

G. D. CAMERON v. "TONGA MA'A TONGA
KAUTAHA"

(Civil Application. Skeen C. J. Nuku'alofa, 25th March, 1914.)

Stay of Proceedings — Counter Claim — Treaty of Friendship.

This was an application by the Tonga Ma'a Tonga Kautaha to stay execution on a judgment obtained against the Tonga Ma'a Tonga Kautaha by G. Cameron and on the ground that the Tonga Ma'a Tonga Kautaha had lodged a counter-claim in the Consul's Court.

The application was opposed by Cameron on the following grounds: (1) The counter claim was vexatious. (2) The counter claim was not sworn. (3) The judgment was for wages which must take precedence over all other claims.

HELD: A Stay should be granted.

C. W. Harte, Secretary of Tonga Ma'a Tonga Kautaha in support of the application.

G. D. Cameron in person.

SKEEN C. J. The Tongan law gives the Department a right to file and have heard a counter-claim (Section 270) but the "Treaty" came in and took away jurisdiction of the Tongan Court against foreigners, in this case against Cameron, and therefore the Tonga Ma'a Tonga Kautaha although they filed a counter-claim in the Police Court had to take action in the British Court against Cameron. The Treaty has not taken away any right in regard to counter-claims, it only lays down a different way of determining them; it does not take away any equity or legal right of the Tonga Ma'a Tonga Kautaha; there is nothing in Tongan law about wages. Application granted. Tonga Ma'a Tonga Kautaha to deposit the money in Court, which Harte undertakes to do today. Costs 4/- to be paid by Tonga Ma'a Tonga Kautaha.