

So far the Court has shown a long list of suspicious and even fraudulent transactions, but there is a probability that this sum of \$35½ may be included in the £35 4s. for which judgment has already been given against M. Daniela. He is entitled to the benefit of the doubt, and we give him that benefit by dismissing this charge.

FEDERAL GOVERNMENT v. M. DANIELA.

Embezzlement of 18s., Takitumu Road-tax.

IN this case the only defence made is the production of an account-book showing the collection of local revenue during the year 1895-96—a book that has long been wanted—and the assertion of Mr. Moss that the 18s. now in dispute has been paid into the bank, that it formed part of a sum of £7 18s. 4d. paid into the bank on the 28th December, 1895.

Now, this book contains some very curious entries. Firstly, under date of the 18th October, 1895, 18s. is entered as having been received from Samuela Taunga, and this entry is made on a page devoted to the fees of the Avarua Court. On the 12th November following, £18 6s. 1d. is shown as having been paid into the bank, and a balance of £4 8s. 11d. as left in the hands of the Paymaster. From this sum the 18s. is deducted, and, therefore, up to this date the 18s. has not been accounted for. On the same page another entry is made of this 18s., and on the 10th December a balance is shown in the Paymaster's hands of £9 1s. 11d. Here the manipulation commences: the £9 1s. 11d. is not brought forward to page 14, but a sum of £8 4s. 11d.; and to this is once more added the 18s. and another sum of £2 4s., leaving a balance of £11 6s., from which, without rhyme or reason, the 18s. is again deducted, making the balance in the hands of the Paymaster £10 8s., of which £7 18s. 4d. was subsequently paid into the bank, and was made up of two sums of £1 17s. 6d. each, and one of £4 2s. 4d., all of them stated on the receipt as being derived from the fees and fines of the Avarua Arikis' Court. It will, however, be seen that the receipt bears no date by which the money can be traced in the banker's books. So far, then, it is clear that the sum of 18s. has not been paid into the bank. The collector's book put in as evidence shows that when the £7 18s. 4d. had been paid into the bank, the balance in the Paymaster's hands was £2 9s., and this sum is shown as the balance on the 1st January, 1896 (page 16). To this sum is once more added the 18s. It is proved beyond all doubt that the 18s. was not paid into the bank on the 28th December, 1895; that it did not form part of the £7 18s. 4d. There is, moreover, nothing to show that the balance of £2 9s. remaining on hand on the 1st January, 1896, has ever been accounted for.

The Court is of opinion that M. Daniela has embezzled the sum of 18s., Takitumu road-tax, and convicts him of the offence and sentences him to six months' imprisonment with hard labour, sentence to be served on the Island of Manuae.

FEDERAL GOVERNMENT v. M. DANIELA.

Embezzlement of £17 5s. 9d.

BEFORE delivering the judgment of the Court in the two cases now pending, it will not be out of place to comment on the manner in which the many actions against M. Daniela have been defended. The Court has very great sympathy with M. Daniela, but that he has committed all the acts with which he has been charged is very clear. Had he pleaded the ignorance and incapacity which has been made manifest to the Court, we could then have recommended Makea Ariki to exercise the mercy which is the prerogative of the Federal Government under section 11 of the Constitution Act of 1891. As it is, Makea Daniela has listened to the bad advice of a man who seems to have had no other object than to obtain a conviction against his client. The action of Mr. F. G. Moss in introducing one of the long-lost books of the Collector of Local Revenue, and objecting to its being impounded by the Court on the ground that it contained incriminating evidence against his client, appears to the Court to admit of no other construction than that we have placed upon it.

No evidence in support of the defendant's case has been offered in this action, and the arguments of Mr. F. G. Moss are hardly worth consideration. That the late Resident should have instructed M. Daniela to retain 10 per cent. for exchange during the financial year 1895-96 is absurd, for we have the authority of Mr. Scard's letter to Sir James Prendergast (A.-3 of 1898, page 85) to show that the bank was taking Chili money during that year. So, also, the contention that this charge of 10 per cent. was openly made, is absurd, for Mr. Moss knows well that this book was always concealed, and would probably never have seen the light of day, but that Mr. Moss produced it in evidence, and by so doing proved beyond all doubt that Makea Daniela had deliberately defrauded the Government of £17 5s. 9d.—illegal deductions from education rate and fees of the Arikis' Court.

We find M. Daniela is guilty of embezzlement of the £17 5s. 9d., and sentence him to six months' imprisonment with hard labour in addition to the six months already given to him as a punishment for the embezzlement of 18s. Both sentences will be served on the Island of Manuae, to which island he will be sent on the first opportunity.

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