

*Constitution of the Court.*

3. That the Federal Court shall consist of a President and of such Judges as the Chief of the Government may from time to time appoint, with the approval of the British Resident.

4. That, until a permanent President, approved by the British Resident for the time being, can be appointed by the Government of the Cook Islands, the British Resident may, by virtue of his office, assume the Presidency of the said Court.

5. That the President of the Federal Court shall have and exercise all the powers of a Judge.

6. That the Judge of the late Court, Tepou-o-te-Rangi, shall continue to act as a Judge of the Federal Court at the same salary as at present, and is hereby appointed accordingly.

7. That the Court shall meet at such times and at such places as the President may direct.

8. That the President may appoint, in writing, a deputy to act for him during absence or inability from any cause, or in special cases; and that such deputy shall, for the time being, have the same powers as the President in the exercise of his office.

9. That Judges of the Federal Court appointed by the Chief of the Government as aforesaid shall hold office during good behaviour, and shall only be removed by Act of the Federal Parliament, approved by the British Resident: Provided that, if Parliament be not in session, the Chief of the Government, with the approval of the British Resident, may suspend a Judge, who shall continue to receive his salary without deduction till the decision of Parliament shall have been given.

10. That, in case of the illness or disability of a Judge, it shall be lawful for the Chief of the Government to appoint an acting Judge to hold office for a term not exceeding six months, provided that the appointment may be renewed from time to time, subject, both in appointment and renewal, to the approval of the British Resident.

11. That the President shall decide all cases brought before the Court; but that any Judge sitting with him and dissenting from his decision may place his dissent, with the reasons thereof, on the record of the Court.

12. That the President shall regulate the procedure of the Court and appoint its officers, and that such procedure shall be in accordance with the principles and practice of English Courts so far as they can be applied with due regard to established Maori laws and customs prevailing at the time when and in the place where the cause of action arose.

13. That all fees of Court, fines, or other moneys received by the Court shall be Federal revenue, and treated accordingly.

14. That the British Resident is hereby empowered to appoint from time to time such person as he may think fit to be his Private Secretary, and who may act also as Registrar of the Federal Court; and that a sum not exceeding one hundred pounds sterling per annum is hereby appropriated for these purposes.

15. That the President of the Court is also authorised to appoint a bailiff and such other officers and incur such other expenditure as may be found necessary, and a sum not exceeding sixty pounds per annum is hereby appropriated accordingly.

*Jurisdiction of the Court.*

16. That the jurisdiction of the Federal Court shall be exclusive—

(a.) In all cases of murder or of assault with intent to commit murder, and all cases of manslaughter.

(b.) In all criminal charges against foreign residents.

(c.) In all offences against the Federal laws.

(d.) In all cases between foreign residents or between foreign residents and Maoris in which the plaintiff may with consent of the President begin an action in the Federal Court, or may with the same consent seek redress for wrong alleged to have been done to him or her by any local Government in any of the islands of the Federation.

17. That the Federal Court may also rehear any case referred to it by an Ariki's Court, and, if the judgment of the Ariki's Court be confirmed, may make the judgment a rule of the Federal Court, and enforce it accordingly.

18. That on the application of either party to a suit in an Ariki's Court, the Judge of the Ariki's Court, on application being made to him by either party to the suit before beginning the hearing, shall refer the said suit to the Federal Court, provided that the Judge may also refer to the Federal Court any case after it has been begun before him if he thinks fit so to do.

19. That the Federal Court may appoint suitable persons as solicitors, who shall be answerable to the Court, and who may at any time be removed if guilty of misconduct in the performance of their duties.

20. That solicitors so appointed shall have power to act and to plead for parties before the Court, but this shall not debar any person from pleading his own cause, or from appointing, specially for the conduct of his case, and with consent of the Court, such person other than a solicitor whom he may prefer.

21. That the Court shall have all the powers over person and property needful for enforcing its judgments which are possessed by the Supreme Court of New Zealand, and may, for the maintenance of order in its proceedings and obedience to its judgments, punish any person guilty of contempt by fine or imprisonment: Provided that no judgment as to contempt of Court shall be given until after open hearing within not less than twenty-four hours after the offence has been committed.

22. That, in the absence of a public gaol, the Court may declare any dwellinghouse or other suitable place a temporary gaol for a special time and purpose.

23. That on the application of either party, and with consent of the President of the Court, a jury of four may be empanelled in any case before the Court.

24. That this Act shall come into operation on the first January, one thousand eight hundred and ninety-eight: Provided, however, that if the Arikis of the Federation, assembled in Council in Rarotonga as the Government of the Cook Islands, shall on or before that day notify to the British Resident, through the Chief of the Government, that they do not consider any change in the existing Federal Court to be necessary, then this Act shall be null and void; but if no such notification be sent this Act shall from and after the said first day of January, one thousand eight hundred and ninety-eight, be of full force and effect.

26. That a sum not exceeding forty pounds is hereby appropriated to meet the expense of the meeting of the Arikis in Council as aforesaid.

Dated at Rarotonga, this 28th day of August, 1897.

(No. 17/97.)

IN explanation of the attached letter to Mr. Hutchin, and his reply, I may say that on the 17th September they were sent to His Excellency the Governor of New Zealand by me in a despatch dealing with other matters, but in which reference was necessarily made to the rejection of the Federal Court Bill. There can be no doubt that the belief that the Mission was with the opponents of the Bill gave great force to the opposition led by Dr. Craig.

British Residency, Rarotonga, 13th November, 1897.

FREDERICK J. MOSS.

Enclosure.

LETTER TO REV. J. K. HUTCHIN.

Rarotonga, 10th September, 1897.

REVEREND SIR,—

You are aware that the effort to provide for the proper administration of justice within the Federation by the proposed Federal Court has been unsuccessful. In my judgment, without such provision the continued existence of the Federation is impossible.

The defeat of the measure is due to the active exertions of a few persons notoriously moved by personal considerations, but who have succeeded in arousing the blind fear of the Arikis and Maori landowners that the Bill would destroy their mana and take away their land.