

BRITISH ORDER IN COUNCIL, *relative to the Western Pacific Islands; so far as relates to Deportation, the extension of the Judicial Powers of the High Commissioner and Fugitive Offenders.* Osborne, August 14, 1879.

*At the Court at Osborne House, Isle of Wight, the 14th day of August, 1879.*

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Western Pacific Order in Council of 1877\* Her Majesty the Queen was pleased to create and constitute the office of High Commissioner in, over, and for certain islands and places in the Western Pacific Ocean, which islands and places are in the said Order more particularly described, and are therein and in this Order referred to as the Western Pacific Islands, with such powers and jurisdiction as are in the said Order set forth:

\* See Page 871.

And whereas it is expedient to extend and amend in various respects the said Order:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Pacific Islanders' Protection Acts, 1872\* and 1875,† and by the Foreign Jurisdiction Acts, 1843 to 1878, or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

*Regulations by High Commissioner.*

7. (1.) The High Commissioner shall, by virtue of this Order, have power and authority to make from time to time in the name and on behalf of Her Majesty, by writing under his hand and official seal, such regulations as to him may seem fit for the government of British subjects in the Western Pacific Islands, and for securing the maintenance (as far as regards the conduct of British subjects) of friendly relations between British subjects and all kings, chiefs, and other authorities in those islands, and persons subject to them.

(2.) The regulations may define offences against the same; and acts thereby defined to be offences are hereby declared to be offences against the principal Order; and the regulations may impose a punishment for any such offence, as follows:

(i.) Imprisonment for any term not exceeding 3 months, with or without hard labour, and with or without a fine not exceeding 10 pounds; or

(ii.) A fine alone, not exceeding 10 pounds, without any imprisonment: and

(iii.) In case of a continuing offence,—in addition to any such punishment by imprisonment or a fine, or both, as aforesaid,—a further fine, not exceeding in any case 10 shillings for each day during which the offence continues after the day of the commission of the original offence.

(3.) The regulations shall be so framed as to allow that less than the highest punishment imposed by the regulations may be adjudged in any case; and the regulations shall not be so framed as to impose a fixed punishment in any case, or to prevent the court from adjudging in any case as low a punishment as the court in its discretion may think fit.

(4.) The regulations shall be affixed, and, as far as practicable, at all times kept exhibited, at each court-house, or at some other public place in each district.

(5.) Copies of the regulations shall be sold at such price as the High Commissioner directs.

(6.) The regulations shall, as soon as practicable, be published in the Royal Gazette of Fiji, and be printed separately.

\* See Vol. 13. Page 609.

† See Page 427.

(7.) The High Commissioner on making regulations shall forthwith report them to the Secretary of State.

(8.) Every regulation shall, unless approved by the Secretary of State, cease to be in force at the expiration of 18 months from the making thereof, except as regards things done and rights and liabilities accrued and incurred thereunder before the expiration of that time, and the institution and prosecution thereafter of any proceeding, civil or criminal, in respect of any such thing, right, or liability.

(9.) The High Commissioner may at any time, in manner aforesaid, revoke or alter any regulation; and the Secretary of State may at any time direct the revocation of any regulation.

8. (1.) The last foregoing Article is hereby substituted for Article 24 of the principal Order.

(2.) But all regulations made under Article 24 of the principal Order, before the commencement of this Order, shall remain in force as if this Order had not been passed, subject to be revoked or altered by the High Commissioner, and so that they shall, unless approved by the Secretary of State before or after the commencement of this Order, cease to be in force at the expiration of 12 months from the commencement of this Order, except as regards things done and rights and liabilities accrued and incurred thereunder before the expiration of that time, and the institution and prosecution thereafter of any proceeding, civil or criminal, in respect of any such thing, right, or liability.

*Deportation.*

9. Article 26 of the principal Order shall be read and have effect as if the words "from the Western Pacific Islands" were omitted from the first paragraph thereof.

*Extension of Judicial Power of High Commissioner.*

10. (1.) Notwithstanding anything in the principal Order, the High Commissioner may, when at a place distant from his ordinary place of official residence, and in a case being, in his opinion, a case of urgency, and in the absence of a Judicial Commissioner, exercise so much of the jurisdiction and authority of the court as is by Articles 27 and 28 of the principal Order confined to a Judicial Commissioner.

(2.) The High Commissioner shall forthwith make a special report to the Secretary of State in every case in which he exercises such jurisdiction and authority, setting forth therein the reasons for his proceedings.

(3.) If in any case the sentence passed by the High Commissioner, under the authority of this Article, is a sentence of death, it shall not be executed unless and until the High Commissioner has referred the minutes and notes of evidence in the

case to the Chief Justice of Fiji, or if, in the opinion of the High Commissioner, by reason of the remoteness of the place or otherwise, a reference to the Chief Justice would be inconvenient, then to another Judicial Commissioner, being a barrister of 10 years' standing, and the Chief Justice or that other Judicial Commissioner has certified in writing to the High Commissioner his concurrence in the sentence.

(4.) In every such case the High Commissioner shall postpone the execution of the sentence pending such reference, and shall commit the person convicted to prison for safe custody, or shall cause him to be detained in custody, and to be removed to any part of the Western Pacific Islands, or to Fiji, and to be there detained in custody pending such reference.

(5.) Nothing in this Article shall affect the right or the power of the court to reserve for the judgment of the Supreme Court any question of law or fact arising on a trial.

(6.) Where there is such an appeal or reservation, a reference under this Article to the Chief Justice of Fiji or another Judicial Commissioner shall not be made.

*Fugitive Offenders.*

15. (1.) The Fugitive Offenders Act, 1848, or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended, with reference to British subjects, to the Western Pacific Islands, with the adaptations following, namely :

(a.) In Sections 2 and 6 of the Fugitive Offenders Act, 1848, the High Commissioner's Court by a Judicial Commissioner shall be deemed to be substituted for a judge of a superior court in a colony :

(b.) In Sections 3, 5, 6, and 7, of that Act the High Commissioner shall be deemed to be substituted for the Governor of a colony.

(2.) This Article is hereby substituted for Article 50 of the principal Order.

And the Most Honourable the Marquess of Salisbury, and the Right Honourable Sir Michael Edward Hicks-Beach, Baronet, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

C. L. PEEL.