

1908.  
NEW ZEALAND.

# THE NEW HEBRIDES

(ORDER IN COUNCIL TO PROVIDE FOR HIS MAJESTY'S JURISDICTION WITHIN).

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

The SECRETARY OF STATE FOR THE COLONIES to His Excellency the GOVERNOR.  
(New Zealand.—No. 106.)

MY LORD,— Downing Street, 15th November, 1907.

I have the honour to transmit to you, for the information of your Ministers, five copies of an Order in Council passed on the 2nd instant to provide for the exercise of His Majesty's jurisdiction within the New Hebrides in accordance with the terms of the Anglo-French Convention of the 20th October, 1906, as amended by the notes exchanged between His Majesty's Government and the French Government on the 29th August, 1907.

I have, &c.,  
ELGIN.

Governor the Right Hon. Lord Plunket, K.C.M.G., K.C.V.O., &c.

AT THE COURT AT BUCKINGHAM PALACE,

The 2nd day of November, 1907.

Present,

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT	EARL CARRINGTON
LORD STEWARD	LORD SANDHURST
MASTER OF THE HORSE	LORD FARQUHAR.

WHEREAS by treaty, grant, usage, sufferance, and other lawful means His Majesty has jurisdiction within the Islands of the Pacific Ocean known as the New Hebrides, including the Banks Islands and Torres Islands :

And whereas under and by virtue of the Pacific Order in Council, 1893, provision was made for the exercise of His Majesty's jurisdiction within the said Islands :

And whereas by the Pacific Order in Council, 1907, the said Order was amended in certain respects :

And whereas by a Convention made at London on the 20th day of October, 1906, by the Government of His Majesty the King and the Government of the French Republic, it was amongst other things provided that the Islands known as the New Hebrides, including the Banks and Torres Islands, should form a region of joint influence in which the subjects and citizens of Great Britain and France respectively should enjoy equal rights of residence, personal protection, and trade, each of the two said Powers retaining jurisdiction over its subjects and citizens, and neither exercising a separate control over the Group, and that the subjects or citizens of other Powers should enjoy the same rights, and should be subject to the same obligations as British subjects or French citizens :

And whereas it has been agreed by notes exchanged on the 29th day of August, 1907, between the Government of His Majesty the King and the Government of the French Republic, that the expression "land suits" as used in the said Convention shall include suits with regard to mines, minerals and everything under the surface of the soil, and that the words "after two written warnings addressed to the employer," occurring in the fourth sub-section of the fifty-first article of the said Convention shall be omitted therefrom and shall cease to have effect, and that until the establishment of the Joint Court under the terms of the said Convention, British subjects who shall infringe the provisions of the said Convention, or of the regulations made by the High Commissioners thereunder, shall be prosecuted in accordance with the provisions of the twentieth article of the said Convention, and with the provisions heretofore in force :

And whereas it is expedient to provide for the exercise of His Majesty's jurisdiction within the said Islands in accordance with the terms of the said Convention as amended by the said notes of the 29th August, 1907.

Now, therefore, His Majesty in virtue of the powers by the Foreign Jurisdiction Act, 1890, and all other powers thereto Him enabling, by and with the advice of His Majesty's Privy Council, is pleased to order and it is hereby ordered as follows :—

I. The limits of this Order shall include all the Islands of the Pacific Ocean known as the New Hebrides and all the Islands known as the Banks Islands and Torres Islands. The said Islands are hereinafter referred to as the New Hebrides.

II. The Convention made the 20th day of October 1906 between the Government of His Majesty the King and the Government of the French Republic as amended in accordance with the agreement to that affect hereinbefore recited between the said Governments shall have the force of law and shall be binding upon all persons within the said Islands over whom His Majesty shall at any time have jurisdiction, and the provisions of this Order and of all laws and regulations made thereunder shall be read and construed subject to the terms of the said Convention in all respects.

III. His Majesty may appoint a High Commissioner for the New Hebrides. Appointments to the office of High Commissioner shall be made under the Royal Sign Manual and Signet. The High Commissioner shall hold office during His Majesty's pleasure.

Provided that until a High Commissioner is appointed the High Commissioner for the Western Pacific shall be the High Commissioner for the New Hebrides.

IV. The High Commissioner may, on His Majesty's behalf, exercise all powers and jurisdiction which His Majesty at any time before or after the date of this Order, had, or may have within the New Hebrides, and to that end may take or cause to be taken all such measures and may do or cause to be done all such matters and things therein as are lawful and as in the interest of His Majesty's service he may think expedient, subject to such instructions as he may from time to time receive from His Majesty or through a Secretary of State.

V. Subject to the approval of a Secretary of State, the High Commissioner may appoint a Resident Commissioner and so many fit persons as, in the interest of His Majesty's Service, he may think necessary to be Deputy Commissioners, Residents, Assistant Residents, Judges, Magistrates or other officers, and may define from time to time the districts within which such Officers shall respectively discharge their functions.

The Resident Commissioner and every other such officer shall hold office during His Majesty's pleasure and may exercise such powers and authorities as the High Commissioner may, with the approval of a Secretary of State, assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such Officers shall not abridge, alter or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may, subject to confirmation by a Secretary of State remove any Officer so appointed.

VI. There shall be a Public Seal of the High Commissioner which he shall keep and use for sealing all things whatsoever that shall pass the said seal ; provided that until a Public Seal shall be provided, the private seal of the High Commissioner may be used.

VII. The High Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office any persons holding or exercising any office in His Majesty's Service within the New Hebrides, whether appointed by the High Commissioner or under or by virtue of any Commission or Warrant granted, or which may be granted by His Majesty in His Majesty's name or under His Majesty's authority, which suspension shall continue and have effect only until His Majesty's pleasure therein shall be signified to the High Commissioner by a Secretary of State. The High Commissioner, in proceeding to any such suspension, shall observe the directions in that behalf given to him through a Secretary of State.

VIII. In the event of the death, incapacity or removal of the High Commissioner all and every the powers and authorities herein granted to him shall until His Majesty's further pleasure is signified therein, be vested in such person or persons as may be appointed by His Majesty : and in case there shall be no person or persons so appointed by His Majesty, then in the person for the time being exercising the functions of His Majesty's High Commissioner for the Western Pacific.

IX. Subject to the provisions of the aforesaid Convention amended as aforesaid and of this Order, the Order of Her late Majesty Queen Victoria known as the Pacific Order in Council 1893, as amended by the Pacific Order in Council 1907, shall (save and except Article 109 of the said Order of 1893) apply to the New Hebrides as if the same were herein incorporated and shall be binding upon all persons over whom His Majesty has jurisdiction within the said Islands. The Order of His Majesty in Council known as the Pacific Islands Civil Marriages Order in Council 1907 shall in like manner apply to and have effect within the New Hebrides.

X. Judicial notice shall be taken of this Order and of the commencement thereof and of the appointment of the High Commissioner the Resident Commissioner and of any other officers appointed thereunder and of the constitution and limits of any jurisdiction court or district and of judicial and official seals and signatures and of any laws regulations or rules made under this Order and no proof shall be required of any such matters.

XI. In this Order, unless the subject or context otherwise requires—

“His Majesty” includes His Majesty’s heirs and successors.

“Secretary of State” means one of His Majesty’s Principal Secretaries of State.

“Gazette” means any official Gazette published by authority of the High Commissioner and, until such Gazette is instituted, means the Fiji Government Gazette.

XII. This Order shall be published in the Gazette, and shall come into operation on a date to be fixed by the High Commissioner by publication in the Fiji Government Gazette, and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner and for such time or times as he thinks proper for giving due publicity thereto within the New Hebrides and the Islands of the Pacific Ocean.

A. W. FITZROY.

## SCHEDULE I.

### PART I.

#### CONVENTION BETWEEN THE UNITED KINGDOM AND FRANCE CONCERNING THE NEW HEBRIDES.

The Government of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the Government of the French Republic, having agreed, in a spirit of mutual good-will, to confirm the Protocol, prepared in conformity with the Declaration of the 8th April, 1904, by their respective Delegates concerning the New Hebrides ;

The Undersigned, the Right Honourable Sir Edward Grey, a Baronet of the United Kingdom, a Member of Parliament, His Majesty’s Principal Secretary of State for Foreign Affairs ;

And His Excellency Monsieur Paul Cambon, Ambassador of the French Republic at the Court of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India ;

Duly authorized to this effect, confirm the Protocol, drawn up at London, the 27th day of February, 1906, the text of which is as follows :—

#### PROTOCOL.

The Undersigned, Eldon Gorst, Assistant Under-Secretary of State for Foreign Affairs, Knight Commander of the Most Honourable Order of the Bath ; Hugh Bertram Cox, Assistant Under-Secretary of State for the Colonies, Companion of the Most Honourable Order of the Bath ; Marcel Saint-Germain, Senator, President of the Council of Administration of the Colonial Office at the Ministry of the Colonies, Officer of the Order of Public Instruction, Holder of the Colonial Medal ; Edouard Picanon, Inspector-General of the Colonies of the First Class, Governor of French Guiana, Officer of the Legion of Honour, Officer of the Order of Public Instruction, delegated respectively by the Government of His Britannic Majesty and by the Government of the French Republic, in order to draw up, in conformity with the Declaration of the 8th April, 1904, concerning the New Hebrides, an arrangement which shall put an end to the difficulties arising from the absence of jurisdiction over the natives of the New Hebrides and settle the disputes of their respective nationals in the said Islands with regard to landed property, have agreed to the following provisions, which they have resolved to submit for the approval of their respective Governments :—

#### PREAMBLE.

The Government of His Britannic Majesty and the Government of the French Republic, being desirous of modifying, as far as the New Hebrides are concerned, the Convention of the 16th November, 1887, respecting the New Hebrides and the Islands leeward of Tahiti, in order to secure the exercise of their paramount rights in the New Hebrides and to assure for the future the better protection of life and property in the Group, have agreed on the following Articles :—

#### GENERAL PROVISIONS.

##### ARTICLE I.

###### *Status.*

(1) The Group of the New Hebrides, including the Banks and Torres Islands, shall form a region of joint influence, in which the subjects and citizens of the two Signatory Powers shall enjoy equal rights of residence, personal protection, and trade, each of the two Powers retaining jurisdiction over its subjects or citizens, and neither exercising a separate control over the Group.

(2) The subjects or citizens of other Powers shall enjoy the same rights and shall be subject to the same obligations as British subjects or French citizens. They must choose within six months between the legal systems of one of the two Powers. Failing such choice, the High Commissioners mentioned in Article II. or their Delegates shall decide under which system they shall be placed.

(3) In all matters not contrary to the provisions of the present Convention or the regulations made thereunder, the subjects and citizens of the two Signatory Powers and the subjects and citizens of other Powers shall, within the New Hebrides, remain subject to the fullest extent to the laws of their respective countries.

(4) The two Signatory Powers undertake not to erect fortifications in the Group and not to establish penal settlements of any kind.

#### ARTICLE II.

##### *Local Authorities.—Police.*

(1) The Signatory Powers shall be represented in the Group by two High Commissioners, one appointed by His Britannic Majesty's Government, the other by the Government of the French Republic.

(2) The High Commissioners shall each be assisted by a Resident Commissioner, to whom they shall delegate their respective powers, in so far as they consider it expedient, and who shall represent them in the Group when they do not reside there.

(3) The High Commissioners or their Delegates shall be provided with a police force of sufficient strength to guarantee effectively the protection of life and property.

(4) The force shall be divided into two divisions of equal strength. Each of these two divisions shall be under the orders of one of the two Resident Commissioners, and shall in no case be employed otherwise than in conformity with the principles laid down by the present Convention.

(5) When it is necessary to employ some or all of both divisions of the force in conformity with the present Convention or of the regulations framed for its execution, the force shall be under the joint direction of the High Commissioners or their Delegates.

#### ARTICLE III.

##### *Seat of Government.*

(1) The head-quarters of each Government in the Group and the Joint Court provided for in Article X. shall be at Vila, in the Island of Efate.

(2) The two Signatory Powers undertake respectively to provide their Representatives with houses, and shall jointly erect quarters for the members of the Joint Court, together with a court-house, and offices for the public services to be undertaken in common.

(3) The land required for these buildings shall be acquired by the two Powers jointly either by agreement or, if necessary, compulsorily.

#### ARTICLE IV.

##### *Public Services undertaken in Common.*

(1) The following public services shall be undertaken in common: police, posts and telegraphs, public works, ports and harbours, buoys and lighthouses, public health, finance.

(2) These public services shall be organized and directed by the High Commissioners and their Delegates jointly.

(3) Special postage stamps shall be issued for the New Hebrides, in conformity with the International Postal Convention.

(4) English and French money and bank-notes authorized by either Power shall be legal tender in the Group.

#### ARTICLE V.

##### *Financial Provisions.*

(1) Each of the two Signatory Powers shall defray the expenses of its own administration in the Group.

(2) The expenses of the Joint Court and of the public services undertaken in common shall be defrayed out of local taxes, to be imposed by the High Commissioners jointly, the receipts from fines and from the postal service, and all other revenue of a joint character.

In the event of the revenue from the above proving insufficient, the two Signatory Powers shall each pay one-half of the deficit.

#### ARTICLE VI.

##### *Joint Naval Commission.*

(1) It shall be the duty of the Joint Naval Commission established by Article II of the Convention of the 16th November, 1887, to co-operate in maintaining order in the Group.

(2) Except in case of urgency, it shall only act on the joint request of the two High Commissioners or their Delegates.

(3) The Convention of the 16th November, 1887, the Declaration signed in Paris on the 26th January, 1888, between the British and French Governments, and the Regulations adopted on the same day by the two Governments as instructions for the Joint Naval Commission, shall remain in force, except where contrary to the present Convention.

(4) The Joint Naval Commission shall send copies of the reports on its operations to each of the two High Commissioners and to each of the two Resident Commissioners.

## ARTICLE VII.

*Legislation.—Regulations.*

The High Commissioners shall have power to issue jointly, for the peace, order, and good government of the Group, as well as for the execution of the measures resulting from the present Convention, local regulations binding on all the inhabitants of the Group, and to enforce such regulations by penalties not exceeding one month's imprisonment or a fine of 20*l.*

## ARTICLE VIII.

*Native Administration.*

(1) In the present Convention "native" means any person of the aboriginal races of the Pacific who is not a citizen or subject or under the protection of either of the two Signatory Powers.

(2) No native, as defined above, shall acquire in the Group the status of subject or citizen or be under the protection of either of the two Signatory Powers.

(3) The High Commissioners and their Delegates shall have authority over the native Chiefs. They shall have power to make administrative and police regulations binding on the tribes, and to provide for their enforcement.

(4) They shall respect the manners and customs of the natives, where not contrary to the maintenance of order and the dictates of humanity.

## ARTICLE IX.

*Civil Status of the Natives.*

(1) The persons appointed by the High Commissioners or their Delegates to receive declarations of births, deaths, and marriages for the subjects or citizens of their respective countries shall receive and enter on their registers all declarations of the same character which natives may wish to make for the purpose of acquiring civil status.

(2) Entries so made shall be kept in a general register at the Registry of the Joint Court.

## JOINT COURT.

## ARTICLE X.

*Composition.*

(1) A Joint Court shall be established, consisting of three Judges, of whom one shall be President. A fourth officer shall act as Public Prosecutor, and shall have charge of the preliminary enquiries.

The Court shall be provided with a Registrar and the requisite staff.

(2) Each of the two Governments shall appoint one Judge.

His Majesty the King of Spain shall be invited to appoint the third, who shall be President of the Court. The officer who acts as Public Prosecutor shall be appointed in the same manner. Neither of these two officers shall be a British subject or a French citizen.

The Registrar and the staff shall be appointed by the President.

(3) If either of the two Governments considers that it has a cause of complaint against the President of the Joint Court, or the officer acting as Public Prosecutor, it shall inform the other Government.

If both Governments agree, they shall request His Majesty the King of Spain to appoint another person to fill the post.

If they disagree, His Majesty the King of Spain shall determine whether the complaint is justified, and whether the officer complained of shall be retained or superseded.

(4) The arrangements as to salaries, travelling allowances, leave, acting appointments, and, in general, all matters relating to the working of the Joint Court, shall be settled by common agreement between the two Governments.

## ARTICLE XI.

*Assessors.*

(1) In the trial of criminal cases, the Joint Court shall be assisted by four Assessors, taken from the leading non-native inhabitants of the Group.

(2) The Assessors shall be chosen by lot from a list drawn up jointly by the High Commissioners or their Delegates at the beginning of each year.

(3) The Assessors shall have a vote in deciding the question of the guilt of the accused, but a consultative voice only in deciding the sentence.

(4) The prosecutor and the defendant may each challenge two of the Assessors.

## ARTICLE XII.

*Jurisdiction.*

The Joint Court shall have jurisdiction :—

(1) In civil (including commercial) cases :

(A) Over all suits respecting land in the Group ;

(B) Over suits of every kind between natives and non-natives.

(2) In police and criminal cases :

Over every offence or crime committed by natives against non-natives.

## (3) Generally :

Over the particular offences constituted by the present Convention or the regulations framed for the purpose of carrying it out.

## ARTICLE XIII.

*Law applicable.*

The law applied shall be :—

- (1) In civil (including commercial) cases :
  - (A) For land disputes, the principles laid down by the present Convention ;
  - (B) For other disputes, the law of the country to which the non-native party belongs or the legal system made applicable to him.
- (2) In police and criminal cases :
 

The law applicable to the non-native party injured.
- (3) In the case of other offences :
 

The principles laid down by the present Convention, or by the regulations framed for the purpose of carrying it out.

## ARTICLE XIV.

*Procedure.*

- (1) The procedure before the Joint Court shall be based on the following :—

- (A) In civil (including commercial) cases, the procedure followed : In England, in county courts ; in France, before “ justices de paix ” ;
- (B) In police cases, the procedure employed : In England, in courts of summary jurisdiction ; in France, in police courts ;
- (C) In criminal cases, the procedure employed : In England, in courts of quarter sessions ; in France, in correctional courts.

(2) The joint Court shall determine and publish in the Group the modifications in the rules of procedure which may be necessitated by local circumstances, by the differences between the two systems of law, and by the provisions of the present Convention.

## ARTICLE XV.

*Finality of Judgments.*

The judgments of the Joint Court shall be final.

## ARTICLE XVI.

*Fees and Costs.*

(1) The Court shall prescribe a table of fees to be taken in cases with which it deals, and for the registration of titles to land.

(2) It shall determine the amount to be paid in respect of these fees and in respect of counsel's fees.

## ARTICLE XVII.

*Counsel.*

(1) A party may appear before the Joint Court by counsel.

(2) With the exception specified in section 3 hereafter, every counsel must be first approved by the Court. The Court shall be empowered to suspend or withdraw the right of pleading.

(3) The High Commissioners or their Delegates shall jointly appoint an official advocate to assist and represent before the Joint Court any native engaged in any suit or charged in a police or criminal case.

The fees of the official advocate, payable as prescribed by Article XVI above, shall be included in the joint budget.

(4.) A native may, however, if he so desires, be assisted by any other advocate whom he may select.

## ARTICLE XVIII.

*Official Languages.*

Either the English or French language may be employed in proceedings before the Joint Court. In a suit between British subjects and French citizens, the proceedings shall be interpreted and the judgments shall be drawn up in both languages. The registers of the Court shall be kept in both languages.

## ARTICLE XIX.

*Execution of the Judgments of the Joint Court.*

- (1) The execution of judgments shall be provided for :

- (A)—In the case of land disputes, by the High Commissioners or their Delegates acting in concert ;
- (B)—In civil cases, other than land disputes, and in police or criminal cases, or breach of regulations, by the High Commissioner or the Resident Commissioner of the country to which the non-native party or the injured person belongs ;

(C)—In the case of other offences committed by natives, either by the Resident Commissioners acting jointly or by officers jointly appointed for this purpose.

(2) The authority charged with the execution of the penalty in a criminal or police case may reduce or remit such penalty.

#### ARTICLE XX.

##### *National Jurisdiction.*

(1) The two Governments mutually undertake to establish in the Group, in conformity with their existing legal system, Courts with jurisdiction over all civil suits, subject to the reservations and exceptions laid down in the present Convention.

(2) Civil suits between non-natives, other than land suits, shall be brought before the Court having jurisdiction over the defendant.

(3) In criminal cases, non-natives shall be justiciable by the Court of their own nationality or the nationality applied to them.

#### ARTICLE XXI.

##### *Suits brought by consent before the Joint Court.*

(1) Both non-natives and natives may, where the parties consent, bring their suits before the Joint Court.

(2) In suits between non-natives, the law applicable to the defendant shall be applied; the same rule shall be followed with regard to procedure, subject to Article XIV above.

(3) In suits between natives, the Court shall decide according to substantial justice, respecting, as far as possible, the native customs and the general principles of law. It may determine, as required, the procedure to be followed, reducing it to the minimum consistent with the proper administration of justice.

#### PROVISIONS RELATING TO LAND.

#### ARTICLE XXII.

##### *Land Suits between Non-natives and Natives.*

(1) In land suits, the rights of non-natives may be proved either by occupation or by title-deeds establishing the sale or grant of the land in question.

(2) When occupation is made the sole ground of a claim to ownership, visible and material proofs must be forthcoming, such as buildings, plantations, cultivation, cattle-rearing, improvements, clearing, or fencing. Occupation must be *bona fide*, and have been continuous during three years at least.

(3) When the claim to a property is based on a title-deed coupled with occupation, the Court shall endeavour to ascertain whether the holder of the title-deed has substantially asserted his occupation by material acts showing that he has taken possession, such as : improvement of the land in any manner, even in part ; construction of roads, bridges or paths ; surveys ; delimitation ; erection of signposts to mark boundaries ; habitual enjoyment of the produce ; or other acts proving open exercise of the right of ownership. The Court shall decide how far these acts can be held to cover the whole extent of the property in dispute, and shall confirm the claim in whole or in part accordingly.

(4) When the claim to a property is founded on a title-deed alone, and this title-deed has been either lodged in a notary's office or registered in New Caledonia, Fiji, or the New Hebrides, at a date subsequent to the 31st December, 1895, or else, on a title-deed which, whatever its date, has not been lodged in a notary's office or registered, this title-deed can only be rendered void if it is proved :—

- (a) That the agreement is not signed by the vendor or grantor, or by some person duly authorized by him, or that if the vendor or grantor did not know how to write or was incapable of signing, the agreement is not attested by two witnesses or in some other manner that establishes its authenticity according to English or French law ;
- (b) That the vendor or grantor did not understand the effect of the agreement ;
- (c) That the agreement was obtained by fraud, violence, or other improper means ;
- (d) That the terms and conditions of the agreement have not been fulfilled ;
- (e) That the land sold was not the land of the vendor or grantor or his tribe.

If the Court finds that the rights of the vendor or grantor extended only to part of the land in dispute, it may recognize the sale or grant to the extent of such part, and fix the boundaries thereof.

(5) When the title-deed establishing the sale or grant of the land in dispute has been either lodged in a notary's office or registered in New Caledonia, Fiji, or the New Hebrides, at a date prior to the 1st January, 1896.

(A)—The right of action cannot be admitted :—

- (a) Unless the claimant can prove, according as he acts in his own name or in his own personal interests or as Chief of his tribe and in its interests, that he or his tribe have a present right to the occupation of the land in dispute, and that this right would be infringed. If this right extends to part only of the property in dispute, the Court shall only entertain the action as to this part, if necessary, fixing the boundaries thereof ;
- (b) If it is proved that prior to the 1st January, 1896, a transaction took place indicating that the title-deed applied to a property held lawfully and in good faith ; in particular, if it has been conveyed regularly and in good faith between non-natives for valuable consideration in accordance with the regulations and forms prescribed by the law of civilized peoples.

If in such a case the Court should, nevertheless, consider that the rights of the native claimant or his tribe would be infringed, it may, while confirming the title, order the payment of reasonable compensation to the said native party, or may reserve a portion of the land for this party in conformity with the general declaration contained in Article XXIV hereafter.

(B) When the right of action is admitted, and the case is considered on the merits, the title-deed can only be invalidated if it is proved :—

- (a) That the agreement is not signed by the vendor or grantor, or by some person duly authorized by him, or that, if the vendor or grantor did not know how to write, or was incapable of signing, the agreement is not attested by two witnesses or in some other manner that establishes its authenticity according to English or French law ;
- (b) That the agreement was obtained by fraud, violence, or other improper means :
- (c) That the land granted or sold was not the land of the vendor or grantor or his tribe.

If the Court finds that the rights of the vendor or grantor or his tribe extended only to a part of the land in dispute, it may recognize the sale or grant to the extent of that part, and fix the boundaries thereof. The Court may, in any case except where bad faith has been proved on the part of the grantee, confirm the title to the whole or part of the property, subject to the reservation for the native claimants, if the circumstances require it, of sufficient land for their needs, and the determination of the rights of way or other easements to be secured to them over the whole property.

### ARTICLE XXIII

#### *Land Suits between Non-natives.*

(1) When no question arises as to the original land transaction with the natives, the Court shall be bound by the laws of the defendant's country.

(2) Whenever questions do arise as to the original transaction with the native, the Regulations laid down in Article XXII shall be observed by the Court in all that concerns that transaction.

In cases covered by the same Article (5 (A), (b), 2nd paragraph) the Court shall indicate, if necessary, by which of the non-native litigants the payment of compensation is due.

(3) When the Court, upon the evidence before it, considers that it cannot decide the questions that arise as to the original transaction with the natives—as, for instance, when it is confronted with two or more title-deeds, neither of which it is able to confirm as giving a good title—the Court shall decide according to the circumstances of the case, due regard being paid to priority of title.

### ARTICLE XXIV.

#### *Provisions common to all Land Suits.*

(1) In cases where land acquired in good faith has been improved or cultivated on the strength of a title which is found to be defective, this title may be confirmed in whole or in part upon the payment by the occupier to the person or persons entitled thereto of an indemnity, the amount of which shall be determined by the Court.

(2) If the Court considers it necessary to decree the eviction of a *bona fide* occupier, it may order the payment of reasonable compensation to him.

(3) Whenever it shall consider it necessary, the Court may assign to native claimants reserves of land in proportion to their requirements, and may determine the easements necessary to secure to them the full enjoyment of these reserves.

(4) An occupier or holder of a title-deed who has been evicted shall, in the case of subsequent sale or grant of land and unless his bad faith has been established, enjoy a prior claim to the repurchase of the property from which he has been evicted. If the owner and the occupier or holder of a title-deed who has been evicted should disagree as to the amount to be fixed as the price of repurchase, the Court shall determine the amount. If there are several evicted persons claiming to exercise the prior right above specified, the Court shall fix, according to the facts of the case, the order in which these persons shall be entitled to exercise this right.


(5) When a title-deed to a disputed property does not contain an adequate description of the land, the Court shall investigate and determine the situation and boundaries thereof.

(6) It shall be the first duty of the Court, in all land suits, to endeavour to effect an amicable arrangement between the litigants.

(7) Generally, the Court shall, in its decisions, pay due regard to the interests of the native populations and those of the non-native purchasers whose bad faith has not been established.

### ARTICLE XXV.

#### *Entry of Judgments.*

(1) When the Court, in conformity with the above regulations, shall have decided that a claim is valid, its decision shall be entered in a land register. 

This entry shall declare :—

- (A) The situation, extent, and boundaries of the land in question ;
  - (B) The nature of the rights granted, and any limitations thereof.
- (2) A copy of the entry shall constitute a conclusive title to land.



## ARTICLE XXVI.

*Registration of Titles.*

(1) Any person may, though no dispute exists, require the Court to enter in the above-mentioned register a title-deed in his favour, and may obtain a copy thereof duly certified.

(2) The Court shall cause the applications for registration to be published in the prescribed form. They shall be complied with and given effect to unless, within a period of one year from the date of their publication, they have been opposed. In case of opposition, the Court shall deal with them in accordance with the provisions of Articles XXII, XXIII, and XXIV above, and action must be taken by the objector before the Court within six months, or his claim will be barred.

(3) Copies of the entries in the register issued in accordance with the above provisions shall constitute title-deeds transferable by way of endorsement. No subsequent charge on or transfer of property shall affect the land unless and until it is entered in the register and inscribed on the copy issued.

## ARTICLE XXVII.

*Sales and Grants of Land subsequent to the Convention.*

(1) From the date when the present Convention comes into operation, no sale or grant of land by a native to a non-native shall be valid, except on the following conditions :—

(2) The sale or grant shall be effected by a written document, and shall take place in the presence of four witnesses, two of whom shall be natives, and of an officer or agent of one of the two Signatory Powers, or some other person duly authorized for the purpose, either by the President of the Joint Court or by the High Commissioners or their Delegates acting in concert.

(3) The officer, agent, or person duly authorized shall testify to the presence and qualification of the witnesses, shall ascertain that the vendor or grantor was a free agent, understood the effect of his act, received the price or consideration agreed on, and was satisfied therewith, shall state these facts on the title-deed ; shall mention in it the situation and boundaries of the land ; and shall date and sign it, at the same time as the parties and witnesses capable of signing.

(4) The purchaser or grantee shall, within six months from the date of the deed, make an application to the Joint Court for registration. This application shall be dealt with in accordance with Article XXVI of the present Convention.

(5) If the Court considers that the price or consideration mentioned in the deed is manifestly inadequate, having regard to the importance of the land granted or sold, it may, as a preliminary to registration, order the payment of a larger sum or a further consideration.

(6) In the event of the grantee failing to comply with the decision of the Court within six months from the date of such decision, the sale shall be cancelled *in toto*, and the sum of money or the consideration received by the native restored.

(7) If the native is unable to restore such sum, the Court shall decide how much of the property represents the sum or consideration received by the native, and shall confirm the grantee in possession of such part.

(8) Whenever the High Commissioners or their Delegates jointly consider that the amount of land acquired from the natives in one of the Islands of the Group is so great that the land remaining undisposed of is indispensable for the needs of the natives, they may prohibit any new sale or grant of land in such Island to non-natives.

(9) Land reserved for the natives, either by the Joint Court, in accordance with Article XXIV of this Convention, or by the High Commissioners or their Delegates, under the preceding paragraph, may not be sold or granted to non-natives so long as the authority by whom the reserve was constituted does not cancel or modify its decision.

## SUPERVISION OF SHIPPING.

## ARTICLE XXVIII.

*Vessels registered in the Group.*

(1) No vessels other than those intended to sail under the flag of one of the two Signatory Powers shall be registered in the Group of the New Hebrides, including the Banks and Torres Islands.

(2) Each High Commissioner shall prescribe the regulations affecting the navigation in the Group of the vessels sailing under the flag of the Power which he represents.

(3) The High Commissioners, the Resident Commissioners, and the persons appointed for the purpose shall, with regard to vessels sailing in the Group under the flag of the Power which they represent, exercise respectively the supervision, protection, and policing necessary to insure the carrying out of these regulations without prejudice to the rights to which the vessels of that Power are legally entitled

## ARTICLE XXIX.

*Vessels not registered in the Group.*

The present Convention shall not affect the rules laid down by the respective laws and regulations of the Power under whose flag the vessel sails, in the case of any vessel registered outside the Group.

## ARTICLE XXX.

*General Rules for all Vessels.*

- (1) The High Commissioners shall jointly prescribe general rules applicable to all vessels, with regard to the conditions under which these vessels may use the ports and harbours of the Group.
- (2) They shall jointly enforce these rules, either personally or through their Delegates.

## RECRUITMENT OF NATIVE LABOURERS.

## ARTICLE XXXI.

*Recruiting Licence.*

(1) No vessel shall recruit native labourers in the New Hebrides, including the Banks and Torres Islands, unless she sails under the flag of one of the two Signatory Powers, and unless she is provided with a recruiting licence issued by the High Commissioner representing the Signatory Power under whose flag the vessel is sailing, or by his Delegate.

(2) In the case of professional recruiters, the recruiting licence shall only be issued on the deposit of 80*l.*, as security, with the agent appointed by the High Commissioner, whose duty it will be to issue the recruiting licence, or by his Delegate.

(3) The High Commissioners shall inform one another every month of the recruiting licences which they have issued. The same rule shall apply to their Delegates.

(4) The recruiting licences shall be valid for one year only.

## ARTICLE XXXII.

*Register of Engagements.*

All masters of recruiting vessels shall keep a register of engagements, in which there shall be entered without delay the name, sex, identification marks, the name of the tribe, place of recruiting, and place of destination of every native recruited, the name of the employer, the length of the engagement, the sum agreed on by way of premium and wages, and the amount of the advance paid to the native at the time of engagement.

## ARTICLE XXXIII.

*Engagement of Women and Children.*

(1) Women shall only be engaged :—

If they are married, with the consent of their husbands ;

If they are unmarried, with the consent of the Head of the tribe.

(2) Children shall only be engaged if they are of a certain minimum height, to be fixed by the Resident Commissioners jointly.

## ARTICLE XXXIV.

*Length of Engagements.*

(1) No engagements shall be concluded for more than three years.

(2) They shall date from the day the labourer lands in the Island where he is to be employed, but the time spent on board ship by the labourer shall count for wages.

## ARTICLE XXXV.

*Deaths on Board Recruiting Vessels.*

(1) A report in duplicate on every death occurring on board a recruiting vessel shall be drawn up immediately by the master. Such report shall describe the circumstances under which the death occurred.

(2) Within twenty-four hours an inventory in duplicate shall also be drawn up of the effects left on board by the deceased. The amount of the wages to which the labourer is entitled from the day of engagement to the day of his death shall be stated in this inventory.

(3) The master shall, on arrival, transmit to the competent authority a copy of the report and the inventory, as well as the objects and articles of value belonging to the deceased, and the premium and wages to which he was entitled.

The second copy of the report and the inventory shall be annexed to the register of engagements.

## ARTICLE XXXVI.

*Sickness of Labourers on Landing.*

Every native recruited who, on landing, is found to be in such a state of health as to incapacitate him for the work for which he was engaged, shall be cared for at the expense of the recruiter, and the time spent in hospital and the time during which he is unable to work shall be included in the term of engagement.

## ARTICLE XXXVII.

*Delivery of Labourers to their Employers.*

A recruiter who is acting as an agent for other persons cannot divest himself of his responsibility for the natives whom he has engaged until the signature of the employer has been affixed to the register of engagements opposite the name of the labourer.

## ARTICLE XXXVIII.

*Submission of Registers of Engagements on Arrival.*

(1) Within twenty-four hours of their arrival, all masters of recruiting vessels shall be obliged to present their register of engagements for signature by the competent person.

(2) If irregularities are detected in the operations of the recruiter or in the keeping of the register of engagements, an official report shall be immediately drawn up by the person to whom the register has been submitted. This report shall be sent without delay to the competent authority.

The same course shall be followed if the register is not produced within the prescribed period.

## ARTICLE XXXIX.

*Notification of Engagements.*

(1) Every engagement of a native labourer shall be notified by his employer within three days from the date of landing.

The notification shall be made to the Resident Commissioner, to whose jurisdiction the employer is subject, or to the person appointed for the purpose.

(2) The notification shall be registered, and the contract shall be signed by the Resident Commissioner, or by the person appointed for the purpose.

(3) The two Resident Commissioners shall communicate to each other every month a list of the notifications of engagements received by them, or by the persons appointed for the purpose.

## ARTICLE XL.

*Re-engagement.*

(1) At the termination of the period of his engagement the labourer shall not enter into a fresh engagement—if he has not been previously sent home—without an authority in writing from the Resident Commissioner entitled to receive the notification of engagement, or from the person appointed for the purpose.

(2) The authority shall only be given after the native has been examined in the presence of the employer, two non-native witnesses, and two witnesses, selected as far as possible from the same tribe as the labourer, and if the latter, of his own free will, declares that he wishes to re-engage.

(3) No re-engagement shall exceed the term of one year. It shall be renewable on the same conditions.

## ARTICLE XLI.

*Records of Engagements.*

(1) Every employer shall keep posted up to date a separate record for each labourer in his service.

(2) There shall be entered in this record the name and sex of the labourer, the identification marks, the name of the tribe, the place and date of recruiting, the name of the recruiter, the name of the vessel, and the duration and conditions of his engagement, as stipulated in the contract.

The days of absence from work on account of illness shall be entered by the employer in the record, and also any other days of absence.

## ARTICLE XLII.

*Additional Periods of Work.*

(1) Time lost through absence without good cause shall be added to the term of the engagement.

(2) A labourer may further be retained after his term of engagement expires as a punishment for breaches of discipline to which he has been duly sentenced. In such case, the additional period of labour shall not exceed two months for each year of engagement.

## ARTICLE XLIII.

*Transfer of Engagements.*

(1) No transfer of a contract of engagement shall be permitted unless freely accepted by the labourer and authorized by the Resident Commissioner entitled to receive the notification of engagement, or by the person appointed for the purpose.

(2) If the transfer is between British subjects or French citizens, the authority shall be jointly given by the two Resident Commissioners.

## ARTICLE XLIV.

*Duties of Employers.*

(1) Employers must treat their labourers with kindness. They shall refrain from all violence towards them.

(2) They must supply them with sufficient food, according to the custom of the country, including rice, at least once a day, as part of their meals.

The Resident Commissioners shall fix jointly the amount of rice to be supplied to the labourers.

(3) Employers must further provide their labourers with adequate shelter, the necessary clothing, and medical care in case of illness.

## ARTICLE XLV.

*Working Hours.*

(1) Labourers shall not be obliged to work except between sunrise and sunset.

(2) They shall have daily, at the time of their mid-day meal, at least one clear hour of rest,

(3) Except for domestic duties and the care of animals, labourers shall not be obliged to work on Sundays.

#### ARTICLE XLVI.

##### *Payment of Wages.*

(1) Wages shall be paid exclusively in cash.

(2) Payment shall be made, either before a person appointed for the purpose by the Resident Commissioner entitled to receive the notification of engagement, or, failing this, in the presence of two non-native witnesses, who shall certify the payment in the record above referred to by affixing their signatures by the side of that of the employer.

(3) When it is obviously impossible for an employer to make use of this method of verification, he shall himself be authorized by the competent Resident Commissioner, or by the person appointed for the purpose, to enter the payment of the wages in the record.

(4) Whenever the record does not show the rate of wages agreed upon at the time of the engagement, the rate shall be taken to be 10s. a-month, and the employer shall not be allowed to produce evidence to show that a lower rate had been agreed upon.

#### ARTICLE XLVII.

##### *Deposit of Wages.*

(1) Part of the wages may be deposited by the employers with the Resident Commissioner entitled to receive the notification of engagement or the person appointed for the purpose, to be paid subsequently to the labourer, either during the term of engagement or at the expiration of such term, according as he desires.

The free consent of the labourer must be given before any part of his wages can be so dealt with.

(2) The Resident Commissioner or the person appointed for the purpose may at any time order the retention and deposit of part of a labourer's salary.

#### ARTICLE XLVIII.

##### *Punishments.*

Any labourer who has given his employer just cause of complaint in respect of his conduct or work may, at the instance of his employer, be punished by the Resident Commissioner concerned or the person appointed for the purpose, by the imposition of extra work, by a fine, by prolongation of the term of engagement, within the limits provided in Article XLII, or by a summary punishment not exceeding one month's imprisonment.

#### ARTICLE XLIX.

##### *Absence without good Cause.*

(1) Any labourer who without permission leaves his employer shall be liable in like manner to one of the summary punishments prescribed by the preceding Article, and shall be sent back to his employer to finish his term of engagement.

(2) No one shall receive or employ or take on board any vessel a labourer who has left his employer without permission.

#### ARTICLE L.

##### *Death during Engagement.*

In the event of the death of a labourer, the employer shall be subject to the same obligations as those imposed by Article XXXV on masters of recruiting vessels.

#### ARTICLE LI.

##### *Repatriation.*

(1) Every labourer who has completed his term of engagement shall be returned to his home at the first convenient opportunity by and at the expense of his employer.

(2) Such labourer shall be taken back to the place where he was recruited, or, if this is impossible, to the nearest place thereto, from which the labourer can without danger rejoin his tribe.

(3) In the case of unjustifiable delay exceeding one month in returning a labourer, the Resident Commissioner concerned, or the person appointed for the purpose, shall provide, at the expense of the employer, for the return of the labourer to his home at the earliest opportunity.

(4) In case of persistent ill-treatment of a labourer, the Resident Commissioner concerned shall have the right, after two written warnings addressed to the employer, to cancel the contract and provide for the return home of the labourer at the employer's expense.

(5) The Resident Commissioner concerned may in like manner cancel the contract and return a labourer to his home if the labourer did not freely consent to the engagement, or if he did not clearly understand and freely accept the terms of the engagement. In that case the expenses of returning him to his home shall be borne by the recruiter.

#### ARTICLE LII.

##### *Register of Repatriation.*

(1) The names of labourers returned to their homes shall be entered on a register kept by the master of the vessel, in a similar form to that prescribed by Article XXXII, for keeping the register of engagements.

(2) The signature of the employer upon the register shall prove that the labourer who is to be returned to his home has been handed over to the master of the vessel.

(3) The master shall enter in the register the date when the native so to be returned to his home was put on shore, and shall mention the exact spot where he was landed.

(4) The rules prescribed by Article XXXVIII with regard to the submission and signature of the register of engagements shall be applicable to the register of repatriation.

#### ARTICLE LIII.

##### *Death during the Return Passage.*

In the event of the death of a labourer occurring during the return passage, the master of the vessel shall proceed as prescribed by Article XXXV.

#### ARTICLE LIV.

##### *Powers of Control.*

(1) The High Commissioners, the Resident Commissioners, and the persons appointed by them for the purpose, shall have, with regard to their respective nationals, the right to employ any method of inquiry which may be necessary to ensure, as far as the recruiting and engagement of native labourers are concerned, the execution of the present Convention.

Employers shall be bound, for this purpose, to produce any labourer at the request of the competent authority.

(2) A report shall be drawn up with regard to any irregularity or breach of regulations which may be discovered, and shall be forwarded without delay to the competent authority. The report shall be *prima facie* evidence of the facts stated therein.

#### ARTICLE LV.

##### *Short Engagements and Employment of Native Labourers without Engagement.*

(1) Non-natives may employ natives without restriction provided that they are not engaged for more than three months, with the option of renewal, and provided they are not removed to an Island more than 10 miles from the Island of their tribe.

(2) They may, in any case, employ without restriction natives who are known to have served non-natives for at least five years, and who are familiar with a European language or the vernacular in use between non-natives and natives.

#### ARTICLE LVI.

##### *Penalties.*

(1) Any infringement by non-natives of the terms of the present Convention regarding the recruiting and engagement of native labourers shall be punishable by a fine of from 4s. to 20l. and by imprisonment of from one day to one month, or by either of the above penalties.

(2) Damages may also be awarded to labourers for any injury suffered by them.

(3) The Joint Court shall inflict the penalties and assess the damages.

(4) In the event of conviction on a serious charge, or for a second offence, the recruiting licence, as well as the right of engaging labourers, may be withdrawn for a period not exceeding two years by the High Commissioner for the country to which the recruiter or employer belongs.

### ARMS, AMMUNITION, AND INTOXICATING LIQUORS.

#### ARTICLE LVII.

##### *Prohibition of the Sale of Arms and Ammunition to Natives.*

(1) Subject to the specific exceptions hereafter enumerated, no person shall, from the date when the present Convention comes into operation, sell or supply arms or ammunition to the natives, either directly or indirectly, in the New Hebrides, including the Banks and Torres Islands, and within the territorial waters of the Group.

(2) Shot guns and cartridges for sporting purposes are exempted.

(3) The present prohibition shall extend to rifles, revolvers, and other repeating weapons and the ammunition used for such arms, separate parts for the conversion of sporting guns into military weapons, ball cartridges, and all kinds of explosives, other than cartridges specially made for shot guns.

#### ARTICLE LVIII.

##### *Exceptions.*

(1) The two Governments reserve to themselves the right to arm the natives who form part of the regular police forces.

(2) If a non-native temporarily entrusts to a native employed by him, and solely for the purpose of that employment, prohibited arms or ammunition, it shall not be considered to constitute an offence against Article LVII.

## ARTICLE LIX.

*Prohibition of the Sale of Intoxicating Liquors to Natives.*

(1) From the date when the present Convention comes into operation no person shall, in the New Hebrides, including the Banks and Torres Islands, and within the territorial waters of the Group, sell or supply intoxicating liquors to the natives, in any form and on any pretext whatsoever.

(2) Alcoholic drugs or cordials employed in case of disease or sickness are not included in the present prohibition.

(3) The present prohibition shall cover spirits, beer, wine, and generally all fermented and intoxicating liquors.

## ARTICLE LX.

*Report of Offences.*

(1) Breaches of Articles LVII and LIX, respecting the prohibition of the supply of arms, ammunition, and intoxicating liquors to the natives shall be reported by the officers and agents of the police force, specially authorized for this purpose by the High Commissioners or their Delegates jointly.

(2) The official report drawn up in accordance with paragraph (1) shall be *prima facie* evidence before the competent authority of the facts contained therein.

(3) Any officer or agent of the police force holding an authority to that effect, who finds a native in possession of a prohibited weapon, or in a state of intoxication in a public place, shall arrest him and, after inquiry into the circumstances of the offence, shall draw up an official report for the information of the High Commissioners or their Delegates.

If the offence is proved, the native shall be punished by the Resident Commissioner having authority over the member of the police force making the arrest, or by the person appointed for the purpose, and the non-native suspected of complicity shall be prosecuted before the Joint Court.

(4) Members of the police force shall not enter the house or premises of a non-native without his consent except as provided in the rules of procedure issued by the Joint Court, or the Regulations issued by the authority having jurisdiction over him.

Search-warrants, when considered necessary in the case of a non-native, shall be issued by the Judge with jurisdiction over him.

## ARTICLE LXI.

*Penalties.*

(1) Any breach by non-natives of Articles LVII, LIX, and LX shall be punishable by a fine of from 4s. to 20% and imprisonment ranging from one day to one month, or by either of these penalties.

(2) The Joint Court shall inflict the penalties and may further order the forfeiture of the arms, ammunition, or intoxicating liquors, and shall decide as to their disposal or destruction.

## MUNICIPALITIES.

## ARTICLE LXII.

*Establishment of Municipalities.*

(1) Municipalities may be established in the Group, on the application of the non-native inhabitants.

(2) Applications for the establishment of municipalities shall be addressed to one or other of the High Commissioners or their Delegates. The latter shall communicate such requests to one another, and determine jointly what action shall be taken thereon.

(3) Applications made by a group of not less than thirty non-native adult inhabitants residing in the same district shall be, as far as possible, complied with.

## ARTICLE LXIII.

*Councils.*

(1) Every municipality shall be administered by a Council consisting of not less than four, and not more than eight members.

(2) The Council shall elect a Chairman and a Deputy Chairman from its members.

(3) Councillors shall hold office for four years.

## ARTICLE LXIV.

*Elections.*

(1) Non-natives of either sex and any nationality, who have completed their twenty-first year and have resided for six months at least in the district, shall be entitled to vote, with the exception of those who have served a sentence of more than three months' imprisonment.

(2) Voters of either sex who have completed their twenty-fifth year shall be eligible for election.

(3) The first elections shall take place within three months of the establishment of a municipality.

(4) The elections shall take place under the supervision of two persons respectively appointed by the two Resident Commissioners.

## ARTICLE LXV.

*Functions of the Councils.*

The Councils shall pass the annual municipal budget, vote the necessary local taxation, initiate and carry out municipal works, decide upon the establishment of schools and charitable institutions, and, in general, take all measures necessary for the welfare of the local community.

## ARTICLE LXVI.

*Temporary Provisions.*

The two existing municipal bodies in the Island of Efate shall be recognised as municipalities. Members of these bodies may continue to hold office till the termination of the period for which they were elected.

## ARTICLE LXVII.

*Supplementary Regulations.*

The High Commissioners or their Delegates shall prescribe jointly the regulations for enforcing the provisions of Articles LXII to LXVI.

## FINAL PROVISION.

## ARTICLE LXVIII.

*Duration of the Convention.*

The provisions laid down by the present Convention shall remain in force until new provisions are substituted in virtue of an Agreement between the Signatory Powers.

In witness whereof the undersigned Delegates have drawn up and signed the present Protocol. Done in London, in duplicate, the 27th day of February, in the year of our Lord 1906.

(Signed) ELDON GORST.  
HUGH BERTRAM COX.  
SAINT-GERMAIN.  
E. PICANON.

The present Convention shall come into operation as soon as it is proclaimed in the Group by the two High Commissioners or their Delegates acting in concert, such proclamation to be made as soon as possible.

In witness whereof the Undersigned have signed the present Convention and have affixed thereto their seals.

Done in duplicate at London, the 20th October, 1906.

(L.S.) E. GREY.  
(L.S.) PAUL CAMBON.

## SCHEDULE II.

## PART II.

SIR EDWARD GREY to M. GEOFFRAY.  
New Hebrides.

Foreign Office,  
August 29, 1907.

M. LE MINISTRE,

THE British Delegates on the Anglo-French Commission which met in London in May last to discuss the arrangements to be made under Article X, section 4 of the Convention of the 20th October, 1906, respecting the New Hebrides, have submitted the results of their discussions to His Majesty's Government.

I have now the honour to inform you that His Majesty's Government approve the recommendations of the Commission, and I am glad at the same time to be able to record my appreciation of the conciliatory spirit in which its discussions were carried on.

His Majesty's Government concur fully in the Regulations drawn up in order to give effect to Article X. (4) of the New Hebrides Convention, which are annexed hereto (Annex 1). These Regulations will be considered as forming part of the aforesaid Article X, and will be promulgated simultaneously with that Article.

In accordance with recommendations made after semi-official discussions between the Representatives of the two Governments, His Majesty's Government will instruct the British High Commissioner to omit from the text of the Convention to be published and made binding on British subjects in the Group the following words which occur in Article LI (4), "after two written warnings addressed to the employer" provided that the French Government deal similarly with the corresponding words in the French text, "après deux avertissements donnés par écrit à l'engagiste."

His Majesty's Government will authorise the British High Commissioner to postpone, with the concurrence of the French High Commissioner, the promulgation of Articles IX (2), XI to XIX inclusive, XXI to XXVII inclusive, LVI (3), LX (3 and 4), and LXI (2) until the Judges of the Joint Court have entered upon their duties in the Group.

British subjects, guilty of infringing the provisions of the Convention or the Regulations which the High Commissioners may make in order to give effect to them, will, for the time being, be prosecuted in accordance with Article XX and with the provisions previously in force before the British judicial authority, it being understood that the French Government will deal in a similar manner with French citizens.

His Majesty's Government take this opportunity to place on record the fact that the words "land suits" and "litiges immobiliers," which form the subject of provisions in Article XXII and following Articles of the Convention, include suits with regard to mines, minerals, and everything under the surface of the soil.

I have, &c.,  
(Signed) E. GREY.

#### JOINT REGULATIONS RESPECTING SALARIES, &c., OF MEMBERS OF THE JOINT COURT IN THE NEW HEBRIDES.

The Undersigned, Louis Mallet, Assistant Under-Secretary of State for Foreign Affairs, Companion of the Most Honourable Order of the Bath; Frederick Fitchett, Doctor of Laws, Solicitor-General for New Zealand; Jean Weber, Sous-Chef de Bureau at the Ministry for the Colonies; Le Comte de Manneville, First Secretary French Embassy in London, delegated respectively by the Government of His Britannic Majesty and the Government of the French Republic in order to draw up, in conformity with paragraph 4 of Article X of the Convention respecting the New Hebrides, signed in London the 20th October, 1906, arrangements as to the salaries, travelling allowances, leave, acting appointments, and in general all matters relating to the working of the Joint Court, have agreed to the following provisions, which they have resolved to submit to the approval of their respective Governments:—

#### JOINT REGULATIONS OF THE BRITISH AND FRENCH GOVERNMENTS UNDER ARTICLE X (4).

##### I.—Salaries.

The salary of the President of the Joint Court shall be 900*l.* per annum. The salaries of the British and French Judges shall be 700*l.* each per annum. The salary of the Public Prosecutor shall be 700*l.* per annum. The salary of the Registrar shall be 400*l.* These officers shall also be entitled to free quarters.

The salaries of the staff of the Joint Court shall be fixed by the President subject to the approval of the two High Commissioners.

##### II.—Passages and Travelling.

Free passages (first class) shall be provided for the President of the Joint Court, the British and French Judges, the Public Prosecutor, and the Registrar from their place of residence to the New Hebrides.

They shall further be entitled to half-pay from the date of embarkation and to full pay from the date of arrival in the New Hebrides. Similar allowances shall be granted on the ultimate return home of those officers, upon determination of their appointments for any other reason than misconduct, provided they have served not less than three years or return home on the ground of ill-health.

They shall also, when travelling in the Group in the performance of their official duties, receive actual expenses of transport, together with 1*l.* subsistence allowance for each night on land and 5*s.* for each night at sea.

##### III.—Leave.

Subject to the consent of the two High Commissioners, the officers mentioned in Article II may be granted leave on half-pay up to one-sixth of their resident service; but in the absence of special ground such leave shall not be granted before the completion of three years' service in the New Hebrides, nor thereafter at less than yearly intervals, nor for more than twelve months at any one time.

When the leave taken is not less than six months, the officers shall be entitled to a free passage to their own country and back.

##### IV.—Age Limit.

Except in special cases, and with the express consent of the two High Commissioners, retirement shall be compulsory at the age of 60.

##### V.—Pensions.

No member or officer of the Joint Court shall be entitled to a pension from New Hebrides funds.

##### VI.—Acting Arrangements.

In the absence or incapacity of the President of the Joint Court, the Public Prosecutor shall act for him.

In the absence or incapacity of the British or French Judge, a substitute shall be appointed by the British or French High Commissioner respectively.

In the absence or incapacity of the Public Prosecutor the Registrar shall act for him. In view of this provision, the Registrar shall not be either a British subject or a French citizen, and must possess the necessary legal qualifications.

In the absence or incapacity of the Registrar, the President shall appoint a suitable substitute irrespective of nationality.

Officers, while holding acting appointments, shall, if they are already on the staff of the Joint Court, receive a salary equal to half the combined salaries of their own post and of the officer for whom they are acting. If not members of the staff of the Joint Court when appointed, they shall be entitled to the same emoluments as the person for whom they are acting would have received.



VII.—*Business of the Joint Court and Powers of the President.*

All arrangements for the sittings of the Joint Court and the conduct of its business shall be made by the President.

The Registrar and staff of the Joint Court shall be under the control of the President, but their appointment shall not be revocable by him except with the concurrence of the two Resident Commissioners.

VIII.—*General.*

Subject to the approval of the two Governments, the two High Commissioners shall arrange jointly for all matters relating to the Joint Court not covered by the preceding Regulations.

Done in duplicate at London, the 17th May, 1907.

(Signed) LOUIS MALLET.  
 „ FRED. FITCHETT.

M. GEOFFRAY to Sir EDWARD GREY.  
 New Hebrides.

Ambassade de France, Londres,  
 le 29 Août, 1907.

M. LE SECRÉTAIRE D'ÉTAT,

LES Délégués Français à la Commission Franco-Britannique qui s'est réunie à Londres au mois de Mai dernier pour discuter les arrangements à faire en exécution de l'Article X, paragraphe 4, de la Convention du 20 Octobre, 1906, relative aux Nouvelles-Hébrides ont soumis à M. le Ministre des Colonies les résultats de leurs travaux. Je suis aujourd'hui chargé de faire savoir à votre Excellence que mon Gouvernement approuve les solutions proposées par cette Commission, dont les discussions n'ont cessé d'être animées d'un esprit de conciliation et d'entente auquel je suis heureux de pouvoir ici rendre hommage.

Le Gouvernement de la République donne sa pleine et entière adhésion au Règlement rédigé en exécution de l'Article X (4) et ci-annexée (No. 1). Ce Règlement sera considéré comme faisant corps avec le dit Article X et sera promulgué en même temps que celui-ci.

Conformément aux recommandations faites par suite d'une discussion officieuse entre les Représentants des deux Gouvernements, le Gouvernement de la République prescrira au Haut Commissaire Français d'omettre, dans le texte de la Convention qui sera publié et rendu obligatoire dans l'Archipel pour les citoyens Français, les mots suivants, figurant à l'Article LI (4), "après deux avertissements donnés par écrit à l'engagiste," étant entendu que le Gouvernement de Sa Majesté Britannique procédera de même pour les mots correspondants du texte Anglais, "after two written warnings addressed to the employer."

Le Gouvernement de la République autorisera le Haut Commissaire Français à ajourner, d'accord avec le Haut Commissaire Anglais, la promulgation des Articles IX (2), XI à XIX inclusivement, XXI à XXVII inclusivement, LVI (3), LX (3 et 4), et LXI (2) jusqu'à ce que les Magistrats du Tribunal Mixte soient installés dans l'Archipel. Les citoyens Français coupables d'infractions aux dispositions de la Convention ou des Règlements d'exécution pris par les Hauts Commissaires seront, à titre transitoire, poursuivis, conformément à l'Article XX et aux dispositions antérieurement en vigueur, devant l'autorité judiciaire, Française, étant entendu que le Gouvernement Anglais procédera de même à l'égard des sujets Britanniques.

Le Gouvernement de la République profite de cette occasion pour déclarer que les procès et litiges immobiliers auxquels se réfèrent les Articles XXII et suivants de la Convention du 20 Octobre, 1906, comprennent également les procès et litiges concernant les mines, minerais et en général le sous-sol des Iles.

Je serais reconnaissant à votre Excellence de vouloir bien, en m'accusant réception de la présente note, me faire savoir si le Gouvernement de Sa Majesté le Roi approuve de son côté des dispositions ci-dessus énoncées afin que le complet accord établi entre nos deux Gouvernements soit ainsi officiellement constaté.

Veillez, &c.,  
 (Signé) GEOFFRAY.

*Annexe No. 1.—Règlement.*

Les Soussignés, Jean Weber, Sous-Chef de Bureau au Ministère des Colonies ; le Comte de Manneville, Premier Secrétaire à l'Ambassade de France à Londres ; Louis Mallet, Sous-Secrétaire d'Etat Adjoint des Affaires Etrangères, Compagnon du Très Honorable Ordre du Bain ; Frederick Fitchett, Docteur en Droit, Solicitor-General de la Nouvelle-Zélande, délégués respectivement par le Gouvernement de la République Française et par le Gouvernement de Sa Majesté Britannique à l'effet de préparer, conformément au § 4 de l'Article X de la Convention des Nouvelles-Hébrides, signée à Londres le 20 Octobre, 1906, les dispositions relatives aux traitements, aux passages, aux congés, aux remplacements par intérim, et d'une manière générale à tout ce qui concerne le fonctionnement du Tribunal Mixte, sont convenus des dispositions suivantes, qu'ils ont résolu de soumettre à l'agrément de leurs Gouvernements respectifs :—

Règlement arrêté en commun par les Gouvernements Français et Anglais pour l'Exécution des Dispositions de l'Article X (4).

I.—*Traitements.*

Le traitement du Président du Tribunal Mixte sera de 22,500 fr. par an. ; celui du Juge Français, du Juge Anglais, et du Procureur de 17,500 fr. par an chacun ; celui du Greffier de 10,000 fr. par an. Ces Magistrats auront droit, en outre, au logement.

Les salaires du personnel auxiliaire du Tribunal Mixte seront fixés par le Président, sous réserve de l'approbation des deux Hauts Commissaires.

#### II.—*Passages et Frais de Tournées.*

Le Président du Tribunal Mixte, les Juges Français et Anglais, le Procureur, et le Greffier aura droit au passage gratuit en première classe pour rejoindre leur poste aux Nouvelles-Hébrides.

Ils recevront la moitié de leur solde à partir du jour de leur embarquement, et leur solde entière à partir du jour de leur arrivée aux Nouvelles-Hébrides. Ils seront rapatriés aux mêmes conditions lorsqu'ils quitteront définitivement leur poste après cessation de leurs fonctions, sauf le cas de révocation pour mauvaise conduite; toutefois ces avantages ne leur seront accordés que s'ils ont servi au moins trois ans dans l'archipel, ou s'ils se retirent pour raison de santé.

Lorsqu'ils se déplaceront dans l'archipel pour les besoins du service, ils auront droit au remboursement de leurs dépenses effectives de transport, et recevront, en outre, une indemnité de vivres calculée à raison de 25 fr. par nuit pour frais de route par terre, et de fr. 25 c. par nuit pour frais de voyage par mer.

#### III.—*Congés.*<sup>¶</sup>

Sous réserve du consentement des deux Hauts Commissaires, il pourra être accordé aux Magistrats du Tribunal Mixte des congés à demi-solde, dont la durée sera égale au sixième du temps de leurs services effectifs; toutefois, sauf pour motifs spéciaux aucun congé de cette nature ne pourra leur être accordé avant l'accomplissement de leur troisième année de service aux Nouvelles-Hébrides, ni ensuite à des intervalles de moins d'un an, ni pour une durée de plus d'un an.

Lorsque la durée du congé sera d'au moins six mois, les Magistrats auront droit au passage gratuit aller et retour pour se rendre dans leurs pays d'origine.

#### IV.—*Limite d'Age.*

Les Magistrats cesseront obligatoirement leurs fonctions à l'âge de 60 ans, excepté dans des cas spéciaux et avec le consentement exprès des deux Hauts Commissaires.

#### V.—*Pensions.*

Aucun Magistrat du Tribunal Mixte n'aura droit à pension sur le budget commun.

#### VI.—*Intérim.*

En cas d'absence ou d'indisponibilité du Président du Tribunal Mixte, le Procureur le remplacera dans ses fonctions.

En cas d'absence ou d'indisponibilité des Juges Français ou Anglais, un remplaçant intérimaire sera désigné respectivement par le Haut Commissaire Français ou Anglais.

En cas d'absence ou d'indisponibilité du Procureur, le Greffier le remplacera dans ses fonctions. En raison de ce service spécial, le Greffier devra n'être ni citoyen Français, ni sujet Anglais, et devra posséder les connaissances de droit nécessaires.

En cas d'absence ou d'incapacité du Greffier, le Président lui désignera un remplaçant intérimaire, sans condition de nationalité.

Les intérimaires, s'ils appartiennent déjà au personnel du Tribunal Mixte, auront droit à un traitement égal à la moitié du total de leur propre traitement et de celui du Magistrat qu'ils remplaceront. S'ils sont pris en dehors de ce personnel, ils auront droit aux mêmes allocations que les titulaires pendant la durée de leur intérim.

#### VII.—*Service intérieur du Tribunal Mixte et Pouvoirs du Président.*

Toutes les dispositions concernant les audiences du Tribunal Mixte et son fonctionnement intérieur seront arrêtées par le Président.

Le Greffier et le personnel auxiliaire sont soumis à l'autorité disciplinaire du Président, mais celui-ci ne pourra prononcer la révocation qu'avec l'assentiment des Commissaires-Résidents.

#### VIII.—*Dispositions Générales.*

Sous réserve de l'approbation ultérieure des deux Gouvernements, les deux Hauts Commissaires régleront conjointement toutes les questions concernant le Tribunal Mixte et on prévues par le présent Règlement.

Fait à Londres, en double exemplaire, le 17 Mai, 1907.

(Signé) J. WEBER.  
COMTE DE MANNEVILLE.  
LOUIS MALLET.  
FRED. FITCHETT.

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