the Cook Group bears to the rest of the West Pacific Islands, it appears to the Governor that it may be looked on as an object-lesson, showing to a certain extent the inexpediency of having two separate British authorities among these islands, which year by year have been attracting more attention from certain European nations and the United States, rendering it therefore highly necessary that there should be no divided counsels in connection with Island questions.

6. It was only the other day that a question of extradition had to be considered by Mr. Moss (and was by him most satisfactorily dealt with, as far as the Governor could judge); but might not another view be taken on a future occasion by the High Commissioner? This was a case of a man, a fugitive from Tahiti, and, as the French Governor asked for his extradition, it established a precedent of some importance.

7. The Governor would be glad if this matter were referred to the Attorney-General for his opinion as to the legality of the Court held by Mr. Ross at Rarotonga, and he would like to know if his opinion coincides with the Governor's as to the course which was taken in allowing it to be held. Thereafter, if Ministers approve, he proposes to write to the Secretary of State for the Colonies in reference to the matter, in the sense indicated by his opinion as stated in the fifth paragraph of this memorandum.

The Attorney-General.

R.J.S. 31/8/93.

GLASGOW,

22/8/93.

 No. 7.

The Honourable the Premier.

I HAVE perused the memorandum of His Excellency the Governor, also the letters of Mr. Moss, from which I can gather no facts on which I can give an opinion on the very important questions raised by His Excellency.

I cannot discover upon what authority Mr. Ross acted, nor what he actually did. He appears to have held a Court of some kind for some purpose. *Prima facie* it would appear that he was acting outside his jurisdiction.

If the attention of the Imperial Government is called to this matter, would it not be well to know exactly what was done? This could be done by asking the High Commissioner of Fiji.

I am curious to know what is New Zealand's position in such a case, and what duties (if any) have the Government of this colony in respect of the British Protectorate over Rarotonga and the Cook Islands generally. I have never been able to understand our relative positions.

New Zealand, a dependency of the Crown, is in the unusual and extraordinary position of being supposed to have a *quasi* protectorate over the Islands referred to.

P. A. BUCKLEY.

5/9/93.

 No. 8.

The PREMIER to the GOVERNOR.

Memorandum for His Excellency.

IN returning the despatches Nos. 12, 13, and 14, and 16 to 26 from the British Resident at Rarotonga, the Premier begs respectfully to submit a memorandum from the Attorney-General for His Excellency's information.

The Premier has perused these despatches with much interest, but has arrived at the conclusion that this Government cannot see its way to offer any advice to His Excellency, as Rarotonga is not an integral portion of New Zealand, and Ministers, therefore, have no power to interfere in any way with Mr. Moss's action.

It is true that, in his despatch of 13th December, 1890, Lord Knutsford speaks of Ministers instructing Mr. Moss, and Lord Onslow did give him some instructions on his first assuming office as British Resident; but there is nothing in our Constitution to warrant the interference of the New Zealand Government in matters occurring outside the boundaries of the colony.

The Premier can only suggest that copies of the correspondence relating to Mr. Ross's action at Rarotonga, and to the schooner "Omaka," should be forwarded to the High Commissioner of the Western Pacific for his consideration, and also to the Secretary of State for the Colonies.

The Premier will forward the paper on Maori Polity to the Polynesian Society, and will also have the correspondence printed for Parliament as suggested by His Excellency.

Premier's Office, Wellington, 22nd September, 1893.

R. J. SEDDON.

No. 9.

Mr. F. J. Moss to His Excellency the GOVERNOR.

MY LORD,—

British Residency, Rarotonga, 8th September, 1893.

I have the honour to inform your Excellency that, question having been raised as to the propriety of the Penrhyn schooner "Omoka," owned by the Natives of that island, being registered in the Cook Islands and using the Federal flag, the Cook Islands Government decided to withdraw the provisional register given to that vessel.

Application was then made to me to give a provisional letter in order that the schooner might proceed to Penrhyn, where she is to undergo a thorough overhaul and repair. Strictly speaking, she seems entitled only to use the British flag, but this would entail her going to New Zealand or to Fiji, and being placed under the regulations of the Merchant Shipping Act—a great hardship, if not total prohibition, to the ownership by these Natives of any vessel.

Under these circumstances, I took the responsibility of giving a sailing-letter for the voyage from Rarotonga to Penrhyn; the vessel to use the Penrhyn flag, to carry no passengers without a special permit from me; in such case to have a boat on board capable of carrying twelve persons and their provisions in case of need. She is also to carry no intoxicating liquor of any kind, and is uninsured.

The sailing-letter is to stand good for her return from Penrhyn to Rarotonga, or from Penrhyn to Tahiti.

In the meanwhile, your Excellency may perhaps think it desirable to inform the High Commissioner, within whose jurisdiction Penrhyn is now placed.

I have, &c.,

FREDERICK J. MOSS,
British Resident.His Excellency the Earl of Glasgow, G.C.M.G.,
Governor of New Zealand, &c.

No. 10.

His Excellency the GOVERNOR to Mr. F. J. Moss.

SIR,—

Government House, Wellington, 21st September, 1893.

I have the honour to acknowledge your letter, No. 20, of the 8th September, reporting your action with regard to the schooner "Omoka."

Under the circumstances, I approve of the provisional sailing-letter with which you have provided her master, and I shall lose no time in forwarding a copy of your letter to the High Commissioner of the Western Pacific for his information and in explanation of your action.

I have, &c.,

GLASGOW.

F. J. Moss, Esq., British Resident, Rarotonga.

No. 11.

His Excellency the GOVERNOR to Mr. F. J. Moss.

SIR,—

Government House, Wellington, 21st September, 1893.

I have the honour to acknowledge your letters, Nos. 18 and 19, of the 5th and 7th September, in continuation of your despatches of the 5th and 6th of August, relative to the proceedings of the Court held by Mr. Commissioner Ross.

1. With regard to the action brought by the Natives of Penrhyn against Messrs. Donald and Edenborough, and the question of the detention of the schooner "Norval" at Penrhyn, I may remark, without entering into the question of jurisdiction, that the result of the proceedings and of the finding of the Court appears to be highly satisfactory, and to have got rid of a rather awkward difficulty in a manner likely to lead to more legal methods in settling similar questions in future.

2. In the action laid by the "Ngati Kureka" against the same defendants, and also brought before Mr. Commissioner Ross, the same satisfactory results appear to have followed.

3. I am glad to hear that there are now no unsettled questions outstanding, and I note your opinion that a Court somewhat similar—something, I presume, in the nature of a Supreme Court—held once a year, or at stated intervals, would be of great utility. Meanwhile, I hope you will be successful in your efforts to improve the status of the Native Courts, by giving them regular pay instead of depending on fines, which is, theoretically as well as practically, a most reprehensible mode of remunerating the legal authorities. I, however, recognise the difficulty of increasing the taxation, and feel sure that your tact and knowledge of the Native character will cause you to be very cautious in your efforts to that end.

4. I have to thank you for a copy of Lord Onslow's proclamation, but I think it has already been published.

I have, &c.,

GLASGOW.

F. J. Moss, Esq., the British Resident, Rarotonga.

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