

(C)—In the case of other offences committed by natives, either by the Resident Commissioners acting jointly or by officers jointly appointed for this purpose.

(2) The authority charged with the execution of the penalty in a criminal or police case may reduce or remit such penalty.

ARTICLE XX.

National Jurisdiction.

(1) The two Governments mutually undertake to establish in the Group, in conformity with their existing legal system, Courts with jurisdiction over all civil suits, subject to the reservations and exceptions laid down in the present Convention.

(2) Civil suits between non-natives, other than land suits, shall be brought before the Court having jurisdiction over the defendant.

(3) In criminal cases, non-natives shall be justiciable by the Court of their own nationality or the nationality applied to them.

ARTICLE XXI.

Suits brought by consent before the Joint Court.

(1) Both non-natives and natives may, where the parties consent, bring their suits before the Joint Court.

(2) In suits between non-natives, the law applicable to the defendant shall be applied; the same rule shall be followed with regard to procedure, subject to Article XIV above.

(3) In suits between natives, the Court shall decide according to substantial justice, respecting, as far as possible, the native customs and the general principles of law. It may determine, as required, the procedure to be followed, reducing it to the minimum consistent with the proper administration of justice.

PROVISIONS RELATING TO LAND.

ARTICLE XXII.

Land Suits between Non-natives and Natives.

(1) In land suits, the rights of non-natives may be proved either by occupation or by title-deeds establishing the sale or grant of the land in question.

(2) When occupation is made the sole ground of a claim to ownership, visible and material proofs must be forthcoming, such as buildings, plantations, cultivation, cattle-rearing, improvements, clearing, or fencing. Occupation must be *bona fide*, and have been continuous during three years at least.

(3) When the claim to a property is based on a title-deed coupled with occupation, the Court shall endeavour to ascertain whether the holder of the title-deed has substantially asserted his occupation by material acts showing that he has taken possession, such as : improvement of the land in any manner, even in part ; construction of roads, bridges or paths ; surveys ; delimitation ; erection of signposts to mark boundaries ; habitual enjoyment of the produce ; or other acts proving open exercise of the right of ownership. The Court shall decide how far these acts can be held to cover the whole extent of the property in dispute, and shall confirm the claim in whole or in part accordingly.

(4) When the claim to a property is founded on a title-deed alone, and this title-deed has been either lodged in a notary's office or registered in New Caledonia, Fiji, or the New Hebrides, at a date subsequent to the 31st December, 1895, or else, on a title-deed which, whatever its date, has not been lodged in a notary's office or registered, this title-deed can only be rendered void if it is proved :—

- (a) That the agreement is not signed by the vendor or grantor, or by some person duly authorized by him, or that if the vendor or grantor did not know how to write or was incapable of signing, the agreement is not attested by two witnesses or in some other manner that establishes its authenticity according to English or French law ;
- (b) That the vendor or grantor did not understand the effect of the agreement ;
- (c) That the agreement was obtained by fraud, violence, or other improper means ;
- (d) That the terms and conditions of the agreement have not been fulfilled ;
- (e) That the land sold was not the land of the vendor or grantor or his tribe.

If the Court finds that the rights of the vendor or grantor extended only to part of the land in dispute, it may recognize the sale or grant to the extent of such part, and fix the boundaries thereof.

(5) When the title-deed establishing the sale or grant of the land in dispute has been either lodged in a notary's office or registered in New Caledonia, Fiji, or the New Hebrides, at a date prior to the 1st January, 1896.

(A)—The right of action cannot be admitted :—

- (a) Unless the claimant can prove, according as he acts in his own name or in his own personal interests or as Chief of his tribe and in its interests, that he or his tribe have a present right to the occupation of the land in dispute, and that this right would be infringed. If this right extends to part only of the property in dispute, the Court shall only entertain the action as to this part, if necessary, fixing the boundaries thereof ;
- (b) If it is proved that prior to the 1st January, 1896, a transaction took place indicating that the title-deed applied to a property held lawfully and in good faith ; in particular, if it has been conveyed regularly and in good faith between non-natives for valuable consideration in accordance with the regulations and forms prescribed by the law of civilized peoples.