

puted his accounts, and did not pay the whole amount due; (6) that on the 12th July, 1897, he wrote a letter to the then Resident, informing him that he still owed the Rarotongan Government £35 4s., and asked for time to pay it; (7) that at an interview with the late Resident he was told by that officer that the Rarotongan Government would pay £25 of his indebtedness, and the Avarua people the balance, and that trusting in this promise he has taken no steps to repay the money; (8) that he is unable to give any reason whatever why the Island should pay his private indebtedness in the matter of the piles, and he admits that the contract entered into between the Government and the Union Company—namely, to pay the latter £75 as a contribution towards the wharf, has been duly carried out, and that the Rarotonga Council and Federal Government are not liable to pay anything further.

The admissions made by M. Daniela amount practically to this: that he has always known that he was liable to pay this money, and was only prevented from so doing by the advice of the late Resident. There are, however, matters in his admissions that will require comment from the Court inasmuch as they cannot be accepted as absolutely true.

Admission No. 2 is not satisfactory, for the Court holds documentary evidence showing that the earlier collections would have been received by the bankers. Moreover, when M. Daniela was asked by the Court why he did not apply to this case the custom which had already been applied to the education rate—namely, of allowing 10 per cent. for the exchange from Chili into British coin, he can only reply, "I did not think of it." Now, it may not perhaps be strange that M. Daniela did not think of this obvious way out of the difficulty (if there was ever a difficulty). But if it is true that he ever did consult the late Resident on this point, it is strange that the latter should not have advised him as to the 10 per cent. solution, which had been adopted in the case of the education rate, where not only had 10 per cent. been allowed for exchange, but also another 10 per cent. for collection. It is moreover singular, that the late Resident should have allowed taxes to be collected in Chili coin, and then have permitted the bankers to refuse to take it, the more so that even to this day the Maoris for the most part prefer Chili coin.

As to the fourth statement, to the effect that the late Resident authorised the Paymaster to use the funds of the Rarotonga Council for his own purposes. This is a matter on which the Court has serious doubts, because, as we have already shown, the Chili coin was not a difficulty unless purposely made so, indeed, the Resident alone could have made it a difficulty. Moreover it is clear that Mr. Moss had no right to authorise the use of public funds for private purposes: It would have been an improper proceeding had Tinomana, the Chief of the Rarotongan Local Government, authorised such a procedure; but infinitely worse in the case of a Resident who had been sent as a guide and instructor to the people of the Cook Islands. That he of all men should give secret instructions to a Government officer to use public funds wrongfully, and neglect to report his action to the Chief of the Local Government, is a matter on which the Court would require very strong proof.

With reference to the fifth statement, the Court sincerely hopes that it may be found that the £73 mentioned therein has been paid into the Rarotongan Treasury; but in this Island truthfulness is such a rare virtue that we can hardly take any statement for granted, and therefore an investigation will be made of the accounts contained in the bankers' books.

The letter referred to in No. 6 is of importance, for the tenor of that letter is such as to justify the Court in doubting the accuracy of No. 3 statement—namely, that M. Daniela had reported to the late Resident that he had a large amount of Chili coin, the property of the Government, in his possession. If such a report had been made, why was the letter of the 12th July, 1897, written in the terms used? Why was the whole matter laid before the Resident as though he had never before heard of it? This is a matter that has not been explained.

As to No. 7 there is no record in the letter-book in the Residents' office that any such promise was made, and M. Daniela himself is unable to produce the copy of the letter which he states was formerly in his possession. Granting, however, that this letter ever existed, by what authority did Mr. Moss make any such promise? Why did he conceal it from the chief of the Government and the Parliament, whose credit he was pledging? And, above all, what reason can be assigned for such a promise? What power had Mr. Moss over the Avarua people that he should promise that they would contribute towards the debt of M. Daniela? On this point we would rule that the late Resident had no power to make any such promise.

It is the order of the Court that M. Daniela do forthwith pay into the hands of the Registrar of this Court £35 4s., as also the costs of this suit, and in default of such payment that the Registrar shall pay himself out of the sequestered rents of the said Makea Daniela.

FEDERAL GOVERNMENT *v.* M. DANIELA (OTHERWISE JIMMY TE POU).

*Claim, £22 10s., Refund of Salary.*

WE have already disposed of the contention set up by Mr. F. G. Moss, the counsel for the defendant—namely, "that the High Court has no jurisdiction that would enable it to hear or decide on the merits of any case in which the late Resident has intervened, or done any act, legal or illegal." Whether Mr. Moss ever intended that this point should be seriously considered is doubtful; but, as a matter of courtesy, we have so considered it, and have pointed out the manifest absurdities involved in this contention. For instance, the Government and people of the Cook Islands would in such case be without redress against any person who might allege an order of the late Resident to do some act which might probably prove to have been both illegal and tyrannical. That this contention might suit the purposes of both Mr. Moss and his friends, is possible; but that it would be in the interests of the population of the Cook Islands is not possible.