

No. 39.

The AGENT-GENERAL to the Hon. the MINISTER for IMMIGRATION.

(No. 368.)

7, Westminster Chambers, Victoria Street, Westminster, S.W.,

SIR,—

30th April, 1877.

I have the honor to address you in continuation of my previous letter No. 1, of 8th January, on the subject of the disputed claims of Messrs. Sloman and Co. and Mr. Kirchner.

2. In my letter of the 8th January, I explained to you that Mr. Mackrell declined to commit himself to the view entertained by the late Dr. Featherston, that the failure of the contractors to carry out the Queensland contract in time forfeited their claim to the second—I should have written third—contract, for sending out 4,000 emigrants, without first studying all the papers. He explained to me that he had accepted the forfeiture view on Dr. Featherston's authority. Accordingly, I asked Mr. Mackrell to study the papers, and then to advise me. Copies of all the documents were supplied to him, and after a considerable period, he prepared a digest of the case (which I forward to you), and I then had a personal interview with him, in anticipation of the arrival of Mr. Sloman. Mr. Mackrell's opinion was to this effect, that there were no specific terms whatever in the documentary evidence to support Dr. Featherston's view that the coming into operation of the third contract depended on the faithfully carrying out the first two, but that there was constructive evidence, to be gathered from the conduct of the parties and from the correspondence, which went far to establish Dr. Featherston's view, and which might possibly lead a Court of equity to affirm it. This, whilst vindicating by constructive evidence Dr. Featherston's opinion, pointed to the great difficulty of proving it. Mr. Mackrell laid much stress upon the disadvantage we should be under through the want of Dr. Featherston's personal evidence, and strongly advised me to compromise the matter by paying the "Fritz Reuter" claims in full, and agreeing to a lump sum in addition. He advised me also to make a compromise with Mr. Kirchner, by paying him the amounts actually due to him to the closing of his office, and a lump sum in addition.

3. A few days afterwards I had a lengthened interview with Mr. Sloman. He said he believed he could recover a very large sum if he pressed his claims before a legal tribunal, but that he was willing to make a compromise by accepting £12,000—viz., about £6,000 for "Fritz Reuter," and the balance of about £6,000 in discharge of his claim for compensation for the non-carrying out of the 4,000 contract.

4. I offered to pay him the amount found to be due on account of the "Fritz Reuter," and £1,000 additional. This offer he would not entertain. It was then agreed we should each consider the matter, and meet again in two days, he in the meanwhile to call on Mr. Mackrell.

5. Mr. Sloman at this interview impressed me with the idea that he was thoroughly satisfied in his own mind of the genuine nature of his claims. He denied altogether that the 4,000 contract depended on the execution within time of the other two contracts, and even if it did, he urged his was not the fault that the other two contracts were not sooner completed. At the risk of somewhat anticipating the course of events, I may say that on investigation I became convinced that, supposing we were able to support our contention as to the third contract depending upon the other two contracts, we should entirely fail in the attempt to show that Mr. Sloman was responsible for the delay in carrying out the second of the contracts. It was the Agent-General's duty, by his Agent, Kirchner, to find the emigrants; Sloman had to provide the shipping. Now, I could not find that Mr. Sloman had ever failed to provide shipping when asked for it, and I found that one of his vessels was despatched with only 145 emigrants, although by the contract 250 ought to have been provided. He might indeed complain that he was prevented from completing his contract sooner, or at the best for our view it could be said that by mutual agreement the completion of the contract was delayed. In either case we could not hope that a Court of equity would see in the delay a ground for punishing Mr. Sloman by depriving him of the third contract. It appeared to me therefore very important to settle with him.

6. Mr. Sloman came to see me again. He had in the meantime an interview with Mr. Mackrell, and, after a long discussion, brought Mr. Mackrell to recommend to my favourable consideration a payment of £4,725, in addition to the £6,000 odd for the "Fritz Reuter." Mr. Mackrell explains in his letter the grounds of this recommendation. The amount was arrived at by a calculation of the average sum per emigrant which under the three contracts would be payable for the emigrants already sent. I told Mr. Sloman that, after seeing him, Mr. Mackrell had discovered another element of the calculation which reduced the amount to £3,365, and that I was prepared to recommend my Government to pay him £3,000, in addition to the "Fritz Reuter" payments. Mr. Sloman said the question was one of amount with him. The amount which Mr. Mackrell had recommended, as above mentioned, he was prepared to accept rather than take proceedings, but he considered that he would be able to recover much more if he went to law. His real claim was for the damage he sustained by not carrying 4,000 emigrants at £14 per head.

7. He absolutely declined the £3,000 in addition to the "Fritz Reuter" payments, and I then raised my offer to £3,365, subject to the approval of the Government by telegraph. He undertook to consider the proposal. The next day he sent me word that my offer, with the "Fritz Reuter" payments, would amount only to £9,538, and that he would take a round sum of £10,000. I told him, however, I would not increase my offer, and, after two or three days of negotiation, he finally agreed to accept it, and I at once despatched the telegram to you, of which copy is appended. (No. 37 of this paper.)

8. I enclose you also copy of a letter from Messrs. Mackrell and Co., after Mr. Mackrell's interview with Mr. Sloman, in which they advise me to go as high as £11,000, rather than to fail to effect a settlement.

9. You will I hope see that I have done well in arranging for £9,538 5s. 5d., instead of the large limit to which, under Messrs. Mackrell and Co.'s advice, I might have gone. In explanation of my not going to a higher figure, I may say that, though Messrs. Mackrell and Co. recommended my doing so to escape litigation, the amount they seemed to think an equity Court would beyond all doubt decree, in