

No. 13.

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

MY LORD,—

Cook Islands: British Residency, Rarotonga, 31st August, 1898.

Towards the conclusion of Mr. Judicial Commissioner Hunter's sitting I asked if he had power to enforce obedience by the Federal Government and Parliament to their Act of 1891, to which their existence was due. Mr. Hunter replied that he had no power to interfere with matters of internal administration, &c. I have the honour to enclose for your Excellency's information copies of my letter to Mr. Hunter, and of his reply.

It was thus clear that the prosecutions authorised in your Excellency's despatch of the 1st March would be useless, and, after mature consideration, I adopted the only alternative of asserting indispensable authority under the powers which have always been exercised by Her Majesty's Consuls in these islands, and by myself in the past as Resident.

In 1891 the local Government of Mangaia was thus fined by me \$1,390 = £208 10s. at the then value of the Chile dollar (*vide* my despatch of the 22nd July, 1891: Parliamentary Paper, A.—3A, Sess. II., 1891, page 11). This fine was paid in instalments.

Again, in 1893, a fine of £60 was imposed on one of the Arikis of Atiu, under circumstances related in my despatch of the 6th May, 1893 (Parliamentary Paper A.—6, 1893, page 39). That fine was levied at my request by and through the Federal Government, to increase the authority of the latter, as stated in the despatch referred to. It also was paid accordingly.

In the present case the new feature is that, although the recent proceedings have not been agreed to by all Arikis, they are responsible by tacit acquiescence, and allowing their nominees who form the Parliament to support the Arikis in Rarotonga. It is desirable that their responsibility should be brought home to them.

I selected, among the various defiant acts against the law, the breaking-open of the premises of Mr. H. Nicholas and forcible seizure of the printing plant therein. It called for a fine that would be adequate in amount as a warning, while offering no difficulty in its appropriation under the Native law and custom, which knows only restitution. The fine imposed is £205, and the summons issued and judgment given (copies enclosed) give full explanation for your Excellency's information.

No appearance was made by or on behalf of the Arikis at the hearing; but on the 26th August I received from them a letter simply stating, "We do not admit that you have the right to inflict a fine upon us, and we do not agree to your taking this money."

No objection on the ground of injustice in any form has so far been made.

Your Excellency will observe by the judgment that the money will not be paid to Mr. Nicholas till the 31st December, but respectfully represent that the effect of its disturbance must be very injurious, after my having, as far back as the 25th March, informed them officially of the authority given to me for prosecution in this case when the High Commissioner's Court should sit in Rarotonga.

I have, &c.,

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

Enclosure No. 1.

SIR,—

Cook Islands: British Residency, Rarotonga, 15th August, 1898.

I have the honour to bring to your notice the difficult position in which I am placed, and the danger to the public peace and security of the people and foreign residents, resulting from the assumption of the Federal Government and Parliament to disregard the Constitution Act (No. 1 of 1891), which expressly provides that no laws shall be valid nor acts of administration be undertaken without the approval of the British Resident.

There is no Court here to which on this matter I can appeal. May I ask if I can do so to your Court, to enforce obedience on the part of the Native Government and Parliament to the Constitution Act of 1891, to which their existence is due?

I have, &c.,

FREDERICK J. MOSS,
British Resident.Hamilton Hunter, Esq., Judicial Commissioner,
High Commissioner's Court, Rarotonga.

Enclosure No. 2.

SIR,—

H.M.S. "Royalist," at Rarotonga, 16th August, 1898.

I have the honour to acknowledge your letter of the 15th instant, bringing to my notice the difficult position in which you are placed, and the danger to the public peace and security of the people and foreign residents, owing to the action of the Federal Government and Parliament of the Cook Islands Confederation, and asking whether the High Commission Court would enforce obedience on the part of the Native Government and Parliament to the Constitution Act of 1891.

My commission under the Western Pacific Order in Council gives me no authority to interfere with the internal administration of the Cook Islands. I therefore regret that I am unable to accede to your request.

I have, &c.,

HAMILTON HUNTER,
Judicial Commissioner.Frederick J. Moss,
British Resident, Cook Islands.