

1879.

NEW ZEALAND.

CRIMES COMMITTED IN ISLANDS OF THE PACIFIC.

PAPERS RELATING TO THE CHARGE OF MURDER AGAINST THOMAS RENNELL, AND TO THE QUESTION OF JURISDICTION IN LIKE CASES.

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

No. 1.

RESIDENT MAGISTRATE'S COURT, AUCKLAND.—20TH DECEMBER, 1878.

(Reprinted from the *New Zealand Herald*, 21st December.)

THOMAS RENNELL, on remand, was again arraigned on a charge of murdering Captain Moller, at the Island of Boutaritari. This case had been remanded awaiting instructions from the Government, as the question had been raised whether New Zealand Courts had jurisdiction, or could take cognizance of a crime committed in the island referred to, which is under the jurisdiction of the Governor of Fiji, the Lord High Commissioner of Polynesia.

Mr. Brookfield said, in this case, although the Supreme Court had no power to try the case, he thought that, looking at the Pacific Islands Act and the Imperial Act, and the Interpretation Act of last session, there was little doubt but this Court could inquire into and take evidence, and remand the accused to prison, if the evidence was deemed sufficient, until there was an opportunity to send him to Levuka. There was power given to Her Majesty, by the Foreign Offenders Apprehension Act, to try her own subjects for offences committed in the Pacific Ocean, and to appoint a Court for that purpose. He now asked this Court to take evidence, and to follow the course which he had suggested.

Mr. Hesketh, who appeared for the accused, said the Court was asked to take a course which, if adopted, would place him in a very awkward position as to his right to appear at all. Another question was, what power had the Court at all to try an offence not committed within a British colony, or within the jurisdiction of the Court? Even under the Foreign Offenders Apprehension Act this power was not given to Fiji, for the place where the offence was alleged to have been committed was not in the Colony of Fiji—it was outside it.

Mr. Brookfield: It is within the jurisdiction of the Court at Fiji.

Mr. Hesketh said the Fiji Courts could not have jurisdiction outside the colony, and the Foreign Offenders Apprehension Act gave no power to this Court to detain the man in custody. He referred to the power conferred on Her Majesty by the Imperial Statute to exercise jurisdiction over her own subjects in the Pacific Ocean, in places not within her dominions, but this did not point to any Court in the colony having power to deal with it. If the charge was brought under that Statute, it must be shown that the offence was committed within the jurisdiction of some Australasian Colony, as of Fiji. His Worship, after some further argument and the quotation of sections of the Acts relied on, said it was clear that their own Act was intended to catch all offenders in the Polynesian Islands. If he had no jurisdiction, it was easily tested by an application to the Supreme Court for a writ of *habeas corpus*.

Mr. Hesketh said, as the offence was a very serious one, he presumed the course taken by his Worship was the proper one.

The following evidence was then taken:—

William Sherwin deposed: I was a seaman on board the schooner "Meg Merrilies" in the month of October. Captain Charles Moller was captain of her. On the 7th of October we were at the Island of Boutaritari, in the Gilbert Group, North Pacific. Prisoner, Thomas Rennell, lived on that island, trading for McArthur and Co. On the morning of the 7th of October, I went on shore at the island with Captain Moller, and we went up to the prisoner's house. Captain Moller asked prisoner for his trade invoices, to enable him to make up his accounts, and, after some hesitation, prisoner gave them. Captain Moller looked over the accounts, and told prisoner what he was indebted, but I did not hear the amount. Captain Moller then asked where the trade goods belonging to the firm were, and prisoner pointed to the goods in the store, and said, "There they are." I saw a gun in the room at the time. [Gun produced. Right barrel empty, left loaded.] I took the gun up, and remarked, "It is loaded." Prisoner said, "Yes; I go shooting birds with it." Captain Moller was in the room at the time, but he went out just then, leaving me in the room with prisoner. While the captain was out, prisoner said,