

High Commissioner's Office, Western Pacific,

MY LORD,—

Suva, Fiji, 23rd September, 1895.

Recent disputes between Europeans and natives of certain islands which have been annexed to Her Majesty's dominions impress upon me the necessity of making a regulation for the protection of Natives entering into contracts with Europeans.

I accordingly propose to issue a regulation to forbid actions being brought in the High Commissioner's Court against Natives for money lent, goods supplied, work done, or for passages on board vessels.

In cases of partly-executed contracts, where a Native has paid money, or supplied produce, or done work, I propose to give the Court power to release the Native from the obligation to complete the contract; to inquire into the reasonableness of its terms, and, if it seems just, to order to be repaid to the Native the whole or part of any money paid by him, or the whole or part of the value of any produce delivered, or work done.

I should be glad to learn if your Excellency desires that the provisions of the regulation indicated in the last paragraph should apply to the Cook Group or not.

In order to save time, I am sending a copy of this despatch to Mr. Moss, with a request that he will furnish your Excellency with his views on the subject.

I have, &c.,

H. S. BERKELEY.

SIR,—

British Residency, Rarotonga, 18th October, 1895.

I have the honour to acknowledge receipt of your Excellency's despatch of 23rd September, enclosing copy of proposed regulation for the protection of natives making contracts with Europeans and brought under the civil jurisdiction of the High Commissioner's Court; also asking me to inform the Governor of New Zealand of my views with regard to the application of the proposed regulation to cases arising in the Cook Islands.

I have the honour to state in reply that I have written to His Excellency the Governor of New Zealand accordingly.

I have, &c.,

FREDERICK J. MOSS,

British Resident.

His Excellency the High Commissioner of the Western Pacific, Fiji.

High Commissioner's Office, Western Pacific,

MY LORD,—

Suva, Fiji, 19th November, 1895.

Referring to my despatch of the 23rd September, I have the honour to inform your Excellency that it appears necessary to decide in the High Commissioner's Court a dispute between a Mr. Emil Piltz and Natives of Penrhyn.

The case is one which it would be convenient to try in Rarotonga, and I should be much obliged if Mr. Moss could act as Registrar. If your Excellency sees no objection to this course, may I ask you to forward to Mr. Moss the letter which I enclose under flying seal.

I have, &c.,

H. S. BERKELEY.

The Right Hon. the Earl of Glasgow, G.C.M.G.,
Governor of New Zealand.

P.S.—Since writing the above I have received a despatch from the Secretary of State covering copy of a memorandum from Mr. Seddon to your Excellency, concerning the position of the British Resident in the Cook Group, and expressing the wish that the jurisdiction of the High Commissioner's Court be not vested in the Resident. Under the circumstances, I should ask your Excellency to sanction the proposals contained in this despatch. I have, however, decided to submit the matter, because, if your Excellency's Ministers disapprove, the proposal will be dropped; and because it seems to me, on a perusal of Mr. Seddon's memorandum, and of Lord Ripon's despatch to your Excellency of the 7th January, to which it is a reply, that probably no objection will be taken to Mr. Moss giving the assistance asked for.

Mr. Seddon replies in the negative to the inquiry, whether it is the wish of the New Zealand Government that the proposal contained in the paragraph 10 of Lord Ripon's despatch be adopted. This, however, contemplated the establishment of the High Commissioner's Court in the Cook Group as a Court to which recourse could be had at all times, as well as the removal of prisoners to New Zealand, and would have involved much extra work on the Resident, besides to some extent altering the character of his office. But I do not see any reason to suppose that Mr. Seddon objects to the Resident using his good offices if willing to do so, and if approved by your Excellency in each case, when a case arises which cannot be dealt with by the Courts of the Cook Group.

In the case *Piltz v. Tautini* and others, Natives of Penrhyn, what I wish to ask Mr. Moss to do is to approve a person to serve the writ, statement of claim, and order for statement of defence; to receive the affidavits of service of the various notices and orders; to issue subpoenas, &c.; and to forward copies of all papers filed to this office, as well as any applications for an order of the Court. All interlocutory orders made in the action will be made either by the High Commissioner or a Judicial Commissioner, and, when the pleadings are sufficiently advanced to allow of a date being fixed, a member of the Court will proceed to Rarotonga or Penrhyn, whichever may appear most convenient, to try the action. Mr. Moss's services are requested in order that the time may be saved which would be lost, if all process and notices had to be returned to the Registry in Fiji.