

F.18/2/10.

Lands Commission Office,
Bairiki, Tarawa.

31st January, 1951.

From: Acting Chief Lands Commissioner, Bairiki.

To : Secretary to Government, Bairiki. No. 9.
Copy to District Officer, Gilbert Islands District, No. 3.
Bairiki

Lands Settlement: Nonouti.

The Lands settlement of Nonouti, begun on March 17, 1950, was completed on 17th January, 1951. The settlement was carried out by M. M. Townsend, M.C., assisted by lands clerk Nataua Teniera, Toanimatang Teraoi and for a short time Ikaati Tekai.

2. The periods spent in the various phases of the settlement were as follows:-

Listing of lands, pits, ponds and fish traps and registration of claims	72 days
Hearing of disputed claims	109 days
Reading of final lists	6 days
Preparation of registers	54 days
Preparation of lands code, training lands Scribe, and other incidental work	12 days
Absence of Lands Commissioner on other work	51 days
	304 days

These periods include holidays and days when work was not possible owing, for example, to the arrival of recruit ships: thus the number of working days spent on hearings was only 89.

3. The Nonouti settlement is by far the largest yet undertaken, and only that on Tabiteuea is likely to prove more arduous. A number of factors combined to make it even more difficult than it would have been under normal conditions. One of the worst was the shortage of shipping - it might almost be called an absence of shipping - until the settlement was half completed. From the beginning of the year until July 12th only the Lands Commission staff and six private passengers were able to make their way to Nonouti, and the arrival of four ships on July 12th with some 80 passengers, when half the claims had been settled, was more hindrance than help. The correspondence undertaken by the Lands Commissioner was far greater even than Beru: during the settlement over 400 letters and telegrams on lands matters were sent out or received, in addition to over 3,000 summonses and a large number of notices and instructions. Another delaying factor was the influenza epidemic; though Nonouti escaped the disease the quarantining of most of the other Gilbert Islands, including Tarawa for two months, prevented a typist and a member of the staff then on leave from travelling to Nonouti, and prolonged the settlement by at least six weeks.

4. Added to this, Nonouti, which has had virtually no wars which affected land tenure, presents a picture of fragmentation of land which will possibly apply to all the Gilberts in a few generations. The population of Nonouti at the 1947 census was only 2,233 (including 233 indentured labourers on other islands) but the census report notes that there were 555 fewer residents than there were persons born on the island - a far higher figure than any other island. Though the number of those found by the Commission

to have rights in land there is certainly nearly 3,000 the number of lands (over 8,400) and pits (over 3,600) registered, gives an average number of lands per capita considerably in excess even of that of other Southern islands, though area of land per capita is no higher. Apart from the lack of wars, which enabled the regrouping of fragmented lands on other islands, the main cause of fragmentation on Nonouti is the very high infertility rate. It probably equals or exceeds that on Abemama, where two persons out of three have died issueless during the past fifty years, though there are two gaps in the records on Nonouti which make it impossible to obtain accurate figures for some periods: for those periods when records were properly kept more than two persons out of three died without issue. On Abemama the number of surviving relatives was so small that infertility did not lead to fragmentation, but on Nonouti a very much higher birth rate meant large numbers of relatives, all eager to obtain the maximum share of the estate, even at the cost of dividing and re-dividing each land. However many heirs there may be to an estate, the majority of them on Nonouti usually regard subdivision of every land in the estate as the only way of ensuring for themselves an adequate share of the estate. However, though the settlement was greatly complicated by this fragmentation, the fact that Nonouti produces far more copra than consideration of natural factors leads observers to expect, indicates that fragmentation may not have as bad an effect on land utilisation as is commonly believed.

5. Plots were assessed for size and fertility on Nonouti as on other islands, but due to the very large number of lands in each village area (nearly 1,000) and the fact that a large proportion of lands are rarely visited by their owners, I do not believe that the assessments are in the least reliable, as the number of persons who know the extent and characteristics of each land is so limited. Nor can most of this limited number be relied on to state their real opinion on the subject, being either those with an interest in the plot itself or those with an interest in adjacent plots.

6. The majority of claims were connected with the division of estates of persons who had died without issue, the claimants being either next of kin or beneficiaries under an alleged will - a very high proportion of lands are transferred by will on Nonouti. Other claims were that the original lands register (compiled in about 1906) was at fault, that the sharing of parent's lands had been unfair, and that various forms of property never before registered had now been incorrectly registered. Possibly the greatest injustices corrected by the commission were in connection with the emigration to the Phoenix group in the late 30s. The emigrants were apparently embarked on the ship taking them to the Phoenix without any very full explanation of the rights and liabilities they were assuming being given to their families. Each emigrant signed a covenant containing the words "I covenant on behalf of myself, my wife and my children who accompany me, that we shall abandon to our relatives who remain, all our lands" ... Apparently it was not realised that issue remaining on Nonouti still had the right to inherit land, and several score of the issue of emigrants had merely been living on the charity of relatives who had assumed undisputed ownership of lands to which they actually had no right whatsoever.

7. It has been assumed in the past that emigration, with its attendant relief of land shortage, reduces the number of disputes to be settled by the Lands Commission. This is true if those emigrating are claiming land through destitution and for no other reason, if their claim is an individual one, and not one which will be assumed by a relative after they depart, and if their next of kin can agree to the various shares of the estate. In a great
many

many instances on Nonouti emigration had led to disputes instead of settling them. A number of emigrants apparently were allowed to emigrate without adequate reason, with the result not only that relatively large estates (in one case consisting of 26 lands) were left for relatives to quarrel over, but that as none of the relatives also emigrated, a number of issueless persons arrived in the Phoenix and were later dissatisfied because there was no one there to look after them in old age. Two persons had returned from the Phoenix, both of them issueless. One had no dispute to lay before the Commission but the other, Tetamne, died before the Commission and settlement of his estate provided considerable difficulty. He had signed the usual covenant renouncing all claim to land in the Gilberts, but an Assistant Medical Practitioner (since deceased) provided him with a letter to the Nonouti Government, stating that the High Commissioner had ordered that his relatives should return his former lands, a statement, needless to say, without any basis in fact. This is the only case I have come across of a litigant attempting to cancel his covenant (nor have I met any instance of the validity of the covenant being questioned by a Gilbertese) and in this case I am inclined to believe that the A.M.P. and the Native Government in the Phoenix were the originators of the fraudulent letter, being anxious to transfer the responsibility of looking after Tetamne to his relatives. Tetamne was probably an entirely innocent party.

8. It was often possible to get the parties to agree to a compromise, after a duly lengthy discussion, and the Nonouti litigants' ready acceptance of a decision provided a considerable contrast with their eagerness to get every possible extra rood as their share of an estate, even at the cost of increasing their copra tax liability to absurd lengths. In fact, although other islands (and initially the Lands Commission staff and the Nonoutians themselves) expected that the listing of lands in particular would lead to violence, there were no untoward incidents resulting from the Commission. At some time in June a rumour, probably resulting from the mis-reading of a telegram by some loquacious member of the Government staff, was spread throughout the Northern Gilberts to the effect that four persons had been killed during lands disputes. Litigants who travelled to Nonouti on the unprecedented influx of shipping in July were relieved to find it unfounded, but none of them had apparently doubted it until they arrived at Nonouti.

9. The statistical information provided in the appendix attached does not show fully the excellence of the work of the Lands Commission staff and the Lands Commission members and assessors. To go on, not merely day after day, but month after month, adjudicating between ten and twenty claims a day, and often spending in court from 8 a.m. (when hearings began) until dark, with only a half-hour break in the early afternoon for a meal, required very great effort, particularly on the part of the members, most of whom were about sixty years old. The Commission would undoubtedly have been not only more rapidly completed, but accomplished with far less strain, had the staff been more adequate. If the Commission on Nonouti is used as a pilot scheme for the largest settlement of all, that on Tabiteuea, it is to be hoped that the unavoidable difficulties which arose on Nonouti will not arise on Tabiteuea.

10. The Lands Court has now been set up, and a variety of cases, to include most situations provided for in the Lands Code, have been heard. It is unfortunate that the Magistrate, who has proved very quick to grasp the main principles of Lands Court work, and who having in his time been a very efficient island scribe, can be depended on to supervise the work of the Lands Scribe, will be away for the Lands Court's first independent session. However, the Lands Scribe has been instructed in his work by lands clerk Ikaati. He has had considerable experience of general lands work (he was appointed on April 1st, 1950) and has worked for a month without extra pay or allowances in the Lands Office, and should experience

no difficulty unless there is a very great number of transfers of lands in the next few months. Nonouti is likely to provide very much more work for the Lands Scribe than any other island so far settled: even if no other transfers were to be made, over 12,000 properties would change hands each generation, or about 400 a year. Whereas even on Tarawa, a far larger island, the comparable figure is about only 200.

(Sgd.) M. M. TOWNSEND

for Acting Chief Lands Commissioner.

APPENDIX

1.	Date of commencement	17. 3. 50.
2.	Date of termination	17. 1. 51.
3.	Working days occupied hearing claims	89
4.	(approximate: 601 cases were heard, averaging 2.35 claims per case)	1410
5.	Average number of disputed claims heard per day	15.9
6.	Number of lands adjudicated on	1800 +
7.	Number of lands registered	8400 +
8.	% age lands adjudicated on: registered	21%
9.	Number of pits, ponds & fishtraps adjudicated on	120 +
10.	Number of pits, ponds & fishtraps registered	3600 +
11.	% age other properties adjudicated on: registered	3.3%
12.	% of disputes in which claimant was wholly or partly successful about	25%
13.	Number of appeals	64
14.	Number wholly or partly allowed	
15.	Number wholly or partly dismissed	
16.	Number wholly or partly adjourned.	

From: The Lands Commissioner, Beru.

F. T. 3/1

To: The Chief Lands Commissioner. No. 20. 4th April 1950.

The Property Code for Beru.

A copy of the final code for Beru, approved on March 29th by the members of the Lands Commission, is enclosed. Another copy is attached to the report on the Beru settlement, and the Gilbertese original is sent under separate cover.

2. It will be noted that this code is called a property code, since more than on any island yet dealt with, "Bain tari" figure quite largely on Beru.

3. The code is not in its text unduly restrictive, but the evolution of property customs on Beru is such that under present conditions it will probably be interpreted very restrictively. In the original draft, made in what I considered accordance with the findings of the commission in such cases, the landowner with issue was to be allowed, if he had plenty for his children, to give up to one-quarter of his property, the issueless up to half. But members insisted on the insertion of the words "may be permitted" before "to give", and it seems clear that the proportions allowed during the Commission were allowed largely in order not to upset the status quo, and that these clauses (5(iv) and 5(v)) will probably be interpreted very narrowly indeed in future.

4. Custom on Beru has changed very rapidly, as the population increased. Thus it was held, by Mr. Maude in his paper on Land Customs on Beru, to be the rule that the number of issue of each of several spouses was immaterial in deciding their shares of the estate, and certainly in cases where the parent made no arrangements, the Native Court followed that custom. But for several decades it has been the custom for the parent, and sometimes even in the absence of the parent, the issue of the senior spouse, to take some account of numbers in giving each family its share. Thus the present custom (section 6 (i)) is held to pay more regard to numbers than to seniority. And for the last generation or two it has been the custom for women to get almost equal shares with men, though before that a woman would have had to depend entirely on her husband for pits, fishponds and fishtraps, and unless she was the first daughter to get married, for all but a nominal amount of land.

5. In paragraph 7 of my report on the Beru settlement I have mentioned the advantages, particularly from the administrative point of view, of the non-reversion of gift lands. Before the Commission I learned that a considerable number of islanders wished for the introduction of the Northern customs of reversion. During the Commission little was heard of the matter, for once it was made clear that the Beru custom was being followed by the Commission, litigants preferred to save their shillings for less hopeless causes. But during discussion of the code the question was again raised.

There was,

There was, before the flag, a custom called "te kanoa ni baenè" (the contents of the basket). The operation of this custom was reputedly as follows: A is the descendant of a person who has given B or his ascendant a land. A takes food a few times to B, and by this favour obliges B to repay him by giving him back the land. The partisans of the Northern custom claimed that "te kanoa ni baene" is now usually inoperative, since A would in the first place probably be prevented from leaving food for B by B's next of kin, who hoped to inherit the land, and in the second place B would probably not regard such a slight favour as obliging him to give anything as valuable as a land. However, on being asked whether they believed that "te kanoa ni baene" was in actual fact as smooth-working as they made it sound when it was in use, they had to admit that it was rarely successful except when B was the issueless uncle or aunt of A (ie, A stood to inherit B's lands in any case). In fact, "te kanoa ni baene" was almost certainly, when it did operate to alienate lands from the family, an example of what can be generally termed "bakabure", or deliberate wastage. Thus under the general heading of customs such other deliberate inconsistencies with custom as "nenebon te banna" (deliberate disturbance of a grave by an aggrieved family member, in order to have his or her brothers fined their two best lands), and deliberate killing of a member of another utu for the same purpose, have been quoted: in actual fact they are examples of deliberate flouting of customary behaviour for selfish ends. Though it might be possible to allow the Lands Court to reward a member of the donor's family for looking after an issueless recipient, in the same way as an islander can be rewarded under section 5 (iii) for looking after a mad relative, or one who suddenly dies, in actual fact such a provision would lead to considerable complications. Members eventually decided that as individuals stood both to lose and to gain by the substitution of the Northern custom, they would leave it as it was so as not to complicate the Lands Court's work. But the matter is bound to be raised from time to time by individuals who consider they would gain more than they lost by introduction of the new custom.

6. I see that in note 2 on the Central Gilberts Lands Code you state that the section empowering the Lands Court to set property aside for the sustenance of issue cut off by a parent is "somewhat pointless without a penal clause". I have not found this to be true; the matter can already be penalised under I.R. 8(1), but penalties to be inflicted under Island Regulations are so small that in this matter they are entirely ineffective. On the other hand, I have found that the mere threat of using such powers as those in section 2(1) of the Beru code is often sufficient to effect an immediate correction of his behaviour by the parent, without the matter coming into court at all. The Commission used precisely this power in case 81/49, and the measure was definitely effective. In addition, the knowledge of such a clause often induces a parent to carry out the partition of most of his lands during his life, whereas if he had complete power to enjoy his lands even to the exclusion of his issue the natural tendency would be for him to keep all his lands in his own hands until he died.

7. The only other unusual provision of the Beru code is that contained in section 2(ii). This will be used in cases where a person in effect emigrates to another island, through marriage in most cases. It can be used when such person has issue, but will usually be used where he (or more often she) has none, and has therefore little interest in the Beru lands. It is true that the relatives are thereby able to prepare the lands which they usually stand eventually to inherit, but my own view is that this is the one bad provision of the Code. However, there is no doubt that it is considered right by a majority of the islanders, and the owner still has complete power over the remainder of his property, - pits, ponds, fishtraps, and buildings.

8. As far as fishing rights are concerned, Beru is in a stage of transition. "Mobile" fishing is permitted by anyone anywhere, however done, though certain villages or kaingas specialise in certain forms of fishing. But the construction of fishponds and traps is still held to be subject to the control of those who have rights over the area, though these rights have frequently been ignored in the past. It would take a year or more to define or register these rights, since a large-scale map and complete survey of reef boundaries would be required and the result would in any case be unsatisfactory, since the Commission is not, and cannot be, an impartial body where kainga rights are concerned - the result of any argument merely depends on how many partisans of each kainga happen to be members, each member considering himself in such matters a partisan of several kaingas. Thus the phrase "owner of the property" in section 8(i) includes those considered by the Lands Court to be the holder of rights over the area. There are few fishtraps on Beru, and those which exist are poorly constructed, but there are a very large number of fishponds, and there may be a few applications each year for permission to construct new ones.

M. M. Tammind

Lands Commissioner.

PROPERTY CODE: BERU.

Amendment of
Property
Register.

1. Ownership of registered property may only be transferred if:
 - (i) The Lands Court authorises the gift by the owner (section 5.)
 - (ii) The owner dies and his property is partitioned amongst his next-of-kin. (section 6.)
 - (iii) The transfer is ordered by the Native Court under section 54 (2) of the Native Government Ordinance.
 - (iv) The transfer is authorised by a Lands Commissioner. Any person who disputes a decision of the Lands Court may appeal to a Lands Commissioner.

Provision for
Owner's Issue.

2. The owner controls the use of his property, except that:-
 - (i) if it is proven to the satisfaction of the Lands Court that an owner is preventing his issue from obtaining food off his land, the Lands Court may order that some of his property be set aside for that issue's sustenance. The Lands Court may also direct that the owner shall not enter such property.
 - (ii) if the owner remains absent in some distant place, and the Lands Court is of the opinion that his lands should not remain in the custody of non-relatives, the Lands Court may order that his relatives shall feed off his lands. However, the owner has complete power to direct the custody of all his other property.
 - (iii) Ownership of property the subject of such orders shall not be transferred.

Deliberate
Neglect.

3. If any next-of-kin of an owner deliberately neglect that owner, the owner may direct that that next-of-kin is to receive no share of his property.

Transfer during
life and by Will.

4. The owner may order his property to be transferred to beneficiaries, either during his life (by deed of transfer) or after his death (by will). The owner's order may only be altered or overruled if

- (i) any of his issue would thereby be left with *insufficient* ~~little~~ property, *for his support.*
- (ii) An issueless, owner's order directs that his lands be divided unfairly between his next-of-kin.

Gifts.

5. (i) if the next-of-kin of an owner are over 18 years of age, and a majority of them permit him to transfer his property in a manner which does not accord with a custom of Beru, the Lands Court shall permit that transfer.
- (ii) An entire estate may be transferred to other than the next-of-kin of an owner only if the next-of-kin have been guilty of deliberate neglect or if a majority of the next-of-kin permit it.

(iii) If an owner

- (iii) If an owner dies who has been unable to make a will, because he has long been mad, or he died suddenly, and the person who did most of the work of looking after him claims some recompense, the Lands Court may award some part of the deceased's property if it sees fit.
- (iv) If the owner has issue, or if he has no issue but is not yet senile, he may be allowed to convey by gift in accordance with the custom of Beru up to one quarter of his property, but sufficient property shall remain his to provide for any issue.
- (v) If the owner is issueless and is unable to beget children, he may be permitted to convey by gift in accordance with the custom of Beru up to half his property.
- (vi) Property transferred from the owner to a beneficiary may only be returned by a Lands Commissioner or by consent of the recipient. Thus should an owner convey property by gift, and later its return is desired the recipient's consent shall first be sought, and if not obtained, an appeal shall be lodged to a Lands Commissioner.

Partition of
Estate of Owner
dying intestate

6. The estate of an owner dying intestate, or of an owner whose will is amended or overruled, shall only be partitioned if one or more of the next-of-kin requests it, and after all next-of-kin or their representatives have been given an opportunity to express their views.

Should all the next-of-kin be able to agree on a partition the Lands Court shall confirm it. Should they be unable to agree the partition shall be ordered by the Lands Court in such a way that:

- (i) In the event of the owner having had issue by more than one spouse, the largest share shall be awarded to the eldest son of the first spouse, and lesser shares to eldest sons of subsequent spouses, then to other sons of the first spouse, then to other sons of subsequent spouses, then to daughters of the first spouse, then to daughters of subsequent spouses.
- (ii) If the beneficiaries are full brothers and sisters, the eldest son shall receive the largest share, and all sons shall receive larger shares than daughters.
- (iii) If there are no sons, the eldest daughter shall receive a larger share than her sisters.
- (iv) If the owner has no issue, his property shall be partitioned in approximately equal shares amongst his full brothers and sisters. (If any shares are appreciably larger than others, they shall be allotted to the brothers and sisters who had the smallest shares of the parents' lands). If the owner has no full brothers and sisters, the estate received from the side of a parent who had issue by other spouses, with any lands received as gifts by the owner, shall be partitioned amongst his half brothers and sisters in the same way. The estate of a parent with no

other

other issue shall be partitioned amongst that parents' brothers and sisters, and any property received by the owner from neither his mothers' nor his fathers' side, shall be divided into two approximately equal shares, and one share treated as if it had been received from his father's side, the other as if from his mother's.

- (v) A woman may inherit a fishpond or a fishtrap if there are no male issue, or if her father or brother so decides. And if there are a number of fishtraps or ponds, the Lands Court may award a woman such property even if the father has not so decided.

7. Should an owner wish to exchange his property for other property, the exchange shall be permitted unless the two properties are of very unequal value, and a majority of the next-of-kin oppose the exchange.

Exchange of Property.

Improvements.

8.(i) No improvements, such as a fishtrap, sea-wall, fishpond or pit in another's land may be constructed, without the prior authorisation of the Lands Court. The Lands Court shall only refuse such authorisation if the owner of the property on which the improvement is to be effected refuses to allow it, or if the improvement would cause depreciation in the value of adjacent property.

(ii) If authorisation is obtained, the executor shall report on completion of the improvement, in order that he be registered as owner.

(iii) Should an improvement cause erosion of adjacent coast, the Lands Court may authorise the owner of the property being eroded to destroy such improvement.

Adoption.

9.(i) A "land-of-the-adopted" may be given only if the adopter has previously been before the Lands Court to obtain approval of the adoption. The Lands Court will only approve adoptions if it is satisfied that the natural children or the next-of-kin, if the prospective adopter has no natural children, will not be left in want thereby, saving that if the natural children or the next-of-kin are guilty of having neglected him, the Lands Court may approve the adoption regardless of the inadequacy of the land which will be left for such natural children or next-of-kin. An adoption may be annulled by the Lands Court if it is proved that the adopted person has not fulfilled his obligations as such. If the adoption is not annulled prior to the death of the adopter the adopted person may on application be granted a "land-of-the-adopted" by the Lands Court regardless of the failure of the adopter to make such a gift by bequest. This law does not prohibit adoptions arranged without reference to the Lands Court but a "land-of-the-adopted" may not be given in such cases.

(ii) When a non-native of Beru is adopted by a native of Beru and a "land-of-the-adopted" is given the land shall revert if the

recipient

recipient dies without issue or if his issue die out. If a native of Beru is given a "land-of-the-adopted" it shall not revert.

- (iii) It is not permissible to adopt a child as a son or daughter (as opposed to grandson or granddaughter).

Made by the Island Council in joint session with the Lands Court on the 27th of April, 1950.

TAEKAN TE ABA MA TE BAI I AONI BERU

Kaeweakin te
bai i nanon
te bokin aba

1. E ti kona ni kaeweaki ana bai te aomata, are a tia ni koreaki i nanoni boki n aba, ngkana
 - (i) E kariaiaki iroun te Kabowi n Aba ba e na anga nako te bai te tia baibai (nora te kibu 5)
 - (ii) E mate te tia baibai, ao a tibatibaki nikiran ana bai nakoia ake a baina mwina iroun te Kabowi n Aba (nora te kibu 6)
 - (iii) E motikaki iroun te Kabowi n Aomata i aan te kibu 54 (2) n Tuan Tautaeka n Aomata.
 - (iv) Ngkana e motikia te Kamitina n Aba temanna. Ngkana iai ane e aki rau nanona ni motin te Kabowi n Aba, ao e na manga tangitang nakon te Kamitina n Aba.

Makan te Tia
Baibai n te
amamarake i
aon ana bai.

2. E tautaeka te tia baibai n te amamarake i aon ana bai, ma ti
 - (i) Ngkana e kakoauaki i matan te Kabowi n Aba ba e aki kariaia te aomata temanna ba e na karekea maiuna natina mai aon ana bai, ao e kona n tuatua te Kabowi n Aba ba a na tiku bai tabeua ba maiun te nati ane. E kona naba te Kabowi n Aba n tuatua ba e na aki kawari bai akanne te tia baibai ngaia.
 - (ii) Ngkana e titiku te tia baibai temanna n te tabo ae raroa, ao e taku te Kabowi n Aba ba e aki riari ba a na tiku abana iroun temanna ae tiaki kain ana utu, ao e kona te Kabowi n Aba n tuatua ba a na amarake kain ana utu mai aon abana. Ma e maka ana taeka te tia baibai i aon ana bai tabeua.
 - (iii) A na aki kaeweaki bai aika tiku n aro aikai.

Te Bakaine.

3. Ngkana iai te tia baina mwini te tia baibai are bakaineia n oin nanona (ao tiaki ibukin te aoraki, ke te riribaki iroun te tia baibai, ke te bai teuana) ao e kona te tia baibai n tuatua ba e na aki reke tibangana ngkana a tibatibaki nikiran ana bai.

Te Mwioko ma
te Kaburebai

4. E kona ni baireia te tia baibai ba a na kaeweaki ana bai imaini matena (n te mwioko) ke imwini matena (n te kaburebai). E na ti onikaki ke n tukaki ana mwioko ke ana kaburebai te tia baibai ngkana

- (i) E na kainnana iai kanoana temanna.
 - (ii) A bati ni bobuaka n ana babaire tibangaia tani baina mwini te tia baibai ae iti.
5. (i) Ngkana a tia ni koro 18 aia ririki tani baina mwini te tia baibai, ao a kariaia angini maitiia ba e na anga nako ana bai n te aro teuana ae tiaki te katei ni Beru, ao e na kariaia te angabai ane te Kabowi n Aba.
 - (ii) E na ti kariaiaki ba a na baraki ana bai te tia baibai ni kabane nakoia ake tiaki tani baina mwina, ngkana a tia ni bakainea te tia baibai tani baina mwina n oin nanona (ao tiaki ibukin te riribaki iroun te tia baibai ke te bai teuana) ke ngkana a kariaia angini maitiia tani baina mwina.

- (iii) Ngkana e mate te tia baibai ae aki kona ni moti, ba e a maan ana tai ni baba, ke e mate ni karina, ao e bubuti ane e karaoa ababakin te iroua bu e na reke kaniwangana, ao e kona te Kabowi n Aba ni karekea kaniwangana mai buakon ana bai te tia baibai ngkana e riai.
- (iv) Ngkana iai kanoan te tia baibai ke ngkana e tuai ni kariki ma e tuai ni kara, ao e kona ni karaiaki nakona ba e na anga nako ana bai n ai aron te katei ni Beru, ma e na aki raka ae e anga nako nakon te kaamakoro n ana bai ni bane ao a na bon tiku iroua ana bai aika tau ibukia kanoana.
- (v) Ngkana akea kanoan te tia baibai, ao e aki kona ni kariki, ao e kona ni karaiaki nakona ba e na anga nako n ai aron te katei ni Beru, ni karokoa iteran ana bai.
- (vi) Ngkana e a tia ni kaeweaki te bai mairoun te tia baibai nakon temanna, ao e na ti kona ni manga kaokaki iroun te Kamitina n Aba temanna ke n oin nanon ane e anganaki te aba. Ma ngaia are, ngkana e anga nako ana bai te tia baibai ao rimwi e tangiraki ba e na manga anaki mairoun ane e a tia n reke iroua, e na butiaki moa ane e anganaki te bai, ao ngkana e rawa, e na ti tangiaki n ai aron te manga tangitang nakon te Kamitina n Aba.

Te kakaraoi
ngkana akea
ana moti te
tia baibai.

6. A na ti kakaraoaki nikipan ana bai te tia baibai ae aki moti iai, ke e e tukaki iai ana moti, ngkana a tia n roko ake a baina mwina ke aia tia taetae, ao ngkana e tangiria temanna i buakoa ba a na kakaraoaki bai. Ngkana a kona ni bonnano ake a baina mwina te tia baibai n tibangaia, ao e na kamatoaki aia bonnano iroun te Kabowi n Aba. Ngkana e aki kona ni bonnano, ao a na tibatibaki bai n arona ba:

- (i) Ngkana tabeman ana ei te tia baibai, ao e na reke iroun te karimoa te mane n te moan ei te moan tiba, ao imwina karimoa mane n ei tabeman ao imwina natin te moan ei aika mane tibangaia aika raka nakon tibangaia mane aika natin ei tabeman. Ao aine aika natin te moan ei, e na reke tibangaia aika raka nakon tibangaia aine aika natin ei tabeman.
- (ii) I buakoa tari ma mane ni koaua, e na raka tibangan te karimoa te mane nakon tibangaia tarina, ao e na raka tibangan te mane nakon tibangan te aine.
- (iii) Ngkana akea te mane, ao e na raka tibangan te karimoa te aine nakon tibangaia tarina.
- (iv) Ngkana akea kanoan te tia baibai, ao a na tibatibaki ana bai i buakoa manena ma tarina ni koaua n arona ba a aki bati ni bobuaka tibangaia. (Ngkana iai tiba aika raka, ao e na reke iroua ake a karako tibangaia iwmin tinana ma tamana.) Ngkana akea manen ke tarin ni koaua te tia baibai, ao a na roko imwina natin ane karo n ei tabeman n aban te karo ane ma aba aika bain akoi. Ngkana bon akea riki kanoan temanna ke tinana, ao a na tibatibaki ana bai tamana i buakoa tarin ma manen tamana, ao a na tibatibaki ana bai tinana i buakoa tarin ma manen tinana. Ao

ngkana iai iroun te tia baibai aika tiaki ana bai tinana ke tamana ma ngkoa, ao a na tiba-tibaki, n arona ba e reke te tiba teuana ae kanga ai aron ana bai tamana, ao te tiba teuana ae kanga ai aron ana bai tinana, ao a na aki bati ni bobuaka tiba akanne.

- (v) E na reke te nei ke te na iroun te aine ngkana akea te mane are kanoan te tia neinei ke te tia mama, ke ngkana e motikia te karo ke manen te aine. Ao ngkana a maiti nei ao ma, ao akea ana moti te karo, e kona te Kabowi n Aba ni motikia ba e na reke ana bai te aine.

Te Kaibibiti bai.

7. Ngkana e tangiria te tia baibai ni kaibibiti ana bai nakon te bai teuana, ao e na ti tukaki ngkana a bati ni bobuaka bai akanne, ao a tuka te kaibibiti angini maitiia tani baina mwin te tia baibai temanna.

Bai aika Karaoaki.

8.(i) Imaini karaoan te ma, te bono, te baenata, te nei ke te rua i nanon aban temanna, ao e riai n roko i matan te Kabowi n Aba ane e tangiria ni karaoia, ma ni bubuti ba e na kariaki karaoana. E na ti tukaki iroun te Kabowi n Aba ngkana e tukia te tia baibai are e na karaoaki i aon ana bai te ma, te baenata, te bono, te nei, ke te rua, ke ngkana e na kauarerekeaki bongan te bai nikawai iai.

(ii) Ngkana e a tia ni kariaki karaoan te bai, ao e na karaoaki, ao ti imwini karaoana, e na manga roko ane e karaoia. Ao e na koreaki i nanon te boki ni bai i aan arana.

(iii) Ngkana e lanaki te aba teuana ibukini karaoan te bai ae bou, ao e kona ni kariaki te Kabowi n Aba ba e na uruaki te bai ae bou iroun te tia ababa.

Te Tibutibu.

9.(i) E ti kona n nako te aban tibu ngkana e a tia n roko te tia tabetabe i matan te Kabowin Aba ni kaotia ma ni kakoaua taekan ana tabetabe. E na ti kariaki te tabetabe i roun te Kabowi n Aba ngkana e ataia ba a na aki tiku ni kain-nano ake boni kanoan te tia tabetabe ke ana utu ngkana akea kanoana, ma ngkana a bakaine nati ni koaua ke te utu ao e kona te Kabowin Aba ni kariaki te tabetabe ao e aoria ngkana a aki tau maitin aba i bukia nati ni koaua ke ana utu. E kona ni kamaunaki te tibutibu i roun te Kabowin Aba ngkana e kakoauaki ba e aki kakoroa bukin ana makuri te tia tibunaki. Ngkana e aki kamaunaki te tibutibu i maini maten te tia tabetabe ao e kona te tia tibunaki n tangira te aban tibu i matan te Kabowin Aba ao e aoria ngkana akea te kaburebai ao ngkana e kariaki te Kabowin Aba e na reke i rouna teuana te aban tibu. E aki tukaki n te Tua aei te tibutibu i tinaniku ma e na aki nako te aban tibu ti ngkana e a tia ni kariaki ma ni koreaki taekana i matan te Kabowin Aba.

(ii) Ngkana e tibunaki te iruwa are tiaki kaini Beru i roun te I-Beru ao e anganaki te aban tibu, e na oki te aban tibu ngkana e iti te iruwa anne, ma e na aki oki te aban tibu ngkana bon te I-Beru ae tibunaki.

(iii) E na aki kabongauaki te natinati.

21st December, 1949.

Lands Settlement.

INTRODUCTION.

The following outline on procedure in effecting a lands settlement is principally for guidance and Lands Commissioners are free to vary the methods detailed below if they find that by so doing they can save time and obtain greater security against errors in registration. The system here recommended may require adaption to the peculiar circumstances of particular islands.

PUBLICITY.

2. The first step is to notify all Native Magistrates of the Group in which the island is situated of the date on which the settlement will begin. This should be done six months ahead, if possible. The Native Magistrates should be asked to make the information public and to request absentee landowners to attend the lands settlement or, if they are unable to be present, to write to the Lands Commissioner informing him of the names of residents of the island who are authorised to speak for them. A notice should be published in Tero to the same effect.

3. The Missionary Bodies of the Colony should be asked whether they claim any freeholds on the island in question and, if so, to provide particulars (i.e. the deed of sale or a description of the plots and evidence as to their proprietorship if no deed is available).

LANDS & CLAIMS
LISTING AND
INDEXING.

4. Two clerks should proceed to the island three to six weeks (according to the size of the island) ahead of the Lands Commissioner in order to prepare a lands list and a list of babai pits, fish ponds, fish traps and sea walls. The Clerks should start from one end of the island and work along the road to the other end listing the lands etc. as they come to them. On broad or circular islands they will not be able to keep to the road all the way, but so far as is possible the lands should be listed in their geographical sequence. The Elders and landowners of a Village District being listed should accompany the Clerks and inform them of the names of the segments of land (kainga) and of the plots in them and the present occupiers of the plots. If there is any claimant against the present occupier his name should be written against that of the occupier. I have personally found it preferable to use minutes books for the lists, but loose sheets or loose leaf ring-books could be used instead. The lists suffer much hard wear and tear and there is considerable danger of sheets coming detached and lost if a well-bound minutes book is not used. Appendices A and B are specimen forms of the two lists. When the lands, pits etc. of a Village District have been listed the lists should be read out slowly in the Village Maneaba so that the Elders and landowners may have the opportunity of making corrections, additions and deletions.

5. After the completion of the listing a card index of the names of the land sections giving their page numbers in the list should be prepared. This will save much time in finding entries since landowners will

always refer

always refer to the section names in which their plots, pits etc. are situated.

6. The Clerks should then proceed to prepare a card index of all the claimants. At the head of each card will be the name of the claimant and under this will be listed the names of the occupiers against whom he is claiming and the registered numbers of the plots which he is claiming from them. From this index yet another card index should be prepared of the respondents, with those claiming against them, the registered numbers of the plots claimed being shown against each claimant. All this can be done before the Lands Commissioner arrives on the island.

FEEES.

7. It is important that the fees should be announced before the lands listing is undertaken. Otherwise there will be many frivolous claims registered which will later be withdrawn when the fees are announced, and much unnecessary clerical work will have resulted. The Clerks should therefore take with them to the island a letter to the Native Magistrate stating the fees and asking him to make them public. While the present inflation continues I consider that the maximum fees permitted under the Native Lands Commission (Fees and Forms) Regulations, 1940, should be charged. Lands Commissioners are, however, responsible for fixing the fees. Relatives and friends of claimants who are resident on the island should not be allowed to register or cancel claims on behalf of the claimants, unless there is good reason to allow this, such as the sickness or old age of the claimant making it impossible for him to come himself. Proxies of claimants who have not been able to come to the island should have written authority from the claimant or be vouched for by the Native Magistrate. If this rule is not observed there is likely to be much wrangling afterwards by claimants who allege that they have been misrepresented. Also it should be made known that claimants are free to withdraw at any time and be refunded the fee, (Regulation 8 of the Native Lands Commission (Fees and Forms) Regulations, 1940.) Every encouragement should be given to the parties to reach a settlement out of Court.

NATIVE MEMBERS.

8. The letter to the Native Magistrate should also request him to arrange for the election of the Native Members of the Commission. Each village should be represented by at least one Native Member. Villages of up to 150 head of population should have one member and an additional member should be allowed for every extra 100 head of population. This apportionment may be varied, however, if it leads to the exclusion of a particularly knowledgeable Elder. The Native Magistrate should inform each village of the number of Members which it may elect and leave it entirely to the people of the villages to chose whom they wish to represent them.

LANDS SCRIBE.

9. The Native Magistrate should also be asked to nominate a suitable candidate for the post of Lands Scribe, if such a post is approved for the island in question. By arrangement with the respective District Officers, the Lands Commission has undertaken to make these appointments. The Native Magistrate, in consultation with the Island Council should recommend a person for the post and this recommendation should be confirmed by the Lands Commissioner unless there is good reason for rejection, such as a criminal record or incompetence shown in previous clerical employment. Particulars regarding the appointee, as outlined in the letter at page 41 of

F.57/5, should be reported to me.

REGISTRATION
OF CLAIMS.

10. On arriving in the island the Lands Commissioner issues a notice to be read out in each village maneaba stating the date by which all claims must be registered with him, the date when hearings will begin and the stipulations regarding appeal laid down in section 11 of the Native Lands Ordinance, No. 8 of 1922. The time allowed for the registration of claims will, of course, depend on the size of the island and the number of claims recorded by the Clerks. Each claim is then registered in the form shown in the Claims Register (Appendix C), claimants from each village and "stranger" claimants (i.e. claimants normally resident on other islands) being registered in separate series. The claim fee is collected as each claimant registers. The fee is paid per claim against a present occupier, irrespective of the number of plots, pits etc. claimed against that person. If a claimant is successful in his claim he can demand that the respondent refund to him the fee. In practice I have found that he almost invariably waives this right, in his good humour after his success. As each claimant appears to register his claims his card is taken from the Claimants Index and the claim numbers are entered alongside the names of the occupiers against whom he is claiming. The card is then passed to a clerk who enters the claim numbers on the cards of the present occupiers in the Respondents land Index, ticking off the names on the Claimant's card as he does so. The Claimant's card is then restored to the Claimant's Index.

11. About two weeks beyond the closing date should be allowed for the registration of late claims on payment of the late entry fee. After that no further claims should be registered except from late arrivals from other islands who were not able to arrive on time because of the lack of shipping. Such claimants should only be charged the normal claim fee.

ADVICE TO
NATIVE MEMBERS.

12. Before starting the hearings it is as well to have a heart to heart talk with the Native Members and the Assessors, explaining to them that it is up to them to decide what was the customary practice at the time when any particular cause of action arose and that they should ignore any instructions and dicta on such matters by former or present Government officials. They should tactfully be told that they should not enter into the discussions concerning any cases in which they have an interest or which concern their friends or relations. They can, of course, appear before the Bench as witnesses or parties (section 6 of Ordinance 8/1922 applies). They should be exhorted always to state all they know of the past histories of lands, the subject of disputes, without fear or favour and only paying regard to the truth.

CAUSE LIST
AND HEARINGS.

13. The preparation of the day to day "Cause List" can most conveniently be done from the Claims Register. It is as well to hear the claims of the "strangers" so that they may return to their home islands at the first shipping opportunity. The first "stranger" to register is put down as the first case for hearing. Then his respondent's card in the Respondents Card Index is sought and the other claimants against him are put down as the second, third, etc. cases for hearing. The principle is to hear all the claims against a particular landowner at the same time. It will usually be found that the claims are based on the same or overlapping sets of circumstances. The respondent's card is then placed in

a "dead"

a "dead" index and the next claim by a "stranger" is entered on the Cause List from the Claims Register, and so on. I found that about 14 claims could be dealt with a day. The Clerks prepare the Summons Forms (Appendix D) from the Cause List and these should be issued at least two days before the day on which the recipients are due to appear before the Commission. If a party fails to appear on the appointed day at the appointed hour he should be charged the "Late Hearing Fee" unless he has a good excuse. It is important to insist on punctuality. Service of the Summons Form may be proved by the server's affirmation on oath or by the server getting the party to sign and return the Summons Form.

HEARINGS.

14. The main difficulty encountered during the hearing of cases is to get the claimants to state clearly and precisely the grounds of their claims. Once these has been extracted from them it will usually be found that there is no difficulty in getting the respondent to state his refutation or counter-claim: in fact the difficulty is usually in stopping the respondent from interrupting while the claimant is still in the process of stating his case. When the claim is on the estate of a person who has died without issue (mwin iti) or depends on blood connection two or more generations back it is advisable to have the genealogical tree written up on a blackboard before proceeding with the hearing. These genealogical trees should be recorded in the minutes. When all the available evidence pro and con the claims against a particular landowner have been heard the parties are asked to leave the Court while the Commission considers the cases. The evidence recorded in the minutes is then gone over with the Native Members and Assessors and the points to be decided on both fact and customary law are defined. If, after some discussion, it becomes evident that they cannot reach a unanimous decision on these points the opinion of the majority should be ascertained and judgement given accordingly before the reassembled parties.

COURT MINUTES.

15. Instructions regarding the keeping of minutes are given at page 11 of F.63/1. If the transfer of plots is entered in the judgement it is only necessary to give their registered numbers. It is important to read over to the Court the evidence given by the parties and their witnesses as recorded, in order to give the persons concerned an opportunity to correct or amend their statements. R.O.F.C. (i.e. Read over and found correct) should be entered after each statement to show that this has been done. Also note that the judgements should be written in Gilbertese.

RECORDS.

16. The judgement of the Commission should then be entered in the Lands and Pits etc. Lists, together with the number of the case and the date of the judgement. This is done in ink. If the occupier is confirmed as the owner it is merely a matter of inking over the pencil entry. If another person is granted the land it is necessary to rub out the pencil entry and write the name of the recipient. The manner in which the land was received should also be entered. The following abbreviations may be used for convenience:-

- M.M. (Mwini mane = inherited from the father)
- M.A. (Mwin aine = inherited from the father) *mother?*
- A.N. (Aban nati = gift from adoptive father)
- A.T. (Aban tibu = gift from adoptive grand-father)
- A.N.T. (Aban natintama = award to bastard child)
- A.A. (Aban Akoi = (land received by any customary form of gift).

A.K. (Abani Kuakua = land received for nursing.)

17. At the conclusion of the hearings the lists, now incorporating the amendments entered as a result of the judgements of the Commission, are read out in each maneaba, or in the central maneaba if it is a small island. The manner in which the plots were received (for the plots which were not the subject of a dispute and for which this particular was therefore not entered during the course of the hearings) is entered. The Elders can usually give this information without difficulty. If the plot was received as a gift from another family it is the responsibility of this family to ensure that the fact is recorded during the reading out of the Lists.

LANDS REGISTERS.

18. The final Lists are then typed out in duplicate with treble spacing between each plot entry. The original copy is kept as a permanent record and the carbon copy is cut up into strips, one entry to a strip. An estimate is made of the total number of landowners and from this is judged the number of Lands Registers which will be required. (There are 300 folios per Register) Say, for example, it is estimated that three Registers will be required. From the card index of claimants it may be found that the names divide alphabetically (Gilbertese) into the following thirds:

A - M = 1st Third
N - K = 2nd Third
R - W = 3rd Third

The slips are then sorted into three groups according to the names of the owners recorded on them. A Clerk is then put to each of the three Registers and he posts the particulars from the slips which are handed to him into his Register. Each landowner is allotted his own folio. A card index of landowners is prepared by entering a card as each new folio is opened. Land plots are registered on the landowner's folio from the top downwards; pits, fish traps etc. from the bottom upwards. If, after the entries meet, there are more properties to register it is necessary to open a new folio for the landowner and the number of the second folio is entered on the landowner's card in the Landowners Card Index.

19. When the Registers have been prepared they are read out in the central maneaba and landowners are permitted to obtain certified copies on payment of 2/- per folio. (The Native Lands Commission (Register) (Fees) Regulations, 1949, apply.) The lands settlement is then complete. Separate instructions have been issued regarding the setting up of the Lands Court for the island, the registration of wills, leases and adoptions, the formulation of a Lands Code and the accumulation of statistics in connection with the distribution of holdings and other data required for the promotion of better land development.

FISHING RIGHTS.

20. Finally inquiry should be made into such fishing rights as may have survived. In the fourteen islands settled so far such customary fishing rights as may have been practiced in the past were found to have been relinquished long ago. Fishing rights may still be observed in some of the Southern Gilbert Islands. The Fisheries Ordinance No.3 of 1936 requires the Lands Commission to define these rights and to register them. A copy of the relevant sections, Nos. 10 - 18, is attached (Appendix E).

NON-NATIVE LANDS REGISTER.

21. The Resident Commissioner has directed that the Lands Commission shall prepare a register of non-native freeholds. Instructions to Lands Commissioners regarding the particulars which are required for the preparation of this register are given in the letter at page 1 of F.35/7.

ISSUES TO NATIVE MEMBERS AND ASSESSORS.

22. An issue of tobacco and kerosene is made to the Native Members and Assessors during the course of the lands settlement. The approved quantities are 2 sticks of tobacco and a 26 oz. of kerosene (the usual beer bottle) a week per head. A Register should be kept showing amounts drawn from the store and issues. This is required for audit purposes and should be accurate and neatly kept. At the conclusion of the settlement each Native Member and Assessor should sign a receipt for the total amount of tobacco and kerosene which has been issued to him. For Native Members, the receipt should cover the share from the proceeds from fees, which are divided out among them (not the Assessors, who are salaried) in accordance with the provisions of regulation 10 of the Native Lands Commission (Fees and Forms) Regulations, 1940.

REPORTS.

23. A day-to-day diary should be kept in an Exercise of Minutes book. It is only necessary to record briefly the dates of arrivals and departures of the staff and notes on the progress of the work. These notes will assist in compiling the following statistics which should be given in the Lands Commissioner's final report on the lands settlement:-

- (1) Date of Commencement;
- (2) Date of Termination;
- (3) Time occupied in listing lands, pits, etc.;
- (4) Time occupied in hearing disputed claims;
- (5) Number of disputed claims heard;
- (6) Average number of disputes heard per day;
- (7) Number of lands transferred;
- (8) Total number of lands registered;
- (9) ⁽⁷⁾ expressed as a percentage of ⁽⁸⁾;
- (10) Number of babai pits, fish traps, fish ponds and sea walls registered;
- (11) Number of babai pits, fish traps, fish ponds and sea walls transferred;
- (12) ⁽¹¹⁾ expressed as a percentage of ⁽¹⁰⁾;
- (13) Number of disputes in which the plaintiff was partially or wholly successful;
- (14) ⁽¹³⁾ expressed as a percentage of ⁽⁵⁾;
- (15) Number of appeals;
- (16) Number of appeals allowed;
- (17) Number of appeals dismissed;
- (18) Number of lands transferred on appeal;

(19) Time occupied in preparing Lands Registers;

(20) Time occupied in post-settlement work.

GENERAL REMARKS.

24. More important than any methods or techniques in effecting a lands settlement are the attitude and manner of approach adopted by the officer. It is necessary to be firm because the islander finds it very difficult to realise that a judgement by the Commission is final and irrevocable. At the same time the islander must be given no reason to complain that he has not been given a full and sympathetic hearing. For example, the Summons Forms include a direction to the party to bring with him any witnesses he may require to give evidence in support of his case. If, however, during the course of the hearing, it is found that the evidence of a witness who is not present is required, the hearing should be adjourned to enable this witness to be called even though the fault lies with the party who has failed to carry out the instruction in the Summons Form. In fact the Lands Commissioner must ensure that all the evidence which has any bearing on the case has been heard and given careful consideration by the Commission, regardless of the delay and inconvenience this may cause. Also when the judgement is announced the reasons underlying it (i.e. the summing - up in the minutes) should be explained to the losing party. Every effort should be made to reach a compromise settlement, to the satisfaction of both parties, if there are any indications that this may be possible. In disputes between close relatives such settlements can quite often be obtained if the hearing is adjourned to allow the parties to go outside to try to compose their differences, while the Commission continues with the next case. One must use one's judgement as to when this course of action is feasible. Much patience is required and the Lands Commissioner must never allow himself to become ruffled or short tempered. He must always remember that he is the servant of the people and it is every bit as important to procure their good will and contentment as it is to give correct judgements.

(Sgd.) B. C. CARTLAND
Chief Lands Commissioner.

31 DEC 1949

1. (No.) Na.	2. (Name of land) Aran te aba.	3. (Plot No.) Makoron Aba	4. (Present Occupier) Te Tia Ababa.	5. (Size & Fertility) Abakina	6. (From whom received) Te Tia Anganna.	7. (Complainant) Tia - Tangitang	8. (Case No.) Na.	9. (Date) Taina	10. (Remarks) Tacka tabeua.
16	BIKENIMAMARA	a.	TEANGIBO MAEKE	1N	M.A.	{ RUKA TIMEA TOMA TIROUA	20	16. 11. 49	
		e	KATAOATU BWEBWENTARAWA.	3N	M.M. (1)				
		i	N.TIEBANE MOUTU (2)	2N	A.T. mainoun TEKINENE TIROUA	N.TIEBANE MOUTU	63	25. 11. 49.	
		o	TAKINOA.TE.KINENE	6R	M.M.				
		u.	BOBO TEREBU ma taina	2R.	M.A.	TEMOAI TAKOTO	9	12. 11. 49.	
17	BIKENNAINGIMEA	a.	TOMA TIROUA.	2B.	M.A.				E kariaia te utu. 14. 11. 49 (5)
		e	TEKAI RUBO	4B	M.M.	TAKEUTA IBEATA (3)			
		i	AIRAM TIMANAKO ma taina ma manene, ma ai taina, ma ai manene.	3B	M.M.				
		o	TEMOAI TAKOTO	1N.	M.A.	N. BOKAI TAKOTO	90	30. 11. 49.	
		u	N.TEANG BAREKIAU	3B	A.K. mainoun TEKAI RUBO				
		m	N.MAERE TAKAI ma taina	2N.	M.M.	IOANE TEAUKAI (4) Withdrawn.			
		n	UTA KATARAKE	2B	M.A.				
18	KIRIAWA	a	N.TEUE MAUA	4N	M.M.				

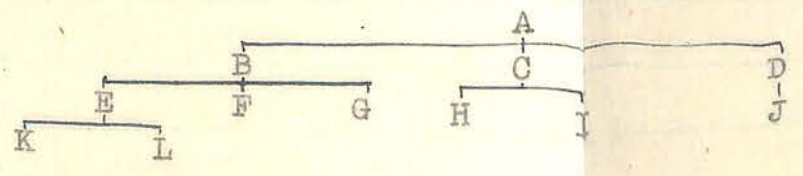
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FOOT NOTES:

- (1) An entry after the conclusion of the hearings when the lists are read out in the maneabas. (See para. 17 of instructions).
- (2) A case in which the claimant had been successful and the name of the occupier substituted by that of the claimant.
- (3) A case not yet heard.
- (4) The Lands Commissioner should himself strike out and initial the names of claimants who withdraw.
- (5) In this case the Lands Commissioner has changed the record of the clerk. The latter had recorded the land as jointly held by brothers and sisters and they had all come to the Lands Commissioner to state that they had agreed on a division and that one of the brothers, TOMA TIROUA, should be sole owner of this land.

GENERAL NOTES:

- (a) Each land section is given a number and the plot within it are given letters in the following consequence a, e, i, o, u, m, n, b, k, r, t, w, aa, ea, ia, oa, ua, ma, na, ba, ka, ra, ta, wa, ae, ee, etc.
- (b) The names of the land sections and the names of the present occupier and claimant (if any) are written in capital letters in pencil. The name of the occupier's or claimant's father is always written after his or her name in all lists, card indexes, etc.
- (c) As each plot is listed its size (i.e. the number of times it exceeds, in the estimate of the Elders, a small plot (e.g. 1/4 acre) which has been measured out and shown to them) is recorded, together with the fertility of the plot according to their estimation. Three grades of fertility are recognised (Good = R, Medium = N, Poor = B).
- (d) The Elders are inclined to name the last person who held the land in sole tenure as the "present occupier", however long ago he may have died. Only living persons should be entered in the Lists. The following is the method employed if the division among the descendants of the last sole owner has not yet taken place:-



If A was the last sole owner of the land and C is the sole survivor of his children the land will be recorded under "C with brothers and/or sisters". The children of the deceased brothers and/or sisters are thus made joint owners. If all A's children are dead and F the eldest surviving member of the next generation the land will be recorded under "F with brothers and/or sisters, and cousins". This definition will include K and L, the children of a deceased brother, as joint owners. In the Gilberts it is a simple matter to discover whose name should be recorded since it is only necessary to inquire who is the "tia babaire". By this is meant the senior member of the descendants of the last sole owner and the person therefore responsible for proposing and negotiating the division of A's lands among his descendants. In the Lands Registers if the land is still held jointly by brothers and/or sisters and/or cousins the land is registered in the folio of the "tia babaire" and the joint ownership recorded in column 6, headed "Taekan te aba riki tabeua".

(e) When the last sole owner died without issue it is necessary to record his name and after it (e iti). The Commission will ~~decide~~ in due course decide who should receive the land and insert his name.

Section No.	Section Name.	Plot No.	Present Holder.	No.	Claimant.	Case No.	Date.	Remarks.
1.	TABONTEBIKE.	a	TIARU TIARU.	M.1(2) M.A	N KAMMARI BAKAI	11.	12. " 49.	
		i (1)	N.ANA BOATA	M.2 M.M.				
2	TEBIKERAI	e	N. TEMWEA ITIREBUA	M.3 M.M.				
3	TEBONO	a	RIBAI NARUAI	R.1.(3) M.A	N.ANA KAEKA (7)			
		"	"	N.1(4) M.M.				
		e	TEANGIBO MAEKA	R.2. M.M				
		"	" (8)	R.3. M.M.				
		o	RIBANTI TONGA	R.4. M.M				
		"	"	N.2 M.M				
"	"	M.4. M.M.						
"	ROBATA TEBURE	B.1.(5) M.M.						
4.	TABURAO	n	BWENAWA TEAEKI	R.5 (6) A.T.	BWENAW TEAEKI		9d. 1. 17. 49.	
		h.	N.AOTAI TABAU	R.6. M.A.				
		"	"	R.7. M.A.				
			TETABO TARUA	R.8. M.M.				
		w	TIARE TUNNA	M.5 M.M.				

FOOT NOTES:

(1) It will be noted that the plot lettering is not always in alphabetical (Gilbertese) sequence. This is because some plots have no pits or traps etc. associated with them and are therefore omitted from this List.

- (2) M = ma (i.e. fish trap).
- (3) R = rua (i.e. babai pit).
- (4) N = nei (i.e. fish pond).
- (5) B = bone (i.e. sea wall).

(6) In this case the complainant was successful and the name of the former holder was rubbed out and the claimant's name entered.

(7) A case awaiting hearing.

(8) Care must be taken not to lump together the separate pits owned by one person in one plot. It is essential that each pit

should have its own registered number so that if one is transferred later the conveyance can be correctly registered.

CLAIMS REGISTER.

No.	Village* Claimant.	<u>TEBIKERAI (A)</u> Present Occupier.	Village.	Property claimed.	Fee.
1	Naboki Toti	Betaia Toti	Iebangetua	3i, R 81 k	2/-
2	" "	N. Tora Abera	Aobike	143r, M22	2/-
3	Kobaia Teka	Tokobea Tamaiti	Iebkerai	4e, 144 m 47ua, N.60	2/-
4	Ieangibo Maake	Bamo Kabuana	Iebanga	R97e, R71w	2/-
etc	etc	etc	etc	etc	etc.

* i.e. village of claimants. Each village should have separate pages in the Register and since it is difficult to foretell how many claimants there will be in each- from each village it is convenient to prepare this Register in a loose-leaf ring book.

KAKAO MAN TE KAITIRA

Nakon..... are mena i

Nn te kawa se e

na ongora te Kaitira ana tangitang

n te i/ae/aika

.....

Ko na siri ma em teni kakosua, so ngkana ko aki kona n roko ko na kanakoa te tia taetae i bukim.

Taina.....

.....

Kamitina n Aba

APPENDIX E.

10.-(1) It shall be unlawful for any person to take fish in any sea or lagoon area or on any reef forming part of the ancient customary fishing ground of any kainga, utu or other division or subdivision of the people unless he shall be a member thereof or shall first have obtained a licence so to do under the hand of the Resident Commissioner, who may grant or refuse any such licence at his discretion.

(2) All disputes between kainga, utu or other divisions or subdivisions of the people as to the limits of their customary fishing rights shall be referred to the Native Lands Commission appointed under the Gilbert and Ellice Native Lands Ordinance 1922, for adjudication in the same manner as is therein provided in respect of native lands disputes.

11. The Native Lands Commission shall be charged with the duty of ascertaining what customary fishing rights in each island of the Colony are the rightful and hereditary property of native owners, whether of kainga, utu or in whatever manner or way or by whatever divisions or subdivisions of the people the same may be held.

12.-(1) The Commission shall institute inquiries into the title to all customary fishing rights claimed by kainga, utu or other divisions or subdivisions of the people, and shall record in writing the boundaries and situation of such rights together with the names of the members of the respective communities claiming to be owners thereof.

(2) The Commission shall with the approval of the Resident Commissioner make rules for regulating the procedure to be followed and prescribe forms to be adopted at any such inquiry.

13. On the conclusion of the proceedings recording the ownership of any customary fishing rights in any island the Commission shall cause a public meeting to be held in such island and the decision of the Commission shall be read in the native tongue at such meeting.

14.-(1) Any appeal from a decision of the Commission shall be lodged, heard and determined in accordance with section eleven of the Gilbert and Ellice Native Lands Ordinance, 1922.

(2) If no notice of appeal is given the record of the Commission shall be conclusive and final.

15. For the purposes of any inquiry the Commission shall have the same powers as those vested in Deputy Commissioners for the Western Pacific to summon and examine on oath any person whom they may think able to give relevant evidence, and to require the attendance of all claimants to any customary fishing rights, the title of which is being inquired into, and of all persons likely to be interested in the title to such right.

16. The Commission shall cause the description of the boundaries and situation of fishing rights recorded and settled in the manner aforesaid to be entered in a register called the "Register of Native Customary Fishing Rights."

17. The volumes of such register according to the islands shall from time to time be transmitted to the Chief Lands Commissioner who shall preserve the Register of Native Customary Fishing Rights in the same manner as the Registers of Native Land.

18. A copy of

18. A copy of the volume of the said register so far as applicable to each island shall be deposited with the scribe of the island, and a copy of the register so far as it effects each kainga, utu or other division or subdivision of the people shall be given to each for public use, whenever the boundaries of the fishing rights of such kainga, utu or division or subdivision have been finally fixed and determined.

Lands Commission Office,

Bairiki.

15th July, 1949.

From: The Chief Lands Commissioner, Bairiki.	F.18/6.
To: The Secretary to Government, Bairiki.	No. 178.
Copy: The District Officer, E.I.D., Funafuti and Mr. Lake.	No. 17.

Lands Settlement:
Ellice Islands.

The lands settlement of the Ellice Islands was completed by Mr. A.G.Lake in January, 1949. The islands of Funafuti, Nukufetau, Nanumea and Vaitupu had been settled by Mr. D.G.Kennedy during the period June, 1935, to September, 1937, and the remaining four permanently populated islands (Niutao, Nui, Nanumanga and Nukulaelae) were settled by Mr. A.G.Lake during the period October, 1947, to January, 1949. Statistics concerning the lands settlement of each island are given in Enclosure A.

2. At the conclusion of each settlement Mr. Lake established a Lands Court and instructed the Court Members and the Scribe in procedure and the keeping of records. At the time of Mr. Kennedy's Commission there was no legislative provision for the setting up of Lands Courts so after completing the four settlements Mr. Lake had to visit the four previously settled islands in order to establish Lands Courts. Fortunately Mr. Kennedy had arranged for Native Courts to hear lands cases and had made provision for the amending of the records as and when conveyances took place, so the Lands Registers had not been allowed to become completely out of date, as is the situation in the situation in the Gilberts. However, owing to lack of continuity in supervision, the Native Courts' lands work during the past ten years was not altogether satisfactory and Mr. Lake had a fair amount of work to do in checking entries in the Registers and in amending and bringing them completely up to date.

3. Lands Scribes were appointed for Nanumea, Niutao and Vaitupu. It is considered that on the other five islands the Island Scribes will be able to add the Lands Court work to their other duties without being overworked.

4. Native Members of the Commission were appointed for each island on the basis of one member for every hundred of population; except on Nukulaelae, which has a population of only 300 and for which five members were appointed because the Lands Commissioner considered that it would be impracticable to work with fewer than this number. Owing to the populations of the Ellice Islands being concentrated usually in one village, and at most in two villages, there is no difficulty in holding general meetings attended by almost all the adults. The Native Members were elected by the people at such meetings. On the whole, appointment by election is not appropriate for the judicature, but it appears to be satisfactory in the Ellice Islands since in almost all cases the most suitable persons were chosen. A warrant of Appointment was issued to each Native Member and care was taken to uphold the dignity of the office and to make the holders aware of the importance and

(i.e. Native Members) on native custom in making decisions

responsibility of their judiciary duties. As a matter of fact, the Native Lands Ordinance, 1922, assigns no duties to Native Members and gives the Lands Commissioner the sole responsibility for making judgments. Since 1947, however, the Lands Commissioners have not sought to match their knowledge of native custom against that of the elders. It is thought to be somewhat presumptuous, one might even say absurd for an officer to set himself up as a greater authority on the custom of an Island than an assembly of the Elders of that island. Also, as was found in the lands settlement of Tarawa, there was little or no difference of opinion regarding customary usage among the elders and it appears that the intricacies of customary law have been somewhat exaggerated in the past. The Lands Commissioners of the present reconstituted Commission are therefore following in all cases the pronouncements of the Elders / as to law, and relying on them very largely in making decisions as to fact, since the Elders are usually aware of the history and background of each case. Mr. Lake closely followed my advice to concern himself mainly with controlling procedure, to ensure that the Elders are not biased and other wise to leave matters very much in their hands. This method of effecting the lands settlement was found to work very smoothly and to be very much to the satisfaction of the people. Another factor which I think was appreciated by litigants, is that we have not taken advantage of section 7 (1) of the Native Lands Ordinance, 1922, which makes it possible to throw out claims after a brief preliminary inquiry. Each complaint or cause was heard in full Court and detailed minutes kept, so no one can complain that he was not given a fair hearing. The confidence placed in the Ellice Elders was found to be justified. If a Native Member had any interest in a case he did not hesitate to say so and to refrain from speaking, except on occasion as a witness for one of the parties. With the training which they have had in Court procedure, I have every confidence in their ability to perform the judicial work arising from land tenure. As stated in my report on the Tarawa lands settlement, in no case, to my knowledge, was the probity of any of the Elders questioned.

5. Draft Land Codes were drawn up for each island. The English translation of the Nanumea Lands Code and a summary of the principal differences found in the other codes are given in Enclosure B. The provisions of these Codes were deliberated in great detail at general meetings and it can be claimed with confidence that they have the wholehearted support of public opinion.

6. The Lands Commissioner found that there was a considerable hardening of public opinion against the former freedom of landowners in determining the disposal of their lands. Formally in Nanumanga, for example, a parent was under no obligation to provide lands for his children and he could disinherit them without cause. Under the new codes, however, a parent cannot even disinherit a child who has been adopted and who has received adequate lands for his support from his adoptive parent. If his natural child deserts him and fails to help in supporting him in his old age the parent can now do no more than reduce that child's share. Similarly on all Ellice Islands a "land of the adopted" will be given to an adopted child in future even if the adoptive parent dies intestate. This has not been the practice hitherto. Mr. Kennedy drew up draft Codes for the four islands on which he carried out lands settlements and Mr. Lake found that considerable change in public opinion had taken place on these four islands during the intervening ten years. There is considerably less freedom of alienation and there are more

rigid reversionary encumbrances on certain conveyances under the revised Codes than under those drawn up by Mr. Kennedy. The obligatory provision of land for a childless wife has been included in all the draft Codes and is another innovation introduced with public approval. Only a life interest can be granted to the wife. It was not considered necessary to make provision for a wife who has children since if she had insufficient land of her own she would be supported by her children from their lands.

7. In spite of the hardening of opinion regarding the latitude which should be allowed landowners in disposing of their lands, the resulting Codes are still far less rigid than that drawn up for Tarawa. The Lands Courts are left with considerable powers in determining reversionary encumbrances, equitable division of estates and the suitability of proposed adoptions and leases. It will be noted that in the Codes there are references to the local island land custom, without any attempt being made to define the custom. It will be for the Elders of the Lands Courts to interpret custom in each instance. It is customary for the Elders to base their judgments on equity and prevailing public opinion, and to restrict them by drawing up hard and fast rules which would check the natural evolution of land law and would in itself be contrary to custom. I consider the Mallice Codes to be superior to the Tarawa Code and that the Lands Commissioner and the Elders showed commendable awareness of the requirements of good land tenure and the social welfare of the community when they drew up the draft Lands Codes. The Codes have been made as flexible as is possible under the present state of public opinion. It is difficult to foretell precisely what their effect on the distribution of lands will be, but if it is found that they lead to considerable maldistribution it is likely that public opinion will change and make it possible to reduce the restrictions at present placed on the land-hungry from supplementing their holdings. It may be noted here that previous Lands Commissions have encouraged the claims of descendants and "blood" relatives to the lands of a deceased land-owner against those of beneficiaries by will and of purchasers, largely on the theory that this ensures against the emergence of a landless class. Judging by the fact that the evidence available so far indicates that maldistribution is greater in the Gilberts, where this practice has been more actively enforced, it appears that the desired result is not in fact obtained by these means. I do not find this altogether surprising since the land-wealthy families tend to intermarry. By contrast, a person who is one of many co-parceners and who can therefore only expect to receive a small plot of land from his or her parents would be unlikely to succeed in marrying a land-wealthy spouse to ensure a reasonable inheritance for their children. The system is also not sufficiently flexible to allow adjustment of holdings between families which wane over a series of generations through infertility and families which steadily increase through having more than the average number of children. The individual holdings of the former tend to become progressively greater and of the latter to become progressively smaller in each succeeding generation.

8. A progressive step in the interests of good land tenure, agreed to by the Mallice Islanders, is the abolition of separate ownership of land from that of the trees and other plants growing thereon. Except on Nanumea, the owners of such improvements (usually trees) agreed to surrender them to the landowners on receiving payment. At Nanumea no new division of ownership will be permitted in future and when the trees and plants now owned separately from the land die, they may not be replaced by new planting. The separate ownership of houses and other such permanent fixtures and the land on

which they stand has fortunately not yet led to friction in the Ellice Islands, as has occurred in the Gilberts. In Nui it was decided that the village land should be regarded as communally held unless and until the village is moved, when the land will revert to its former owners. It was not thought necessary at present to include such provision in any of the other Codes, but if trouble arises later through owners of village lands seeking to turn off the houseowners who are occupying them, the question will have to be reconsidered.

9. It is now the general practice in the Ellice to make wills in writing, instead of verbally at the dying gasp as in former days. The latter type of will led to much litigation owing to the various and conflicting versions sworn to by the witnesses present at the deathbed. The present practice is far superior since it leaves no doubt as to the wishes of the testator and prevents him from stirring up disputes between his beneficiaries by reduplicating bequests to them. It was first encouraged by Mr. Kennedy and is now made obligatory under the Lands Codes (i.e. if there is no written will, the deceased will be held to have died intestate, whatever verbal bequests he may have made). The Lands Courts will register wills and retain the original documents.

10. The authorising and recording of adoptions and of the leasing of land are further duties being undertaken by the Ellice Lands Courts. Generally speaking, an adoption or a lease will only be approved if the adopter or the landowner has sufficient land. In other words, an adoption will be approved only if the prospective adopter has land left over after making adequate provision for his children and others who may have a right to receive land from him under customary law. Similarly, a prospective lessor will not be allowed to alienate land temporarily unless it is surplus to the requirements of his dependants for the period during which it is proposed to alienate it. These provisions of the Codes cannot be described as customary usage, but they are desired by the people and have therefore been included.

11. In general, the Lands Commissioner found that "kaitasi" (joint-ownership) tenure is still quite common, but that the joint-owners are now usually closely related (i.e. brothers or first cousins). On Nui, however, there are still a considerable number of "kaitasi" estates held jointly by rather distant relatives. By agreement amongst the joint-owners some "kaitasi" estates are being broken up into "vaevae" (individually held) lands, but the reverse process is also going on in that the holders of "vaevae" lands sometimes devise their lands to their children to be held in "kaitasi". Mr. Lake does not agree with the statement in paragraph (2) (viii) of Mr. Maude's memorandum on "Land Classification and Utilisation" to the effect that individual tenure is replacing joint tenure and that this process is being brought about by the judgments of the Lands Commission. Another common misconception concerning the Ellice Islands is that there are extensive communal lands. This is not so; there is very little communally held land. On Nukufetau it was decided that any newly formed land which is not in contact with a land registered by the Commission shall be communal land. (On Nukulaelae any such newly formed land may be granted by the Lands Court, either outright or on lease, to the islander adjudged to be most in need of land. The other islands have not included in their Codes provision for the disposal of such land.) The land formed by the earthworks of the United States Army on Nanumea is also going to be held communally. It has been established that no land is held in freehold by non-natives.

12. It is regrettable that the Registration of Religious Bodies Ordinance, 1947, was put into force and then not enforced. The result has been that for the period during which Mr. Lake was effecting lands settlements no Mission has had a legally constituted land holding body and the Lands Commission has therefore not been able to ensure that proper leasehold agreements have been drawn up for Mission held lands. In most cases the terms under which such lands are held have not been definitely decided upon by the parties, but no disputes have been reported. It has been noticed in the disputes between landowners and Missions which have come to light so far that the parties are invariably in opposing religious camps. When they are of the same religion they apparently find no difficulty in reaching agreement over terms of tenure. The Closed Districts Ordinance gives one of the Missions a monopoly in seven of the eight Ellice Islands and this may be the reason why there have been no disputes.

13. Now that the lands settlement of the Ellice Islands has been completed, apart from the hearing of six appeals, this District will require little or no supervision by fulltime Lands Commissioners so long as the District Officer in charge is a person suitable for appointment as a part-time Lands Commissioner. As has been stated in previous correspondence, it would be an excellent arrangement from the point of view of the Lands Commission if Mr. Lake could be posted as District Officer, Ellice Islands District, for some months after his return from leave. He would be able to ensure that the Lands Courts are working along the right lines and that the records are being properly kept and in general consolidate his lands work in the District. Both Mr. Lake and I consider that Assistant District Officer Penitala Teo would also be suitable for appointment as a part-time Lands Commissioner. However, if a Cadet is placed in charge of the District, I would be very reluctant to entrust him with lands work, since any mistakes which he might make through inexperience would seriously undermine confidence in the newly established system of adjudication and would be difficult to rectify. At all costs we must avoid the danger of the people again regarding land law as a personal attribute of the Administrative Officer who happens to be in charge at the time and attempting to resurrect old issues in the hope of getting the Administrative Officer to reverse decisions of the Lands Commission and judgments of his predecessor on appeals from the Lands Court. Inexperienced officers are very liable to fall into this trap by making ad hoc decisions without sufficient inquiry into the past history of each case. Transport difficulties and pre-occupation with lands settlement in the Gilberts will make it very difficult for me to give close supervision in the Ellice Islands. I therefore consider it of much importance that the post of District Officer, Ellice Islands District, should be held by an experienced and responsible officer during the next few years, in order that the full time staff of the Lands Commission may be free to concentrate its energies on the lands settlement of the Gilberts.

14. Apart from his Lands Commission activities, Mr. Lake has made very useful reports on the economic condition, productivity and population bearing capacity of five of the Ellice Islands. He has also compiled notes on the traditions and customs of the Ellice which I forward to you under cover of my letter No. 23 of the 7th March, 1949. Mr. Lake has made a close study of the Ellice language and has demonstrated his proficiency in it by obtaining a very good pass in the Higher Standard Examination. He was able to speak colloquial

Ellice with such fluency that he did not require the services of an interpreter. This enable him to conduct the Court work more effectively and rapidly. He also wrote interesting articles in Ellice for Tala-o-Tuvalu, giving an account of the progress and activities of the Commission, and in other ways assisted me in carrying out our policy of obtaining the approval and assistance of the public in the work of the Commission. From the account given above and from the Statistics shown in Enclosure A, I think that His Honour will agree that Mr. Lake has done remarkably well since his secondment to the Lands Commission in September, 1947. He has been working under difficult conditions, entailing long periods on outer islands without the companionship of his fellow European officers and I consider that he has shown exceptional perserverence and ability to have maintained a high standard of work over sixteen months under such conditions. I also wish to record my commendation of Grade 1 Clerk Taua Maeli, who worked under Mr. Lake throughout the period. His tactfulness, integrity and imperturbability in dealing with landowners contributed greatly to the successful settlement of the four islands, as did also his painstaking attention to detail in the preparation of Lands Registers. Finally I should like to thank Penitala Teo, the Assistant District Officer in charge of the Ellice Islands District, for his unfailing cooperation in the matter of sharing marine transport. Many landowners have their holdings dispersed on different islands and the demand for inter-island transport in order to attend lands settlements presented many difficulties. The Assistant District Officer also gave willing assistance to the Lands Commission in many other ways, for which I am grateful.

15. Since a copy of my letter reporting the conclusion of the Tarawa lands settlement (my letter No. 116 of the 23rd of June, 1948,) was forwarded to His Excellency, I am enclosing a spare copy of this report in case it is decided that similar action should be taken in this instance.

Chief Lands Commissioner.

ENCLOSURE A.

	1935-37 COMMISSION (MR. D.G.KENNEDY)				1947-1949 COMMISSION (MR. A.G.LAKE)			
	Funafuti	Nukufetau	Nanumea	Vaitupu	Niutao	Nui	Nanumanga	Nukulaelae
1. Date of commencement	13. 6.35	7. 8.35	7. 8.36	12. 2.37	10.X.47	3. IV.48	20. 6.48	31.XII.48
2. Date of termination	15. 2.36	6. 7.36	20.11.36	7. 9.37	31.III.48	13.VII.48	31. 8.48	27. 1. 49
3. Time occupied in hearing disputed claims (days)	28	7	23	No record	66	26	13	6
4. No. of disputed claims heard.	158	98	207	No record	285	129	67	30
5. Av. number of disputes heard per day.	5.64	14	9	No record	4.3	4.9	5.1	5
6. No. of lands and pits transferred.	152	173	496	No record	166	190	41	30
7. No. of lands and pits registered.	2218	4974?	2020	No record	3798	2363	1509	1055
8. No. 6 expressed as a percentage of No. 7.	6.9%	3.5%	24.6%	-	4.4%	8%	2.7%	2.8%
9. No. of disputes in which plaintiff was partially or wholly successful.	70	74	130	-	101	67	35	19
10. No.9 expressed as a percentage of No.4.	44.3%	75.5%	62.8%	-	35.4%	51.9%	52.2%	63.3%
11. No. of appeals.	-	-	1	-	22	-	5	-
12. No. of appeals withdrawn	-	-	-	-	2	-	-	-
13. No. of appeals allowed	-	-	-	-	7	-	-	-
14. No. of appeals dismissed	-	-	-	-	13	-	-	-
15. No. of appeals outstanding	-	-	1	-	-	-	5	-
								Total number of lands and pit which changed Lands in Court (inclgd. agreements)

ENCLOSURE B.

NANUMEA ISLAND LANDS CODE

(English Translation)

REGISTRATION.

1. (a) The title to any land or pit or any easement or encumbrance thereover shall be established by entry in the Nanumea Lands Register.

(b) The ownership of any land or pit or the right to any easement or encumbrance thereover which is not registered in the Lands Register shall be determined by the Lands Court in accordance with section 19 of the Native Governments Ordinance, 1941.

CONVEYANCE.

2. (a) Every conveyance of a land or a pit shall come into effect from the day on which it is registered by the Lands Court. Every entry in the Lands Register shall be made in the presence of the parties concerned or their accredited representatives and must be signed by the Native Magistrate and the Chief Kaubure.

(b) The Lands Court shall disallow any conveyance made either inter vivos or by will which is not in accordance with Nanumea Lands custom or the provisions of this Code.

(c) In the conveyance of any "kaitasi" land or pit all joint-owners who are on the island at the time must be present before the Lands Court when the conveyance is registered. If any joint-owner is absent, his representative must be present.

(d) Any person who makes an unauthorised entry in the Lands Register is guilty of a crime and shall be liable to prosecution.

Subsection (c) of this section is not included in the Niutao Lands Code.

WILLS.

3. (a) Wills must be written in the Native Government Register of Wills and must be signed by the testator, the Native Magistrate and the Lands Scribe. Any alteration to a will must be signed by the testator, the Native Magistrate and the Lands Scribe. Wills recorded in accordance with the provisions of this section shall be enforced so far as they are in accordance with Nanumea Lands Custom or the provisions of this Code. Wills not so recorded shall be null and void.

(b) If a testator devises any land or pit of which he is a joint-owner with others, the Lands Court shall summon the surviving joint-owners to ascertain whether they agree to the devise. If they agree to the devise and the Lands Court considers that it is in all other respects in accordance with Nanumea Lands Custom, the Lands Court shall confirm the devise. If the surviving joint-owners object to the devise, the Lands Court shall consider whether or not it is in all respects in accordance with Nanumea Lands Custom. If the Lands Court holds that it conforms with Nanumea Lands Custom it may confirm the devise. If the Court holds that it is not in accordance with Nanumea Lands Custom, it shall proceed in respect of this "kaitasi" estate as if the deceased joint-owner had died intestate.

(c) Any person who makes an unauthorised entry in the Wills Register is guilty of a crime and shall be liable to prosecution.

INTESTACY.

4 (a) On the death intestate of a landowner his estate shall be disposed of by the Lands Court in accordance with Nanumea Lands Custom; provided that within those limits the Lands Court shall conform with the wishes of the customary devisees.

(b) On the death of a landowner intestate and without natural children his lands and pits shall revert to the descendants of the last ascertainable owners from whom they passed by reversionary conveyance; provided that his adopted child or children shall received their customary share of the deceased's lands and pits and provided also that nothing in this subsection shall affect the limitations on the conveyance of lands and pits imposed under section 5.

✓The two provisos to sub-section (b) are omitted in the Niutao, Nanumanga, Nui and Funafuti Codes.✓

ALIENATION.

5. Any landowner may alienate his lands or pits in any manner he pleases either inter vivos or by will, subject to the provisions of this Code and in particular to the following restrictions:

- (a) he must make adequate provision according to custom for his natural and adopted children;
- (b) any lands or pits which he or his ancestors obtained under the customary conveyance of "tamapuke" (adoption), "tina Tausi" (looking after person) or "tino fakalofa" (befriended stranger) may be devised only to his natural children. If he has not natural children they must on his death revert to the natural descendants of the owners from whose possession they passed by such conveyance.
- (c) The sale of lands or pits for money or any other consideration is forbidden, but lands and pits may be exchanged or leased.

✓The restrictions stated under (a), (b) and (c) above are specified only in the Nanumea and Nukufetau Codes. They are to varying extents applicable on the other islands owing to the stipulation in section 2 (2) that only conveyances which accord with the local land custom will be permitted. Custom is not static, particularly in the matter of reversionary conveyances, and it was considered preferable not to attempt any detailed codification. As stated in paragraph 7 of the report, the Elders of the Lands Courts have been left considerable powers to use their discretion in this matter, in determining permissible practice✓

PARTITION OF ESTATES

6. (1) Any joint-owner of lands or pits held under "kaitasi" tenure may apply to the Lands Court to have his share of lands or pits separated from the "kaitasi" estate and granted to him in "vaevae" tenure, whereupon he will cease to be a joint owner of the remainder of the estate. The Lands Court shall endeavour to bring to an agreement the parties concerned in any division of a "kaitasi" estate. If the parties fail to agree, the division shall be made by the Lands Court in accordance with Nanumea Lands Custom.

(2) If a testator stipulates that his estate may not be divided, this provision shall be upheld during the lifetime of his natural children. The estate may be divided after all his natural children have died.

✓Sub-section (2) has not been included in the Nukulaelae, Nanumanga and Nui Codes.✓

PROVISION FOR CHILDREN.

7. A parent must make adequate provision so far as he is able for his natural children; provided that if any child deserts his parent, the parent may substantially reduce the said child's inheritance. In case of dispute the Lands Court shall determine the inheritance of the said child. The inheritance of a child who leaves Nanumea but who continues to provide for his parent's support may not be reduced. The natural parent of a child who possesses land from his adoptive parent may reduce the customary share of that child.

[The last sentence of this section is omitted in the Nukufetau and Nanumanga Codes]

PROVISION FOR ADOPTED CHILD) REN.

8. An adoptive parent may not disinherit any child whom he has adopted in accordance with the provisions of section 21 of the Ellice Islands Regulations, 1947; provided that if the said adopted child deserts his adoptive parent, the adoptive parent may disinherit the said child. If the adoptive parent dies intestate the Lands Court shall decide the share of the estate to which the adoptive child is entitled.

PROVISION FOR WIFE.

9. A husband whose wife has lived with him continuously for not less than three years immediately preceding his death and by whom he has no children must make adequate provision in his will for the said wife during the remainder of her life. On the death or remarriage of the said wife the lands and pits given her by her husband for her support shall revert to her husband's family.

[The clause "unless the husband stipulates that they should then pass to his adopted child or children" has been added in the Nukulaelae Code]

Costal ACCRETIONS.

10. Costal accretions including the foreshore above high water level at high spring tide shall belong to the owner of the adjacent land whose boundaries produced at right angles to the shore line include the new area: save that the land reclaimed by the Armed Forces of the United States of America during the 1939-1945 war shall be held communally,

[The proviso to this section is peculiar to the Nanumea Code]

FIXTURES.

11. Divisees may not in their bequests separate the ownership of trees or other plants from the ownership of the land on which they are growing. All trees, pulaka or other plants shall belong to the landowner on whose land or pit they are growing; provided that "niu-tangake" and "niu-tongi" acquired before the 19th of March, 1949, shall be exempt from this provision, but when any such tree dies it may not be replaced.

[The proviso is peculiar to the Nanumea Code]

AGREEMENTS WITH CARETAKERS ETC.

12. Every agreement whereby a landowner permits a caretaker or any person who is not a joint-owners to have the use of his land for any purpose must be registered before the Lands Court.

[This section has been omitted from the Nui and Nanumanga Codes]

[The Nui Code contains a section stipulating that the land on which the village now stands shall be regarded as being communally owned until such time as the village site may be moved, when the land shall revert to its former owners.]

The Nukufetau and Nukulaelae Codes contain sections regarding isolated sandbanks which appear on the reef. The former Code decrees that such land shall be communally held and the latter gives the Lands Court the power to grant such land outright or on lease to any landowner whom the Court considers to be in need of more land.

The reference in sections 2 and 3 to liability to prosecution for falsification of Registers may lead to the comment that no penalty is provided. It is intended that any such falsification should be dealt with in a Deputy Commissioner's Court and English Law applied. It was considered advisable to mention in the Codes that it is an offence, in order to discourage would-be forgerers.]

M E M O R A N D U M

The Secretary, Western Pacific High Commission.

Lands Settlement in the Gilbert
and Ellice Islands Colony.

Post-War Policy.

The existing establishment of the Lands Settlement Department, or Native Lands Commission, consists of a European Chief Lands Commissioner and a staff of four native assistants. These permanent officers are assisted by the Administrative Officers, who act as Lands Commissioners within the limits of their Districts.

2. Apart from the fact that the settlement of native land disputes by Europeans is contrary to the general plan of training native organizations to take over their own affairs, it is obvious that the Administrative Staff of the Colony, even though assisted by a permanent specialist officer, could not possibly cope with the work. It is understood that as long ago as 1926 there were no less than 56,000 land disputes awaiting settlement; that at present there are at least 75,000; and that the number is increasing at the rate of about 700 a year. It would clearly take a staff of several full-time lands officers to make any impression on this vast bulk of litigation.

3. The question of lands settlement is the principal native problem confronting the administration of the Colony, and the only solution I can see is to turn the whole onus of dealing with it back to the locally elected Island Councils; it would in all probability never have reached its present alarming dimensions if it had not been taken away from the Native Governments in the first place. Miscarriages of justice will undoubtedly occur, but this is part of the inevitable price which every community must pay if it is to advance on the path towards local self-government, and during the first few years, while the

Councils are developing a sense of responsibility, the Administrative Officers will be able to exercise a general supervision which will serve to correct any major abuse.

4. The practical means by which this change in policy can be achieved already exists in the Island Land Courts, which were set up under Part 1 (F) of the Native Governments Ordinance, 1941, as subsidiaries of the Island Councils. Legislative amendment will be necessary to extend the powers of those bodies so that, instead of being merely Courts of first instance, they will become the final arbiters of all native lands disputes falling within their jurisdiction. The various traditional customs governing land ownership and transmission will, furthermore, require to be codified, in order to form a basis on which the Courts can work and to obviate their decisions becoming purely arbitrary. Once this has been done it will be the duty of the local administration to see that the Courts are actively functioning in each island. Registers showing the actual possessors of every landholding exist in all islands and, with these as a foundation, it should be possible for the Courts to settle the various ownership and boundary disputes brought before them in the light of the particular land code applicable to each island. The process of settlement will necessarily be slow and it is all the more important, therefore, that a start should be made as soon as possible.

5. I would emphasize, however, that the settlement of individual land disputes, necessary though it is, can at its best be only a palliative. The inordinate number of land disputes in the Colony is the inevitable outcome of confining a hardy and virile race to a few barren islands, whose size and capacity to support human life is strictly limited by nature, and then prohibiting their traditional methods of checking over-population, whether by abortion, infanticide, or inter-tribal wars. Land in the Gilbert

Islands is held by individual tenure, and through constant sub-division on inheritance many of the plots have dwindled to a few square yards. As a consequence the average Gilbertese sees his sole hope of economic betterment in sustaining a series of involved claims to the lands held by other members of his kinship group, and in this he is assisted by the uncertain, and often conflicting, nature of the traditional customs governing land ownership in their present uncodified form.

6. The only permanent solution to the lands problem is, therefore, to provide adequate facilities for the surplus land-hungry population to migrate. A carefully prepared scheme of colonization is not only the sole method by which we can ensure the future progress and prosperity of the Gilbert and Ellice Islands natives, but it is at the same time the speediest and most satisfactory method of settling existing land quarrels; and in this connexion I would observe that experience gained in the colonization of the Phoenix Islands shows that the migration of a single family may result in automatically extinguishing as many as fifteen or twenty land disputes.

7. The financing of a scheme of post-war colonization is clearly beyond the meagre financial resources of the Colony and lies, I suggest, peculiarly within the scope of the Colonial Development Fund. It is recommended, therefore, that a detailed application for a grant from the Fund for this purpose should be made at a later date. For the present I would suggest that if we intend to retain the uninhabited atolls of the Central Pacific as part of the Empire it is essential, in order to satisfy the doctrine of "effective occupation", that they should be settled with a permanent population, and the Gilbertese are the only race sufficiently specialized to be able to live on them. There would appear to be no reason, however, why the post-war settlement of these people should be confined to the

atoll islands, which are limited both as to their number and their capacity to support a population, when there are large and fertile areas in the volcanic islands which could be made available for their use. There are a number of coconut plantations in Fiji, for example, which their European owners will probably be only too glad to dispose of once the present artificial boom in the copra market has subsided. The day of the large European plantation is fast approaching an end and one need have no regrets at its departure if it leads to the settlement of prosperous groups of independent peasant proprietors on land which has hitherto supported a single European family in doubtful affluence.

8. I would recommend, in conclusion, that the existing Colony Lands Department should be retained for a strictly limited period only, in order to train the Island Councils in land settlement duties and assist them to codify their traditional land customs. The main function of the Lands Commission would be, however, to direct the rehabilitation of natives whose lands have been damaged or expropriated owing to the war and to supervise post-war colonization.

Acting First Assistant
Secretary,
Western Pacific High Commission.

Suva, Fiji.

29th June, 1944.

Acting Secretary,

I have made written notes of 1 and 2 and hope to be able to deal with the matters raised therein on my return to the Colony.

2. The question of High Chief and Chief rights presents many interesting points. On Butaritari native society is divided into four grades -

- (a) Uea - the High Chief and his immediate family;
- (b) Toka - the subsidiary Chiefs;
- (c) Inaomata - the freemen; and
- (d) Kaunga - the former slaves.

The interests of these groups are often, as can readily be imagined, mutually conflicting. All Mr. A.F. Grimble claimed for his solution of the

X
Butaritari and Makin lands problem, made in the early 20s, was that it was the best possible at the time - as was acknowledged by both the natives and Europeans on the two islands. With the personal freedom permitted to all since the establishment of the Protectorate in 1892 the distinctions between the four classes enumerated above are, however, becoming steadily less and I believe that the time is now ripe for a farther Lands Commission to sit on the two northern islands, with a view to modifying the customary rights held by the first two classes in favour of class (d).

3. A theoretically ideal solution would appear to be for the "Uea" and "toka" to be compensated for the loss of their "chief rights" over the lands held by the "kaunga" by the grant of blocks of land to be held by them severally as their own absolute property, the remainder of the islands, with the exception of any lands held by "inaomata", being divided up amongst the "kaunga", who would also become the absolute owners of their individual blocks. I understand, however, that this solution presents many practical difficulties which would have to be gone into on the spot. I should state that, in any case, the foregoing summary is based purely on hearsay, as I have had an opportunity of personally investigating the Butaritari land question.

4. The problem on Abemama, Kuria, and Aranuka Islands is somewhat similar, with the exception that all lands on the last two islands are held by "kaunga", who are merely caretakers for the chiefs, apart from those held by one "free" family on Aranuka and those owned by a few recent immigrants who have purchased their lands for cash. The entire population of Kuria and Aranuka are of recent introduction, all the original inhabitants having been killed or forced to flee during the time of Tem Binoka, who conquered both islands. I have discovered,

have discovered, however, a document which purports to be an agreement between the late "Uea" of the islands, Tem Bauro, and Mr. G.M. Murdoch, then District Officer in charge of the group, by which, in return for the retention of his "chief rights" during his lifetime, all such rights were to cease at his death. If this document is valid and I am right with regard to its contents, it will greatly facilitate the solution of the lands problem on all three islands.

5. His Excellency's recent decisions with regard to the reorganization of the Lands Commission will result in at any rate partially releasing the Lands Commissioner from the almost hopeless task of trying to settle personally the 50,000 land disputes which are believed to be outstanding at present and will enable him to devote more time to solving the more important questions of land custom and policy of which the "Chief Rights" on Butaritari, Abemama, and their tributary islands are two prominent examples.

J.E.M.

Native Lands Commissioner,
Gilbert Islands.

1.4.40.

Western Pacific.No. 43.

Office of the High Commissioner for the Western Pacific, Suva, Fiji.

28th February, 1940.

Sir,

I have the honour to address you on the subject of the functions and organization of the Native Lands Commission in the Gilbert and Ellice Islands.

2. It has been recognized for some time past that the Commission as at present constituted is failing to achieve that purpose for which it was set up, namely the settlement of the many thousands of native land claims which, more particularly in the Gilbert Islands, have been awaiting settlement for long years past. This failure is due to one cause only, the limited personnel of the Commission, and I have much sympathy with Mr. H.E. Maude, M.B.E., Native Lands Commissioner, Gilbert Islands, who, despite his strenuous efforts to achieve the purpose of the Commission, has been faced with a task beyond human powers to accomplish in its present form.

3. This position was recognized when the reorganization of the Colony was under consideration in 1937, and I invite reference to paragraphs 124 - 126 of Part III. of the Reorganization Report of the Western Pacific High Commission Territories and particularly to paragraphs 125 (4) and 126, which hold the key to the present difficult position by suggesting -

(a) the appointment of Administrative Officers to be Lands Commissioners within their own districts,

and

The Right Honourable
The Secretary of State for the Colonies.

and

(b) the extension of the jurisdiction of the Native Courts to include the hearing of land claims.

4. As regards (a), my predecessor, on the occasion of his visit to the Colony in 1937, instructed the Resident Commissioner to examine the question of the delegation to Administrative Officers of land settlement duties in their respective districts and, as a result of the examination of the position, issued instructions to the effect that each Administrative Officer as a Lands Commissioner should be empowered to proceed with the settlement in his district of less complicated land claims - see paragraph 18 of Sir Arthur Richard's despatch No. 282 of the 31st December, 1937.

5. During the course of my recent tour of the Colony I was forcibly struck by the lack of rapid progress in the determination of native land claims and discussed the matter fully with the Resident Commissioner and Mr. Maude. It appears that the shortage of experienced Administrative Officers had made it difficult to put my predecessor's instructions into effect; and, since that shortage has continued up to the present time, I have decided as a result of a general review of the position that in order to implement (a) and (b) of paragraph 3 above, there should be created the post of Chief Lands Commissioner, whose major functions would be:-

- (i) to guide the Native Courts when dealing with land claims;
- (ii) to train Administrative Officers in their duties as Lands Commissioners;
- (iii) to codify native custom relating to land tenure and to prepare books of instruction in connection with (i) and (ii); and
- (iv) to act as a

(iv) to act as a Court of Appeal from the Lands Commissioners.

6. The draft Ordinance revising the Native Laws and the Constitution, which is now in the hands of the Printer, and which I hope shortly to submit for your consideration, provides for the establishment of a Native Lands Court from which there will be an appeal to the Lands Commissioner; and Ordinance No. 2 of 1940 - forwarded under cover of my despatch No. 44 of the 28th February - provides for the creation of a Chief Lands Commissioner and the grant to him of appellate jurisdiction from the Lands Commissioners.

7. I strongly recommend that Mr. Maude, whose experience and specialized knowledge exactly fit him for such a post, be appointed Chief Lands Commissioner for the Colony, if possible without losing his status as an Administrative Officer, and that the system of dealing with native land claims, as now proposed to be revised, be brought into effect at the earliest possible moment. The added responsibilities which would thus fall to Mr. Maude will be considerable, and I am of the opinion that the post of Chief Lands Commissioner should carry the super-scale salary of £880 x £40 - £1,000 referred to by you in paragraph 38 of the Memorandum which accompanied your despatch No. 119 of the 24th August, 1938. I strongly recommend for your approval that Mr. Maude be promoted to this scale forthwith.

I have the honour to be,

Sir,

Your most obedient, humble servant,

(Signed). H.C. Luke.

High Commissioner.

MEMORANDUM

15th February, 1940.

From:-

The Native Lands Commissioner,
Gilbert Islands,
at Suva, Fiji Islands.

To:-

The Acting Secretary,
Western Pacific High Commission,
Suva, Fiji Islands.

Under sections 17 to 21 of the Native Governments Ordinance 1940 the current work of settling lands disputes is to be undertaken by the newly constituted Native Lands Courts, subject to an appeal to a Native Lands Commissioner who will normally be the Administrative Officer in charge of the District. For reasons which have been sufficiently advanced in recent correspondence it is anticipated that this procedure will greatly expedite the work of lands settlement in the Colony and at the same time enable Administrative Officers to take over a function which is properly theirs.

2. On the assumption of these powers by Administrative Officers the present Native Lands Commissioner will be enabled to proceed with the long overdue work of codifying the native lands customs on each island, the settlement of difficult questions of land tenure such as are presented by the existence of Chief rights on Butaritari, Makin, Abemama, Kuria, and Aranuka, and the training of Administrative Officers on lands settlement procedure which will necessitate the preparation of a text book for their use. As the expert on native custom, the present Native Lands Commissioner will at the same time constitute an appeal court from the decisions of the Administrative Officers given as Native Lands Commissioners.

3. In order to

3. In order to provide the necessary distinction between the Native Lands Commissioners and the officer in charge of the Lands Department, to whom the appeals from the Native Lands Commissioners will lie, it will be necessary to change the title of the latter officer. I would respectfully suggest that a suitable new title would be "Director of Native Lands".

4. Should the above suggestion be adopted the only legislative amendment which would appear to be necessary is to section 4 of Ordinance No. 1 of 1935, a draft amendment of this section being enclosed herewith. As, however, it is intended that the present Native Lands Commissioner should continue his work of lands settlement whenever opportunity occurs I have added a clause to the amended section providing for appeals from decisions made by him, in his capacity as a Native Lands Commissioner, direct to the Resident Commissioner.

J.L.M.

AN ORDINANCE

To amend further the Native Lands (Amendment) Ordinance 1935.

February, 1940.

Be it enacted by the High Commissioner as follows:-

1. This Ordinance may be cited for all purposes as the Native Lands (Amendment) Ordinance 1940 and shall be read and construed as one with the Gilbert and Ellice Native Lands Ordinance 1922 (hereinafter termed the Principal Ordinance) as amended by the Native Lands (Amendment) Ordinance 1935.

Short Title and Construction.

Ord. No.8 of 1922.
Ord. No.1 of 1935.

2. Section four of the Native Lands (Amendment) Ordinance 1935 is hereby repealed and the following substituted therefor:-

Amendment of section 4 of Ord. No.1 of 1935.

"11.- (1) Any person feeling himself aggrieved by any decision of the Commission may give notice of his desire to appeal. Such notice shall be signed by the appellant or his duly authorised agent before the Native Magistrate and lodged with the Lands Commissioner who shall without undue delay forward it to the Director of Native Lands together with a copy of the record of the decision of the Commission and of the notes of evidence taken at the inquiry.

"Appeals.

"(2) Every appeal against any decision of the Commission shall be heard and determined by the Director of Native Lands whose decision shall be final.

"Director of Native Lands to hear appeals.

"(3) Except as hereinafter provided notices of appeal shall be signed before the Native Magistrate within three days of the decision of the Commission; provided always that in the event of the person concerned being absent from the Island or unable for any reason to the satisfaction of the Director of Native Lands to give notice of his desire to appeal within the period hereinbefore prescribed such period shall be extended to six months which period may be further extended by the Director of Native Lands in his discretion on sufficient cause therefore being shown.

"Period for appeals.

"Proviso.

"(4) Any appeal from a decision of the Commission on which the Director of Native Lands is one of the Lands Commissioners appointed under section three of the Principal Ordinance shall be determined as in subsection one to three above the words 'Resident Commissioner' being substituted for 'Director of Native Lands'.

"Appeals from the decision of the Director of Native Lands sitting as a Native Lands Commissioner.

"(5) The Resident Commissioner may make regulations
"subject to the approval of the High Commissioner for
"regulating the practice and procedure to be followed
"in the lodging and hearing of appeals and such
"regulations may provide for penalties not exceeding
"five pounds for the setting up of frivolous appeals
"and any other matter incidental to the decision on
"an appeal and may provide for the payment of costs
"incurred in the hearing of appeals."

"Regulations."

STANDARD

AGENTS

CROWN
STANDARD
AGENTS

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AGENTS

Copy.

Gilbert and Ellice.

No. 290.

Office of the High Commissioner
for the Western Pacific,
Suva, Fiji.

18th December, 1939.

Sir,

With reference to paragraphs 48 and 51 of my despatch No. 234 of the 27th November to the Secretary of State, relative to the system whereby the occupiers of land, at one time in the possession of a High Chief, hand over a proportion of the produce from the land to the High Chief, as and when he wishes to claim it, I have the honour to request you to take an early opportunity of investigating the complaints I received at Butaritari regarding the provision of the Lands Commission that the labour to produce this quantum meruit must be provided by the occupiers of the land.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) H.C. Luke.

High Commissioner.

His Honour,

The Resident Commissioner,

Gilbert and Ellice Islands Colony.

Copy.Excerpt. (For original see 144 in M.P. 3307/38.)WESTERN PACIFIC.No. 234.Office of the High Commissioner
for the Western Pacific,
Suva, Fiji,

27th November, 1939.

Sir,

I have the honour to submit the following
report on my recent Western Pacific tour
... ..

48. At Butaritari I met the High Chief, Na Kaiea,
... .. At that time all the
land was owned by the High Chiefs and the occupiers had
to pay tribute for the use of the land. The Lands
Commission settlement made by agreement some years ago,
laid it down that the occupiers should be confirmed in
their holdings but that a proportion of the produce
should be the property of the High Chief as and when he
wished to claim it. There was evidence at the time of
my visit of some dissatisfaction with the provision of the
settlement that the labour had to be provided by the
occupiers; and I am taking the matter up farther.

... ..

51. Abemama, with the neighbouring islands of
Kurua and Aranuka, is in the same position as Butaritari
with regard to lands held by the High Chief, whose family
are a branch of the same dynasty which conquered and long
ruled over Butaritari

The Right Honourable

The Secretary of State for the Colonies.

ruled over Butaritari and Little Makin. Fortunately this system exists only in these two little groups of islands and does not obtain in the other islands of the Colony, where democratic institutions of local government were customary. The Lands Commission has not yet dealt with Abemama.

... ..

I have, etc.,

(Signed). H.C. Luke,

High Commissioner.

COPY

Reference to previous correspondence:—

High Commissioner's
Resident Commissioner's

} Despatch Confidential of 16th November, 1937.

Gilbert & Ellice.
Confidential.

Office of the High Commissioner
for the Western Pacific,
Suva, Fiji,
28th July, 1938.

Sir,

I have the honour to transmit, for the
necessary action,

the papers noted below on the subject of the question of the
hearing and settlement of native lands disputes
by Administrative Officers in their respective districts

2. Attention is invited to paragraphs 124
to 126 of the Reorganization Report and paragraph 18
of the High Commissioner's despatch to the Secretary
of State No. 282 of the 31st December, 1937.

I have the honour to be,

Sir,

Your most obedient servant,

His Honour
The Resident Commissioner,

(Signed) H. Vasekess.

Gilbert and Ellice Islands Colony. For Acting High Commissioner.

114x38-2 rms.

Date.

Description.

1938.

8th July.

Minute by the Secretary, Western Pacific High Commission

9th "

Minute by the High Commissioner.

Minute by the Secretary, Western Pacific
High Commission - dated 8th July,
1938.

His Excellency,

Submitted with the Resident Commissioner's despatch Confidential of the 16th November, 1937. Please see the sub-enclosure to that despatch - a most interesting memorandum by Mr. H. E. Maude on the subject of native lands in the Gilbert Islands.

2. It is to be hoped that the Phoenix Islands Settlement Scheme will not unduly delay the further work of Mr. Maude as Native Lands Commissioner in the Gilbert Islands? The only other officer at present in the Colony Service who could be seconded as an additional Lands Commissioner in the Gilbert Islands who should be capable of performing the work satisfactorily, is Mr. P. D. Macdonald, at present stationed in Ocean Island. Mr. Macdonald, however, because of his liability to recurring attacks of phlebitis, is under a grave disability in view of the necessity for the Lands Commissioner to spend lengthy periods in outlying islands beyond the reach of medical attendance.

3. The proposal to second Administrative Officers and Cadets for experience with the Native Lands Commissioner appears to be sound? Unfortunately, at present shortage of administrative staff renders this impracticable. But the proposal that the Administrative Officers should get on with the lands work in their respective headquarters islands, seems feasible and should be adopted? Because of staff arrangements, under which inexperienced Cadets are acting or soon to act as Administrative Officers, this proposal at present can only apply to Tarawa, Major Swinbourne's District Headquarters.

(Signed) H. Vaskens,
8.7.38.

COPY.

Minute by the High Commissioner - dated 9th July, 1938.

I am in general agreement with Mr. Haude's excellent memorandum and letter. It is a pity that the shortage of trained officers must at present delay progress.

2. I rather doubt Major Swinbourne's capacity to deal with land matters as he made it clear to me that he had no knowledge of native tenure.

3. You can inform the Resident Commissioner of my agreement with action along the lines proposed by Mr. Haude. The position should right itself as soon as the Cadets get qualified.

(Signed) A.F.R.

9.7.38.

LAND CUSTOMS - BERU ISLAND.

1. On the death of an owner with issue his land is divided amongst his (or her) children in approximately equal shares, subject to the following exceptions:-

- (a) the eldest son receives more than his brothers or sisters,
- (b) the sons receive more than the daughters,
- (c) if all are daughters the eldest receives more than the younger,
- (d) if there are both sons and daughters the eldest being a daughter the eldest son receives the largest share, then the other sons taking equal shares, then the eldest daughter and lastly the other daughters taking equal shares.

2. Nei go in the same way but should there be only one it would be held in common by the children. Women may or may not be given a share in Nei according to the wish of the owner.

3. On the death of a person without issue, should he have no brothers or sisters, the land would be separated into "mwini nane" and "mwini aine" lands. The lands would then be returned to the Utu of the father and mother of the deceased respectively. The nearest relation to the deceased in each Utu would take the land, or should there be several equally near, the land would be divided amongst them.

4. On the death of a person without issue, should he have brothers and sisters or their issue, his land will be divided amongst them. These brothers and sisters will all get as far as possible equal shares, not as in Rule 1.

Adopted Children.

5. If a man (or woman) adopts a child as "tibu" and has issue of his own he will normally give one piece of land to the tibu. Should the adopting couple be very rich they will give one piece each to the tibu as "te aban tibu".

6. There is no custom of adopting as Nati but, should a man have no children of his own but only an adopted tibu, the tibu will sometimes live with the man (or woman) in every respect as his real nati until his (or her) death. In that case he may be given all the lands of the adopter in the same manner as the real issue would and to the exclusion of the adopter's brothers and sisters.

7. A person adopted by a man (or woman) is also adopted by the spouse and will normally receive his land from the adopting parent who has most land.

8. "Te aban Tibu" will be given on the death of the adopter or when he divides his land on old age.

9. A person adopted as tibu will still receive the same share of his real parents lands as his real brothers and sisters. His "aban tibu" will be regarded as a "raka" and

personal to him and will not be counted in any division made by his real parents.

10. Nearly all adoptions are of people on the island. Few are adopted from outside the island except orphans who will usually come under the exceptional case detailed at 6, being regarded as a nati for all practical purposes. The old men state that even this is a new custom which has arisen owing to modern peaceful travelling. In former times no-one travelled except to make war and seize lands and no children were brought back to be adopted.

11. "Te Aban Tibu" will not revert to the adopter or his utu on the death of the adopted tibu without issue. The old men are unanimous on this point and state that the modern decision to the contrary by the Native Court is an ever according to Native Custom.

12. "Te Nini Marai" may be given by the parents of an adopted child to the adopters. This land will be used by them in return for looking after the child and on the child growing up it will be given to him and subtracted from his share of his real parents land when the parents make their "katautau".

13. A man can adopt with or without the consent of his Utu but, sometimes, should he have only a few lands and many children he will adopt without giving the adopted child any "aba n tibu".

14. Should a child die before he has grown up enough to receive the "Nini Marai" given the adopter by his real parents, the "Nini Marai" will return to the real parents.

"Te Aba ni Kuakua".

15. "Te Aba ni Kuakua" is a gift of land given in return for services rendered during sickness or old age. Should the Utu of a man refuse to look after him at such a time and he is looked after by someone outside the Utu until his death then he may give his caretaker "Te Abani Kuakua".

16. If there are several relations inside the "Utu" of the same degree of relationship to a sick or aged man it is the duty of all to look after him. Should only one do so he will receive "Te Aban Kuakua". But this will not be so if the others are willing but unable to look after him through being resident elsewhere.

17. In former times there was no limit to the number of lands that could be given as "Te Aban Kuakua" but nowadays the government usually only allows one.

18. Should the person to whom "Te Abani Kuakua" is given die without issue the land remains with his Utu and does not revert to the family of the donor.

Division of land when there several Wives
(or husbands). Te Ei

19. If a man has two or more wives his land will be equally divided between his wives provided that the first wife will normally receive a bit more than the others. The number of children which each wife has is immaterial in the division though a wife who has no issue will not, of course, receive any land as the land is the childrens.

20. The land having been divided according to the various wives is then divided up amongst the issue of each wife in the usual manner.

21. This custom is known as Te Ei. The first wife being called "Te Moanei", the second "Te Kauae" and the third "Te katenei" etc.

22. The same rules apply should a woman have more than one husband.

Te Abani Kamamma.

23. Land given by the parents of a child to a foster mother or wet-nurse in return for suckling an infant. It is not returned to the family of the donor on the death of the recipient without issue. The land passes at the time of the suckling and will be one piece of land. Consent of the issue is immaterial.

Te Abani Kamaiu.

24. Land given as in 23 but in return for the nursing and treatment of a child during sickness. The same rules apply as in 23.

Te Bora.

25. There are numerous circumstances in which this payment may be made:-

- (a) Should there be a famine on the island land may pass under this title in return for food or water. The amount of land which passes will depend on the services and may even (for preventing death from starvation) amount to all an individual's land. For small services it is only a piece of land or even a single tree or group of trees.
- (b) Should an Old Man or woman vomit or deface by accident in a public place and a stranger arrive first to clear up the mess he will often be given a piece of land. This payment will usually be made by the children of the aged person in return for the service rendered to their parent.

Lands thus given pass irrespective of the wishes of the Utu and do not revert on the death of the recipient without issue.

"Te Aban Tinaba".

26. This is a variety of "Teo Bora" in which land passes to a man's tinaba in return for her services to him in placing wreaths round his head, anointing him with oil and paying attention to him generally. As in the case of 25 (b) the consent of the Utu should be obtained as it is usually the children of the man who arrange this transfer. The land does not revert on the death of the recipient without issue.

"Te Aban aine" or "Teo Bain aine".

27. Land claimed by a husband from a man who committed adultery with his wife. The adultery might be purely fictitious, for example passing the woman on the road or speaking to her in the village. The husband would seize as much land as he had power to and, if the Old Men were unsuccessful in effecting a compromise, a fight between the two men would often take place. Should the husband win he might claim several pieces of land but the Old Men would usually permit one piece only to pass. "Te Bain Aine" passed in the case of a woman who was only engaged, should someone endeavour to persuade her to terminate or be unfaithful to her engagement "Te Tauanikai".

"Te Aban aine" or "Te Bain aine".

28. Land claimed by a husband from a man who committed adultery (or fictitious adultery) with his wife's sisters (E-iriki). The rules and underlying principle are exactly the same as in 27 as a man's wife's sisters were regarded as his wives as long as he chose to exert his rights. Should a man not wish to exert his rights over his wife's sisters then anyone could marry her. (The above refers to a man's wife's real sisters).

"Te Bain Ira".

29. Land conveyed by a thief to the owner of the property stolen. The custom was to convey:-

For the first theft - one piece
For each succeeding offence - one piece.

until all his land is finished when he might be enslaved by the owner of the property. He then became the absolute property of his master and any offence committed against the slave is regarded as an offence against his master. (For example should he be killed "Nenebo" must be paid to his master).

30. His wife and children were free and could either return to their father's mainga or continue to live with him. The land of the wife could not be used by him in payment of his own theft.

31. Should a thief or his Utu be strong they could often escape payment of "te bain ira".

32. If a woman commits a theft the same rules apply. Should she be enslaved she will be a true "Nikinanroro" and may be hired out to white people and visiting ships or to other natives. She worked for her master and could be married by him to anyone he liked.

33. A female thief would always be a Nininanroro as an "Ainen Uma" would:-

- (a) be supported by her husband and so have no motive for theft;
- (b) be unable to leave the vicinity of her husband's house and so have no opportunity for theft;
- (c) would be killed by her husband if she did commit theft as theft was regarded as a most shameful thing.

"Te Nenebo".

34. On an individual killing another he must be killed in return by some member of the murdered man's Utu. If he fled and could not be found the following payments were customary:-

- (1) Nuna = Te Buangi - a whale's tooth necklace "His Shadow". This was buried with the murdered man.
- (2) Baona = A Canoe (if the murderer had one).
- (3) Te Kieni Kaiti = All the murderer's personal belonging, together with various additional presents from his Utu. Finally:
- (4) Two pieces of land - Te nenebo - one from the murderer's mwini mane land and one from his mwini aine. The same rules apply when a woman is the murderer or murdered.

35. Should the murderer be strong enough to resist payment of his Nenebo the fight will go on until the Old Men stop it. The Old Men will enforce the payment.

36. No Nenebo passes if the murderer is killed in expiation of his offence.

Nenebon te Banna.

37. If a man digs up the grave of some dead person he will be fined one piece of land to the next of kin of the man buried there. This peculiar custom was often adopted by people who were dissatisfied with the way in which they were being looked after by their next of kin and who desired to waste their lands by giving them away in order to prevent them getting into the hands of their own relations. It was not necessary to do more than disturb the earth on top of the grave.

Te Bain Rawerawe.

38. A species of Nenebo. If A and B are fighting and A injures B seriously and some of A's Utu seeing him injured and wishing to prevent the passing of Nenebo through his death, help him by giving him water, lifting his head, etc., they must, on being found doing this, also give two pieces of land each as Nenebo, should the man die.

Te Bakabure.

39. The largest Mwini and the largest Mwin Aine lands - i.e. "Te Kouri" - in the family (i.e. among the brothers and sisters) must be given as Nenebo. This will normally be the one to pay up. After this has been done a repartition of the brother's and sisters' lands will take place but the immediate group of sibilings will have lost then two best lands.

40. A sister, feeling herself aggrieved by the partition of lands between herself and her brother would sometimes go and dig up a grave as at 37 or kill someone in order that her brother should lose his two largest lands.

Nenebon te Man.

41. Should a dog or tame frigate bird be killed one piece of land would be taken as Nenebo.

42. Should a man's dog bite another man and cause death one piece of land would pass under the same title.

43. Should a man ask another to climb a coconut tree for him and he falls and dies, one piece of land would pass under the title of nenebo. This might go to another member of his Utu or to an outsider.

Te Kannanna or te Kanoani Baene.

44. Done mostly by a nephew or niece to an uncle or aunt who has plenty of land should the persons own mother and father not have much. He would be ashamed to bubuti some of their land but would bring series of presents to the person. In return the person might be enticed into giving a piece of land to him.

Te Bobai.

45. A man could give some of his land in exchange for other things such as axes, swords, canoes, etc. This could be done without the permission of his Utu. A man however would only do this if he had plenty of land.

Kababa.

46. On the death of a land owner, should his (or her) issue be of tender age, the brother or nearest relation in the Utu will look after his lands until the children are old enough to be given their share. He is entitled to no share for his trouble other than his right to use the fruits of the children's land while he is caretaker. If the land should be wrongly retained by the caretaker he is said to be Kababa.

1. On the death of an owner with issue his land is divided amongst his (or her) children in approximately equal shares, subject to the following exceptions:-
 - (a) The eldest son receives more than his brothers or sisters,
 - (b) The sons receive more than the daughters,
 - (c) If all are daughters the eldest receives more than the younger,
 - (d) If there are both sons and daughters the eldest being a daughter the eldest son receives the largest share, then the other sons taking equal shares, then the eldest daughter and lastly the other daughters taking equal shares.
2. If there is no issue the land goes in the same way but should there be only one it would be held in common by the children.
Women may or may not be given a share in the land according to the wish of the owner.
3. On the death of a person without issue, should he have no brothers or sisters, the land would be separated into "mwin nane" and "mwin are" lands. The lands would then be returned to the titu of the father and mother of the deceased respectively. The nearest relation to the deceased in each titu would take the land or, should there be several equally near, the land would be divided amongst them.
4. On the death of a person without issue, should he have brothers and sisters or their issue, his land will be divided amongst them. These brothers and sisters will all get as far as possible equal shares, not as in rule 1.

Adopted children.

5. If a man (or woman) adopts a child as "tibu" and has issue of his own he will normally give one piece of land to the tibu. Should the adopting couple be very rich they will give one piece each to the tibu as "te aban tibu".
6. There is no custom of adopting as "nate" but, should a man have no children of his own but only an adopted tibu, the tibu will sometimes live with the man (or woman) in every respect as his real nate until his (or her) death. In that case he may be given all the lands of the adopter in the same manner as the real issue would and to the exclusion of the adopter's brothers and sisters.
7. A person adopted by a man (or woman) is also adopted by the spouse and will normally receive his land from the adopting parent who has most land.
8. "Te aban Tibu" will be given on the death of the ^{adoptive parent?} adopted or when he divides his land in old age.
9. A person adopted as tibu will still receive the same share of his real parents' lands as his real brothers and sisters. His "aban tibu" will be regarded as a "naka" and personal to him and will not be counted in any division made by his real parents.
10. Nearly all adoptions are of people on the island. Few are adopted from outside the island except captives who will normally come under the exceptional case detailed at 6, being regarded as a nate for all practical purposes. The old men state that even this is a new custom which has arisen owing to modern peaceful travelling. In former times no-one travelled except to make war and seize lands and no children were brought back to be adopted.

adopted children contd.

11. "Te aban Tibu" will not revert to the adopter or his wife on the death of the adopted tibu without issue. The old men are unanimous on this point and state that the modern decision to the contrary by the Native Court is an error according to Native custom.
12. "Te hini hana" may be given by the parents of an adopted child to the adopters. This land will be used by them in return for looking after the child and on the child growing up it will be given to him and subtracted from his share of his real parents land when the parents make their "katoutau".
13. a man can adopt with or without the consent of his wife but, sometimes, should he have only a few lands and many children he will adopt without giving the adopted child any "aban tibu".
14. Should a child die before he has grown up enough to receive the "hini hana" given to the adopter by his real parents, the "hini hana" will return to the real parents.

"Te abani Kwakua"

15. "Te abani Kwakua" is a gift of land given in return for services rendered during sickness or old age. Should the Utu of a man refuse to look after him at such a time and he is looked after by someone outside the Utu until his death then he may give his caretaker "Te abani Kwakua".

16. If there are several relatives inside the "Utu" of the same degree of relationship to a sick or aged man it is the duty of all to look after him. Should only one do so he will receive "Te abani Kwakua". But this will not be so if the others are willing but unable to look after him through being resident elsewhere.

17. In former times there was no limit to the number of lands that could be given as "Te abani Kwakua" but nowadays the government usually only allows one.

18. Should the person to whom "Te abani Kwakua" is given die without issue the land remains with his Utu and does not revert to the family of the donor.

Division of land when there are several wives (or husbands). Te Eri.

19. If a man has two or more wives his land will be equally divided between his wives provided that the first wife will normally receive a bit more than the others. The number of children which each wife has is immaterial in the division though a wife who has no issue will not, of course, receive any land as the land is the children's.
20. The land having been divided according to the various wives is then divided up amongst the issue of each wife in the usual manner.
21. This custom is known as Te Eri. The first wife being called "Te Noane" , the second "Te Koro" and the third "Te Koro" etc.
22. The same rules apply should a woman have more than one husband.

Te Abame Kamanua.

23. Land given by the parents of a child to a foster mother or wet-nurse in return for suckling an infant. It is not returned to the family of the ^{donor} donor on the death of the recipient without issue. The land passes at the time of the suckling and will be one piece of land. Amount of the issue is immaterial.

Te Abame Kanau.

24. Land given as in 23 but in return for the nursing and treatment of a child during sickness. The same rules apply as in 23.

Te Bera.

25. There are numerous circumstances in which this payment may be made:-

(a) should there be a famine on the island

land may pass under this title in return for food or water. The amount of land which passes will depend on the services and may even, (for preventing death from starvation), amount to all an individual's land. For small services it is only a piece of land or even a single tree or group of trees.

(b) should an old man or woman vomit or defecate by accident in a public place and a stranger arrive first to clean up the mess he will after be given a piece of land. This payment will usually be made by the children of the aged person in return for the service rendered to them.

Lands thus given pass ^{irrespective} irrespective of the wishes of the giver and do not revert on the death of the recipient without issue.

"Te aban Tiraka"

26. This is a variety of "Te Bora" in which land passes to a man's tiraka in return for his services to him in ploughing, weath' round his head, anointing him with oil and paying attention to him generally. as in the case of 25 (b) the consent of the Utu should be obtained as it is usually the children of the man who arrange this transfer. The land does not revert on the death of the recipient without issue.

"Te aban aine" or "Te Bain aine"

27. Land claimed by a husband from a man who committed adultery with his wife. The adultery might be purely fictitious, for example passing the woman on the road or speaking to her in the village. The husband would seize as much land as he had power to and, if the old man were unsuccessful in effecting a compromise, a fight between the two men would often take place. Should the husband win he might claim several pieces of land but the old man would usually permit one piece only to pass. "Te Bain aine" also passed in the case of a woman who was only engaged, should someone endeavor to persuade her to terminate or be unfaithful to her engagement.

"Te Tamarikai"

28. Land claimed by a husband from a man who committed adultery (or fictitious adultery) with his wife's sisters (Einkai). The rules and underlying principle are exactly the same as in 27 as a man's wife's sisters were regarded as his wives as long as he chose to exert his rights. Should a man not wish to exert his rights over his wife's sisters then anyone could marry her. (The above refers to a man's wife's real sisters).

This custom was often indulged in, not really in order to marry the wife's

sister's from any desire to have intercourse with them or from affection but in order, by asserting his rights over them, to prevent them marrying anyone else and thus taking their share of their father's and mother's lands away with them.

"Te Bain Ma"

29. Land conveyed by a thief to the owner of the property stolen. The custom was to convey -
For the first theft - one piece,
For each succeeding custom - one piece,
until all his land is finished when he might be enslaved by the owner of the property. He then became the absolute property of his master and any offence committed against the slave is regarded as an offence against his master. (For example should he be killed revenge must be paid to his master).
30. His wife and children were free and could either return to their father's kaunga or continue to live with him. The land of the wife could not be used by him in payment of his own theft.
31. Should a thief or his wife be strong they could often escape payment of "te bain ma".
32. If a woman commits theft the same rules apply. Should she be enslaved she will be a true "Nukuanoro" and may be hired out to white people and visiting ships or to other natives. She worked for her master and could be married by him to anyone he liked.
33. a female thief would always be a "Nukuanoro" as an "Ameri Una" would :-
(a). Be supported by her husband and so have no notice

for theft.

- (b) Be unable to leave the vicinity of her husband's house and so have no opportunity for theft.
- (c) Would be killed by her husband if she did commit theft as theft was regarded as a most shameful thing.

"Te Nerelo."

34.

as an individual killing another he must be killed in return by some member of the murdered man's Mtu. If he fled and could not be found the following payments were customary:-

- (1) Musa = Te Buangui - a whole's tooth necklace & his shadow. This was buried with the murdered man.
- (2) Baona = a canoe (if the murderer had one).
- (3) Te Kani Kaiti = all the murderer's personal belongings, together with various additional presents from his Mtu.

Finally:-

- (4) Two pieces of land - Te Nerelo - one from the murderer's Mtu's name land and one from his Mtu's name.

The same rules apply when a woman is the murderer or murdered.

35.

should the murderer be strong enough to resist payment of his Nerelo the fight will go on until the old men stop it. The old men will enforce the payment.

36.

Te Nerelo passes if the murderer is killed in reparation of his offence.

Nerelon te Baona

37.

If a man digs up the grave of some dead person he will be fined one piece of land to the next of kin of the

can build also. This peculiar custom was often adopted by people who were dissatisfied with the way in which they were being looked after by their seat of kin and who desired to waste their lands by giving them away in order to prevent them getting into the hands of their own relations. It was not necessary to do more than disturb the earth on top of the grave.

Te Bann Rancrawe

38. a species of Nencho. If A and B are fighting and A injures B severely and one of A's wife, seeing him injured & wishing to prevent the passing of Nencho through his death, helps him by giving him water, lifting his head, etc. They must, on being found doing this, also give two pieces of land each to Nencho, should the man die.

This rule also applies to those standing by.

Te Bakalme

39. The largest Nuni name and the largest Nuni name lands - i.e. "Te Koule" - in the family (i.e. among the brothers and sisters) must be given to Nencho. This will normally be in the possession of the eldest brother and so, unless he is dying or has to recede, he will be the one to pay up. After this has been done a repartition of the brother's and sister's lands will take place but the immediate group of siblings will have lost their two best lands.

40. a sister, feeling herself aggrieved by the partition of lands between herself and her brother would sometimes go and dig up a grave as at 37 or kill someone in order that her brother should lose his two largest lands.

Nesebo te Nan.

41. Should a dog or tame fregate bird be killed one piece of land would be taken as Nesebo.
42. Should a man's dog bite another and cause death one piece of land would pass under the same title.
43. Should a man ask another to climb a coconut tree for him and he falls and dies, one piece of land would pass under the title of Nesebo. This might go to another name of his title or to an outsider.

Te Kamma or Te Kawane Balne.

44. One nephew of a nephew or niece to an uncle or aunt who has plenty of land should the persons own nothing and father not have much. He would be advised to cultivate some of the land but would bring series of presents to the person. In return the person might be enticed into giving a piece of land to him.

Te Bobai.

45. a man could give some of his land in exchange for other things such as axes, swords, canoes etc. This could be done without the permission of his title. A man however would only do this if he had plenty of land.

Kabala

46

in the death of a land owner, should his (or her) issue be of tender age, the brother or nearest relation in the Utu will look after his lands until the children are old enough to be given their share. He is entitled to no share for his trouble other than his right to see the fruits of the children's land while he is caretaker. If the land should be wrongly retained by the caretaker he is said to be Kabala.

14

14 00



GILBERT AND ELLICE ISLANDS COLONY.

Betio, Tarawa, 24 August, 1923.

F. D. O. No. 1/1923.

Sir,

I have the honour to acknowledge receipt of your letter No. 19, G.C.G., of the 18th May last on the subject of the salary drawn by me when I was Acting Resident Commissioner.

2. To the best of my recollection the salary which I actually did draw was exactly as stated in paragraph 3 of your letter, namely, half the salary of each office I was holding plus full consolidated allowance. So strong is this impression in my mind that I should be obliged if, before arranging for a refund, I might be furnished by the Treasurer with details of all emoluments drawn by me between the 15th January and the 25th February, 1922.

I have the honour to be,

Sir,

Your obedient servant

Lands Commissioner.

G.B. Smith-Rewse, Esq.,

First District Officer.



GILBERT AND ELLICE ISLANDS COLONY.

Native Lands Commission,

Betio, Tarawa, 24 August, 1923.

Lands.

No. 6/1923.

Sir,

I have the honour to acknowledge receipt up to date of two cases containing loose sheets of the Lands Register, and one case containing bound volumes of the same.

I have the honour to be,

Sir,

Your obedient servant

Lands Commissioner.

H. B. M's Resident Commissioner,

OCEAN ISLAND.

GILBERT AND ELLICE ISLANDS COLONY.

Betio, Tarawa, 30th April, 1923.

Lands

No. 4 of 1923.

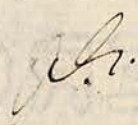
Sir,

I have the honour to attach for your consideration copy of a letter which I have addressed to the Treasurer, on the subject of the responsibility for a shortage of £2.5.0 in the Abemama Stamp Stock.

I have the honour to be,

Sir,

Your obedient servant


Lands Commissioner

H. B. M's Resident Commissioner,

OCEAN ISLAND.

GILBERT AND ELLICE ISLANDS COLONY.

Betio, Tarawa, 30th April, 1923.

Lands.

No. 3 of 1923.

Sir,

I have the honour to acknowledge receipt of your memorandum of the 5th March, forwarded under cover of G. C. G. No. 15 of the 2nd March, on the subject of the freight paid on mails carried from Ocean Island to Tarawa and Honolulu by s.s. "Crosshill" in July of last year.

2. I should certainly of my own accord never have taken any interest whatever in the mails carried from Ocean Island: the matter was intruded upon my notice by a remark of Mr. Forbes, the Acting Chief Postmaster, who said that he supposed that I should have to arrange for payment with the Master of the "Crosshill", and added the further information that the rate was 1/2 a pound.

3. Again I should have entirely forgotten the mails, had not the Master of the vessel raised the matter en route to Tarawa. I then referred it to you, repeating the information volunteered by Mr. Forbes, and you authorised me to proceed with payment.

4. I respectfully plead guilty of the carelessness of accepting without question the information furnished by the Postal Department on Ocean Island; but I submit that it was not unnatural to assume that the source was reliable. If Mr. Forbes was familiar with the explicit instructions laid down about payment for mails, referred to in paragraph 6 of G.C.G.No. 15, he gave no sign of his familiarity in my presence.

I have the honour to be,
Sir,
Your obedient servant

(sd) Arthur Smith,
Lands Commissioner.

H. B. M's Resident Commissioner,
OCEAN ISLAND.

NATIVE LANDS COMMISSION,
Butaritari Island,
23 December, 1922.

Lands.
No. 12/1922.

Sir,

I have the honour to report that information from the High Commissioner's office is sought respecting Butaritari Land Claims Nos. 165, 197, 198, and 204.

2. The claimant is Nei Taateke, the widow of the late Robert Capelle, trader of Butaritari; the lands in dispute are named Teniba-ni-bure, Toa-n-eita, Te-bono-bono, and Aan-taai. The present occupant of these lands is Nan Tetika and his family.

3. Nan Tetika's family is the hereditary owner of the land, but the widow Taateke claims that her late husband bought it for the sum of 50 dollars in 1892. A formal deed of sale was drawn up and completed in the presence of Captain Davis of the "Royalist", who said that he would deposit it in Suva.

4. May I respectfully ask that you will cause enquiries to be made in the High Commissioner's office, whether the alleged deed of sale is still on record.

I have the honour to be,
Sir,

Your obedient servant

(Sd) A. Grunthe,

Lands Commissioner.

H. B. M's Resident Commissioner,
Gilbert and Ellice Islands Colony,
OCEAN ISLAND.

NATIVE LANDS COMMISSION.

Butaritari,

4th December, 1922.

Lands

No. 11/1922.

Sir,

I have the honour to attach hereto a return of the tax copra picked up during October and November last by Messrs. On Chong and Company.

2. Owing to poorness of crops the islands were told at the beginning of the year that their school levy need not be ready until January or February next. There is a balance of the levy of 58½ tons, to be collected by then.

3. Tax outstanding is 2½ tons, of which 18½ are now ready to be picked up by "Alexa". The fines imposed upon Butaritari and Makin will also be ready for this vessel.

I have the honour to be,

Sir,

Your obedient servant

Lands Commissioner.

H.B.M's Resident Commissioner,
Ocean Island.

TAX PROPER

SCHOOL LEVY

Island	Tax due	Collected	Still due	Levy due	Collected	Still due
Butaritari	52 tons	33½ tons	18½ tons	13 tons	N11	13 tons
Makin	18	18	. N11	4½	N11	4½
Marakei	37	36½	½ ton	9½	N11	9½
Abaiang	37	34½	2½	9½	N11	9½
Tarawa	37	37	. N11	9½	N11	9½
Maiana	21	21	. N11	5½	N11	5½
Abemama	53	53	. N11	13½	14 tons	. N11
Kuria	13	13	. N11	3½	3½	. N11
Aranuka	16	16	. N11	4	4	. N11
Nonouti	44	44	. N11	11	11	. N11
Tabiteuea	55½	55½	. N11	15	15	. N11
Beru	29	29	. N11	7½	7½	. N11
Nikunau	35	35	. N11	8½	8½	. N11
Onotoa	20	20	. N11	5	. N11	5 tons
Tamana	16	16	. N11	4	2½ tons	1½
Arorae	15	15	. N11	3½	2½	1½
	498½ tons	477½ tons	21 tons	125½ tons	67½ tons	58½ tons
PLUS -						
Butaritari, fine imposed on island by Mr. Anderson	20 tons	N11	20 tons			
Makin, ditto	5	2½ N11	5½			
	523½ tons	479½ tons	45½ tons			

The tax due from Tabiteuea this year is stated by Mr. Baverstock, to be 4½ tons less than last year, as last year's tax was 4½ tons over weight.

NATIVE LANDS COMMISSION,
Butaritari, 27 November, 1922.

Lands

No. 10, 1122

Sir,

In September, 1919, while at Tarawa, I sent £5 worth of stamps each to the Native Governments of Tabiteuea and Abemara. As I was myself obliged to go to Arorua, I had to ask the Scribes to hand the money and signed vouchers to one of Messrs. Burns, Philp's supercargoes. This they did. But the supercargo omitted to bring the money to me.

I am therefore indebted to the Government in the sum of ten pounds, for which amount I have the pleasure of forwarding you a cheque.

A note referring to this matter will, I think, be found on my last Abemara cash abstract for the year 1920.

I have the honour to be,

Sir,

Your obedient servant

Lands Commissioner.

The Acting Treasurer,

OCEAN ISLAND.

NATIVE LANDS COMMISSION,

Butaritari, 27 November, 1932.

Lands.

No. 2/1932.

Sir,

I have the honour to inform you that in November, 1932, the Chief Postmaster forwarded to the Postmaster, Abemama, per registered packet No. 5761 Ocean Island, forty sheets of 1d War Tax stamps, value £20. The Stamp Requisition accompanying these stamps was numbered 136/10.

2. There was no District Officer at Abemama when the stamps arrived; no acknowledgment was therefore received at Ocean Island. The stamps have remained at Abemama until lately.

3. I have now removed the stamps from the Abemama district and have handed them over to Mr. Methven, who has taken them into his stock and signed the receipt on the accompanying Requisition. I have taken this action at the request of Mr. Bentley.

I have the honour to be,

Sir,

Your obedient servant.

Lands Commissioner.

The Acting Treasurer,

OCEAN ISLAND.

NATIVE LANDS DEPARTMENT.

Betio, T A R A W A,

25 October, 1922.

Lands.

No. 7 of 1922.

Sir,

I have the honour to report ad interim on the progress of Tax Copra collection by Messrs. On, Chong and Company, for the financial year 1922-1923.

2. Six islands have at present been visited; the following amounts have been collected:-

Tarawa	Tax:	37 tons	School Levy:	Nil	Total	37 t.
Maiana	"	21 "	" "	Nil	"	21 t.
Abemama	"	53 "	" "	14 t.	"	67 t.
Kuria	"	13 "	" "	3½ t.	"	16½ t.
Aranuka	"	16 "	" "	4	"	20 t.
Nonouti	"	44 "	" "	11 t.	"	55 t.

Gross total to date 216½ t.

3. Owing to poorness of crops, some of the islands have been unable to collect the School Levy for immediate delivery. The High Commissioner was informed early in the year of this possible eventuality, and replied by telegraph that the natives might be given until January to collect the Levy, provided that it be brought to account within the current financial year. In spite of this, however, it is probable that most of the southern islands will have the whole amount ready for picking up during the course of this month.

I have the honour to be, Sir,

Your obedient servant

H.B.M.'s Resident Commissioner,

Gilbert and Ellice Islands Colony,
TARAWA.

(Sd) Arthur S. S. S.
Tax Copra Officer.

By Sec,

Mr. DeCham spoke to me on the subject of (11).

2. It is clear from the correspondence here that the "style", His Honor, is strictly to be used as a prefix to the Resident Commissioner.

3. As regards Mr. DeCham's enquiry, I may say that the only information available for forming a reply is that to be found under heading Part IV of Col. Regulations. A Governor is styled 'His Excellency' while actually administering a government - i.e. the proper address is His Excellency the Governor. - I, for example, am in no sense entitled to be addressed His Excellency Sir Eyre Hutton - If so styled it is of course merely & I could take no exception a title if not so styled. - Similarly, I claim that Res Coms cannot claim to be addressed personally as 'His Honor'; but there can be no objection to their being so addressed & I shall personally do so in the future.

(H.M.) E.H.
8725

GILBERT AND ELLICE ISLANDS COLONY.

No. 4 of 1941.



[L.S.]

H. C. LUKE,

High Commissioner.

26th June, 1941.

AN ORDINANCE

TO PROVIDE FOR THE ADMINISTRATION BY NATIVE GOVERNMENTS OF NATIVE AFFAIRS IN THE GILBERT AND ELLICE ISLANDS COLONY.

[19]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited as the Native Governments Ordinance 1941. SHORT TITLE.

2. The provisions of this Ordinance shall apply to natives residing in the Gilbert Islands, the Ellice Islands, the Phoenix Islands, Ocean Island, and such other islands in the Colony as the High Commissioner may by Proclamation direct. APPLICATION.

3. This Ordinance shall have effect from such day after its approval by the Native Governments as shall be fixed by the High Commissioner by notice in the Gazette. COMMENCEMENT.

PART I.—CONSTITUTION.

(A) OFFICERS OF THE NATIVE GOVERNMENT.

4.—(1) In each island there shall be the following officers of the Native Government, the Magistrate, Chief of Kaubure, Kaubure, Scribe, Chief of District Police, District Police, Warder and Wardress. OFFICERS OF THE NATIVE GOVERNMENT.

(2) The "Magistrate" shall supervise all other officers of the Native Government for whose good work and behaviour he shall be responsible. He shall also preside over the Native Court, the Island Council, and the Lands Court. MAGISTRATE.

(3) The "Chief of Kaubure" shall be the officer next in precedence after the Magistrate. He shall be responsible for the enforcement of the Native Laws and the Island Regulations and for the work and efficiency of the Kaubure and shall make regular tours of the island in which he is appointed. In the event of the Magistrate's illness or absence from any other cause, the Chief of Kaubure shall act in the office of Magistrate until the Magistrate returns to duty. CHIEF OF KAUBURE.

(4) The "Scribe" shall be responsible for the registration of births, deaths, marriages and adoptions; the keeping of all Native Government books; and the performance of all necessary clerical work including the recording of the proper minutes of all cases SCRIBE.

heard in the Native Court and the Lands Court, and for the transmission to the Administrative Officer in charge of the district of all returns as the latter may direct. He shall also be responsible for the custody, collection and payment of all Government moneys.

CHIEF OF
DISTRICT
POLICE.

(5) The "Chief of District Police" shall be responsible for the maintenance of peace and good order in the island to which he is appointed, the work, discipline and efficiency of the District Police and the supervision of the Island Prisons, including the work of prison officers and prisoners. It shall also be his duty to prosecute before the Native Court in all cases brought by the Crown.

KAUBURE.

(6) The "Kaubure" shall be those natives elected in respect of each village district in each island, the number to be elected in respect of any village district being fixed by the Administrative Officer of the District. All men and women over the age of thirty years shall have the right to vote in the election of the Kaubure of the village district in which they habitually reside. The Kaubure shall automatically retire after three years service but may offer themselves for re-election. Their functions shall include the representation at the sessions of the Island Council of the interests of their village district, the enforcement of the Native Laws and Island Regulations within their village district and the supervision of the work of the District Police. They shall advise the Chief of District Police in all cases brought before the Native Court from their village districts, and in all other cases shall act as jurors in the Native Court.

DISTRICT
POLICE.

(7) The "District Police" shall consist of officers appointed by a majority vote of the Island Council, the number appointed in respect of each village district being fixed by the Administrative Officer of the District. Their functions shall include the maintenance of peace and good order within their village districts, the execution of instructions of the Chief of District Police and of the Kaubure of their village district with regard to the enforcement of the Native Laws and Island Regulations within such village district. They shall be responsible for the attendance at the proper time of all witnesses or other natives required by the Native Court, the Island Council or the Lands Court who reside in their village district. They shall also be required to perform routine duties on the Government station.

WARDER.

(8) The "Warder" shall be responsible for the custody of all male prisoners, the supervision of their work and the cleanliness of all such prisoners and of the prison.

WARDRESS.

(9) The "Wardress" shall be responsible for the custody of all female prisoners, the supervision of their work and the cleanliness of all such prisoners and of the prison.

(B) THE HIGH CHIEF.

HIGH CHIEF.

5. The "High Chief" means the recognized paramount Chief of any island in the Gilbert Group succeeding to that title in accordance with the custom of the island, such succession to be subject to the approval of the Resident Commissioner who shall have power to alter the succession if he shall think fit. The High Chief shall not by virtue of his rank be an officer of the Native Government but on all ceremonial occasions he may sit at the right hand of the Native Magistrate. He shall be entitled to attend all sessions of the Island Council and to speak and vote at such sessions.

(C) APPOINTMENT AND DISMISSAL OF OFFICERS.

APPOINTMENT
OF OFFICERS.

6.—(1) Appointments to the posts of Magistrate, Chief of Kaubure, Scribe and Chief of District Police shall be made by the Administrative Officer in charge of the District: Provided that in the case of the Magistrate the appointment shall be subject to the approval of the Resident Commissioner. All such appointments shall be for a probationary period of two years in the first instance.

(2) In the event of a temporary vacancy in the office of Chief of Kaubure, Scribe, or Chief of District Police, whether due to illness or any other cause, the Magistrate shall appoint a person to act for the duration of the vacancy.

(3) Appointments of Kaubure shall be made in accordance with the provisions of section 4 subsection (6) of this Ordinance and shall be subject to the approval of the Administrative Officer of the District.

(4) Appointments of officers of District Police, Warder and Wardress shall be made by the Island Council in accordance with the provisions of subsections (7), (8) and (9) of section 4 of this Ordinance and shall be subject to the approval of the Administrative Officer of the District.

(5) All provisional appointments made by the Island Council shall be immediately notified in writing to the Administrative Officer of the District.

7.—(1) Complaints of misconduct or neglect of duty on the part of officers except the Magistrate shall be heard by the Island Council, which may suspend or dismiss the officer concerned; subject in the case of dismissal of the Chief of Kaubure, the Scribe or the Chief of District Police to the approval of the Administrative Officer.

SUSPENSION AND DISMISSAL OF OFFICERS.

(2) Complaints of misconduct or neglect of duty on the part of the Magistrate shall be heard by the Administrative Officer of the District who may suspend or dismiss the Magistrate, subject in the case of dismissal to the approval of the Resident Commissioner.

(D) THE NATIVE COURT.

8. There is hereby established in each island a Native Court which shall consist of the Magistrate, the Chief of Kaubure and not less than four Kaubure.

COMPOSITION OF THE COURT.

9.—(1) A session of the Native Court shall be held in each month commencing on the first Wednesday.

SESSIONS OF THE NATIVE COURT.

(2) All cases set down for hearing at any session shall, if possible, be concluded at that session.

10. A special session of the Native Court may be held at any time should the Magistrate consider it desirable.

SPECIAL SESSIONS.

11.—(1) The sole duties of the Native Court shall be to hear and adjudicate cases brought before it by members of the public or by the Chief of District Police on behalf of the Crown. No other work shall be dealt with during the sessions of the Court.

FUNCTIONS OF THE NATIVE COURT.

(2) The jurisdiction of the Court shall be confined to dealing with those offences punishable under this Ordinance and under Island Regulations, to the hearing of civil actions, bastardy cases, and petitions for divorce brought under Part IV. of this Ordinance, and to the exercise of those powers conferred on the Court by the provisions of Part V. of this Ordinance.

LIMITATION OF JURISDICTION.

(E) THE ISLAND COUNCIL.

12.—(1) There is hereby established in each island an Island Council, which shall consist of the Magistrate, the High Chief, the Chief of Kaubure, the Scribe, the Chief of District Police, the Kaubure, the senior native member of the Medical Department resident in the island, and Native members elected in accordance with the provisions of subsection (2) of this section and not exceeding in number half the total number of Kaubure appointed in respect of the island.

ESTABLISHMENT AND COMPOSITION OF THE ISLAND COUNCIL.

(2) A Native Member of the Island Council shall be elected in respect of each electoral district in each island, the boundaries of the electoral districts being fixed by the Administrative Officer of the District. The Native Members of the Island Council may be either men or women; and all men and women over the age of thirty years shall have the right to vote in the election of the native

member for the electoral district in which they habitually reside. The Native Members of the Island Council shall automatically retire annually but may offer themselves for re-election.

SESSIONS OF
THE ISLAND
COUNCIL.

13. A session of the Island Council shall be held in each month commencing on the day succeeding the conclusion of the monthly session of the Native Court. Members of the public shall not be admitted to such sessions except at the express invitation of the Council.

POWER OF
ISLAND
COUNCIL TO
CONSIDER
REPORTS.

14. The Island Council shall consider reports made to it by members of the Council relating to the peace, order and good government of the people in the island.

POWER OF
ISLAND
COUNCIL TO
TAKE DISCIPLIN-
ARY ACTION.

15. The Island Council shall hear complaints of misconduct or neglect of duty on the part of all officers other than the Magistrate, and may suspend or dismiss the officer concerned subject to the provisions of sections 6 and 7 of this Ordinance.

POWER TO
MAKE ISLAND
REGULATIONS.

16.—(1) The Island Council may enact, amend or repeal Island Regulations relating to any of the following matters—

- (a) the keeping clean of the island and the promotion of public health;
- (b) the maintenance of peace, order and public safety;
- (c) the social and economic betterment of the native population;
- (d) the performance of communal works and other communal activities;
- (e) the control of livestock;
- (f) the prevention or removal of public nuisances;
- (g) the care of children and aged persons;
- (h) the conservation of food supplies;
- (i) fishing and fishing rights;
- (j) the island hospitals, prisons and schools; and
- (k) the promotion of the general welfare of the native inhabitants.

The enactment, amendment or repeal of all such Regulations shall be subject to the prior approval of the Resident Commissioner.

PENALTIES.

(2) The penalties imposed under such Regulations shall not exceed a fine of ten shillings nor a term of imprisonment in excess of one month.

BRINGING INTO
FORCE OF
REGULATIONS.

(3) No new Island Regulation shall be enforceable in any island until it shall have been published and exhibited outside the office of the Scribe in that island.

(F) THE LANDS COURT.

ESTABLISHMENT
AND COMPOSITION
OF
LANDS COURT.

17. There is hereby established in each island a Lands Court, which shall consist of the Magistrate who shall preside, the Chief of Kaubure, the Scribe, not more than one-third of the total number of Kaubure appointed in rotation by the Magistrate, and the native members of the Lands Commission appointed in respect of each island under section 4 of the Gilbert and Ellice Islands Native Lands Ordinance 1922.

SESSIONS OF
THE LANDS
COURT.

18. A session of the Lands Court shall be held in each month commencing on the day succeeding the conclusion of the monthly session of the Island Council.

FUNCTIONS OF
THE LANDS
COURT.

19. The Lands Court shall hear and adjudicate all native land cases brought before it by natives. It shall endeavour to effect a settlement or compromise between the parties to the dispute, and if successful shall cause the terms of the settlement or compromise effected to be recorded in the minutes of the Court. On the next visit of the Native Lands Commission to the island the settlement or compromise shall be recorded by the Commission under section 7 (4) of the Gilbert and Ellice Native Lands Ordinance 1922 and every such record by the Commission shall have the full force and effect of the provisions of the said Ordinance. In cases in which

the Court is unsuccessful in effecting a settlement or compromise the decision of the Court shall be recorded by the Scribe and shall be subject to an appeal to the Native Lands Commission. Every such appeal shall be made within six months of the recording of the decision of the Court which period may be extended by the Commission on sufficient cause therefor being shown. On the hearing of any such appeal the Commission shall proceed in accordance with the provisions of the Gilbert and Ellice Native Lands Ordinance 1922 as if a claim had been recorded under section 7 (2) of the said Ordinance.

20. In all native land cases the claimants shall be present throughout the hearing of the case. The claimants shall be heard in the order which the Court in its discretion may decide. Each claimant and his witnesses shall give evidence as in civil proceedings before the Native Court and the procedure shall be the same as in such civil proceedings. The decision shall be given by the Magistrate after consultation with the other members of the Court. In giving his decision the Magistrate shall not be bound to conform to the opinion of the other members of the Court.

PROCEDURE
IN LAND
CASES.

21. The provisions of sections 17 to 20 inclusive are in addition to and not in derogation of the provisions of the Gilbert and Ellice Native Lands Ordinance 1922.

SAVING.

PART II.—PROCEDURE IN THE NATIVE COURT.

22. In so far as circumstances permit a list of all cases to be heard by the Native Court shall be prepared before each session by the Scribe. Except for good reasons the Court shall not however refuse to adjudicate in any case on the ground that it is not recorded in the list for that session.

LIST OF CASES.

23. Any person appearing before a Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form, or with the ceremony, that he declares to be binding on his conscience.

EXAMINATION
ON OATH.

24. The following procedure shall be observed by Native Courts in all criminal cases:—

CRIMINAL
PROCEDURE.

- (a) the accused shall be present throughout the trial;
- (b) the charge and the relevant Native Law or Island Regulation shall be read over to the accused at the commencement of the trial. The accused shall then plead "guilty" or "not guilty" to the charge;
- (c) the Native Court shall first hear the evidence of the prosecutor followed by his witnesses and shall then proceed to hear the evidence of the accused and of any witnesses whom he may desire to call;
- (d) after the prosecutor has given evidence the accused shall be entitled to ask him through the Magistrate any questions bearing on the case. Similarly the accused may ask questions of any witness for the prosecution after the latter has given evidence, and the prosecutor may ask questions of the accused or any witness called by the accused;
- (e) the Magistrate may ask any questions at any stage of the proceedings, and may recall and question the prosecutor or any witness at any stage of the proceedings;
- (f) after hearing all the evidence both for the prosecution and for the defence the Chief of Kaubure shall pronounce the verdict in accordance with the vote of the Kaubure present at the trial: Provided that a verdict of guilty shall be pronounced in a case of murder only on the unani-

PRESENCE OF
ACCUSED.CHARGE
AND PLEA.HEARING OF
EVIDENCE.CROSS
EXAMINATION.

VERDICT.

- mous vote of the Kaubure that the accused is guilty, and in all other cases on the vote to that effect of not less than three-quarters of the Kaubure present;
- SENTENCE.** (g) the Magistrate shall in each case in which the accused is adjudged to be guilty pronounce the sentence which shall be in strict accordance with the law;
- ATTENDANCE OF PUBLIC.** (h) the Court shall be an open Court to the native public who shall have the right to attend in so far as the accommodation of the Court building permits. No European, with the exception of the Resident Commissioner or an Administrative Officer, shall be permitted to attend the sessions of the Court other than as a witness.
- SPECIAL PROCEDURE IN MURDER TRIALS.** 25. In every case of murder the Native Court shall consist of the Magistrate and at least twelve Kaubure. Should there not be twelve Kaubure available in the island, or should it appear advisable to the Magistrate that any of the available Kaubure should not take part in the proceedings, the balance shall be made up of natives of good repute who shall be deemed Kaubure for such proceedings. The Court thus constituted shall hold a preliminary enquiry and shall have power to commit the accused for trial before the Court in the presence of a Deputy Commissioner for the Western Pacific.
- ATTEMPTED CRIMES.** 26. Every attempt to commit a crime shall be punishable in a similar manner as if such crime had been committed, except that in the case of attempted murder the punishment shall be imprisonment for a term not exceeding fifteen years, and every sentence for attempted murder shall be subject to the approval of the High Commissioner.
- INSTIGATING, AIDING AND ABETTING.** 27. Any native who on conviction shall be found guilty of instigating or aiding and abetting the commission of any crime shall be punishable in a similar manner as if he had committed such crime.
- REVIEW OF SENTENCES.** 28. The Resident Commissioner or an Administrative Officer in his behalf may review any sentence imposed by a Native Court and may suspend, reduce, annul or otherwise modify such sentence or substitute for such sentence, any sentence which the Native Court could itself have passed.
- PROBATION OF OFFENDERS.** 29. The Native Court may, in lieu of any other punishment, make an order placing an offender under the supervision of a probation officer or any other suitable person chosen by the Court for that purpose for a period not exceeding three years and attach such conditions to the order as the Court may think fit. In the event of the offender's failure to comply with the order or of the commission of a further offence during the period of supervision, he shall appear before the Court and may be sentenced in respect of the first offence; and any sentence then passed upon him shall be in addition to any sentence imposed on him in respect of such further offence.
- TREATMENT OF FEMALE OFFENDERS.** 30. Females shall be subject to the same punishment as males, except that they shall not be flogged, nor if disobedient or violent shall they be separately confined for a longer period than twenty-four hours save with the prior approval of a Deputy Commissioner.
- TREATMENT OF JUVENILE OFFENDERS.** 31. Juvenile offenders shall be divided into two classes, namely those under the age of fourteen years and those fourteen years of age and upwards and under the age of seventeen years, and the treatment of such offenders shall be as follows:—
- (a) in no circumstances may a juvenile offender under the age of fourteen years be sentenced to imprisonment by the Native Court;
- (b) the mode of punishment of juvenile offenders under the age of fourteen years shall, except in cases of breaches of Island Regulations, where the method of procedure is already prescribed, be as follows:—
- JUVENILE OFFENDERS UNDER FOURTEEN YEARS OF AGE.**

- (i) in every first offence and of small import the Native Court may if it think fit dismiss the charge and discharge the offender with a caution as to his future behaviour; DISCHARGE OF OFFENDER.
- (ii) in every case in which the Native Court does not consider that a caution would be a sufficient correction it may order the offender to be caned by the father or guardian of the child in the presence of an officer of the Native Government. The sentence shall specify the number of strokes which shall not exceed six; CANING.
- (iii) alternatively the Native Court may in its discretion impose a fine not exceeding ten shillings upon the parents or guardians of the offender if it is of the opinion that the said parents or guardians are wholly or partly responsible for the offender's commission of the offence by neglecting to exercise due care or parental authority over the offender; FINING OF PARENTS OR GUARDIANS.
- (c) the mode of punishment of juvenile offenders fourteen years of age and upwards and under the age of seventeen years shall be as follows:—
- (i) the imposition on the juvenile offender of a fine as allowed by law: but not exceeding the sum of ten shillings; or JUVENILE OFFENDERS BETWEEN THE AGES OF FOURTEEN AND SEVENTEEN YEARS. FINING OF JUVENILE OFFENDERS.
- (ii) the imposition on the parents or guardians of the juvenile offender concerned of a fine as allowed by law, but not exceeding the sum of ten shillings, if the Native Court is of the opinion that the said parents or guardians are wholly or partly responsible for the offender's commission of the offence by neglecting to exercise due care or parental authority over the offender; or FINING OF PARENTS OR GUARDIANS.
- (iii) the Native Court may if it shall think fit, without proceeding to conviction, order that a juvenile offender of this class shall be discharged on condition that either the offender himself or his parents or guardians give security in a sum of not more than one pound for his future good behaviour for any period not exceeding two years. In the event of the commission of a further offence the sum so entered into as security shall be forfeited to the Crown, and the offender shall appear before the Native Court to be tried for and receive sentence in respect of his first offence in addition to any sentence which the Court may see fit to impose on him in respect of his second offence; SECURITY FOR GOOD BEHAVIOUR.
- (iv) alternatively the Native Court may order that such offender shall be caned by his parents or guardians in the presence of an officer of the Native Government. The sentence shall specify the number of strokes which shall not exceed ten; CANING
- (v) if in the opinion of the Native Court the offender is of such a bad character that it does not consider that any of the punishments set forth in the four preceding paragraphs will prove a sufficient deterrent or punishment the offender may be sentenced to a term of imprisonment not exceeding one month; IMPRISONMENT
- (d) in cases in which a juvenile offender is charged with the commission of any offence before the Native Court his parents or guardians shall be required to attend at the Court for the hearing of the case; ATTENDANCE OF PARENTS OR GUARDIANS IN COURT.

SERIOUS
CRIMES.

- (e) in cases in which a juvenile offender is charged before the Native Court with the commission of any serious crime the parents or guardians of the offender shall be held responsible for his custody and good behaviour pending the arrival of an Administrative Officer who shall attend the Court during the hearing of the case.

PROCEDURE
IN CIVIL
ACTIONS.

32. The following procedure shall be observed by Native Courts in all civil actions:—

ATTENDANCE
OF PARTIES.

- (a) no action shall be heard unless both the plaintiff and defendant are present;

CLAIM.
HEARING OF
EVIDENCE.

- (b) the claim shall be read out to the defendant;
(c) the Native Court shall first hear the evidence of the plaintiff followed by his witnesses, and shall then proceed to hear the evidence of the defendant followed by his witnesses;

CROSS
EXAMINATION.

- (d) after each party to the action has given evidence the opposite party shall be entitled to ask through the Magistrate any questions bearing on the evidence given. Similarly each party may ask questions of any witness for the other party after the latter has given evidence. The Magistrate may ask any questions at any stage of the proceedings, and may recall and question either party or any witness at any stage of the proceedings;

JUDGMENT.

- (e) after hearing all the evidence given by and on behalf of both parties the Chief of Kaubure shall give the opinion of the Kaubure which shall be by a majority vote of all the Kaubure assembled in Court. In the event of an equal division of opinion amongst the Kaubure the Magistrate shall give the casting vote. The judgment so arrived at shall be pronounced in open Court by the Magistrate and shall be entered by the Scribe in the Court minutes;

AWARD.

- (f) in every case in which the Kaubure decide that there shall be an award of compensation, damages or land, the Magistrate shall decide the amount of the award;

ATTENDANCE
OF PUBLIC.

- (g) the Court shall be an open Court to the native public who shall have the right to attend in so far as the accommodation of the Court building permits. No European, with the exception of the Resident Commissioner or an Administrative Officer, shall be permitted to attend the sessions of the Court other than as a witness in which case an administrative officer shall also be present.

PART III.—CRIMINAL LAW.

HOMICIDE.
LAW NO. 1.

33.—(1) The punishment for wilfully taking the life of another is death.

(2) The taking of life of another if done without wilful intent shall be punishable with imprisonment for a term not exceeding ten years unless the taking was accidental or with lawful excuse.

(3) A sentence of death passed under subsection (1) of this section shall not be carried into effect without the authority of the High Commissioner for the Western Pacific.

RAPE.
LAW NO. 2.

34. Any male native who shall have connection by force with any female shall on conviction be liable to a term of imprisonment not exceeding ten years.

UNLAWFUL
CARNAL
KNOWLEDGE.
LAW NO. 3.

35. Any male native who shall have carnal knowledge of any female under the age of thirteen years shall on conviction be liable to a term of imprisonment not exceeding ten years.

INCEST
LAW NO. 4.

36. Any native who shall have carnal knowledge of any collateral either by blood or adoption up to and including the second degree of cousinship shall on conviction be liable to a term of imprisonment not exceeding five years: Provided that the provisions of this section shall not apply to unions between first and second cousins who are members of the families of High Chiefs.

37.—(1) Every native who shall unlawfully assault or beat any other person shall upon complaint by or on behalf of the party aggrieved and on conviction be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five pounds.

ASSAULT.
LAW NO. 5.

(2) If the assault is of such an aggravated nature, either by reason of the youth, condition or sex of the person assaulted or by reason of the nature of the weapon used or the violence with which the assault has been committed, that in the opinion of the Court it cannot be sufficiently punished under the preceding subsection the accused shall on conviction be liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty pounds.

38. Any native who performs any magic ritual which may cause harm to any other person or his property shall on conviction be liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty pounds.

SORCERY.
LAW NO. 6.

39.—(1) Any native who upon the complaint of the husband is found guilty of adultery with the wife of that husband shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five pounds.

ADULTERY.
LAW NO. 7.

(2) Any husband who on the complaint of his wife is found guilty of adultery shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five pounds.

(3) Any wife who upon the complaint of her husband is found guilty of adultery shall on conviction be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five pounds.

(4) It shall be lawful in the absence of a husband or of a wife as the case may be from the island in which the adultery is alleged to have been committed for a person authorised in writing by the absent party to institute and prosecute proceedings under the provisions of this section.

40. Any native who uses threatening or abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be or has been occasioned shall on conviction be liable to pay a fine not exceeding twenty shillings and in default of payment to imprisonment for a term not exceeding one month.

THREATENING,
ABUSIVE OR
INSULTING
BEHAVIOUR.
LAW NO. 8.

41. Any native who shall spread a false report whereby a breach of the peace may be or has been occasioned shall on conviction be liable to imprisonment for a term not exceeding six months.

FALSE REPORTS.
LAW NO. 9.

42.—(1) Any native who shall be found guilty of theft shall be liable to imprisonment for a term not exceeding twelve months.

THEFT.
LAW NO. 10.

(2) All stolen goods recovered shall be returned to the owner.

43.—(1) Any native who shall unlawfully and maliciously damage any real or personal property whatsoever of a public or private nature for which no punishment is otherwise provided shall on conviction be liable to imprisonment for a term not exceeding twelve months: Provided that the above provision shall not extend to any case in which the native complained against shall have acted under a bona fide claim of right.

DAMAGE TO
PROPERTY.
LAW NO. 11.

(2) In any conviction under subsection (1) of this section the Court may order the accused to pay compensation not exceeding twenty pounds to the injured party, which may be enforced if necessary by seizure and sale of the goods of the accused to the amount of the order.

44.—(1) Any native who carelessly or improperly carries or uses any fire shall be liable on conviction to a fine not exceeding twenty shillings.

CARELESS USE
OF FIRE.
LAW NO. 12.

(2) Any native who, by his negligence, causes a fire shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding ten pounds.

(3) The Court shall have power to order that the whole or any part of a fine shall be paid to the owners of any property destroyed.

TRESPASS.
LAW NO. 13.

45. Any native who shall unlawfully persist in wandering or remaining upon any land or premises after having been warned not to come thereon or to depart therefrom shall on conviction be liable to imprisonment for a term not exceeding one month or to a fine not exceeding twenty shillings.

DRINKING AND
POSSESSION OF
SOUR TODDY.
LAW NO. 14.

46.—(1) Any native who not being in possession of a licence exempting him from the provisions of any or all of this subsection shall on conviction be found guilty of drinking or possessing sour toddy or any imported spirituous or fermented liquor shall be liable to a fine not exceeding five pounds.

(2) Any native who shall on conviction be found guilty of being drunk and disorderly shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding ten pounds.

GAMBLING.
LAW NO. 15.

47. Any native who on conviction shall be found guilty of playing any game of chance for money or for valuable property or for anything representing money or valuable property shall be liable to a fine not exceeding fifty shillings or in default of payment to imprisonment for a term not exceeding two months.

ESCAPE FROM
PRISON.
LAW NO. 16.

48. Any prisoner who shall escape from an island prison or from the custody of a district policeman, warder or wardress shall on conviction, be liable to imprisonment for a term not exceeding one half of the original term of imprisonment: Provided that such term shall in no case exceed six months.

PROFANATION
OF RELIGION.
LAW NO. 17.

49.—Any native who shall—

- (a) mock, insult or bring into derision by word or act any minister of any religion or superstition during the performance of any ceremony or ritual allowed by law; or
- (b) profane any place of religious worship or any place reserved for the performance of magic rituals allowed by law or behave in the vicinity of such places in such a manner as to bring into public derision the worship or rituals observed therein;

shall on conviction be liable to imprisonment for a term not exceeding six months.

PERJURY.
LAW NO. 18.

50.—(1) Any native who being a witness in a case tried by a Native Court makes a statement in evidence which he knows to be untrue or does not believe to be true with the intention of misleading the Native Court in its judgment of the case shall be guilty of perjury and liable to imprisonment for a term not exceeding twelve months.

(2) Any native who counsels or procures a witness in any case to commit perjury shall be liable to imprisonment for a term not exceeding twelve months.

CONTEMPT
OF COURT.
LAW NO. 19.

51. Any native who within or close to the building where the Native Court is sitting wilfully misbehaves in a violent, threatening or disrespectful manner to the disturbance of the Court or to the intimidation of suitors or others resorting thereto, or wilfully insults any member of the Court or any juror or any person acting as a clerk or officer of the Court during his sitting or attendance in Court or in his going to or returning from Court, or wilfully disobeys an order of the Court made in the enforcement of a Native Law or Island Regulation shall be guilty of contempt of Court and shall on conviction be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five pounds.

FINES.

52. Where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law the following provisions shall apply:—

- (a) in the case of an offence punishable with a fine or a term of imprisonment the imposition of a fine or a term of imprisonment shall be a matter for the discretion of the Court;

- (b) in the case of an offence punishable with imprisonment as well as a fine for which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with fine only in which the offender is sentenced to a fine the Court passing sentence may, in its discretion—
- (i) direct by its sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of sentence; and also
 - (ii) issue a warrant for the levy of the amount on the immovable and movable property of the offender by distress and sale under warrant: Provided that if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue a distress warrant;
- (c) the term of imprisonment ordered by a Court in respect of the non-payment of any sum of money adjudged to be paid by a conviction or in respect of the default of a sufficient distress to satisfy any such sum shall be such term as in the opinion of the Court will satisfy the justice of the case but shall not exceed in any case the maximum fixed by the following scale:—

<i>Amount.</i>	<i>Maximum period.</i>
Not exceeding 10s. 0d.	14 days
Exceeding 10s. 0d. but not exceeding £1	1 month
Exceeding £1 but not exceeding £3	3 months
Exceeding £3	6 months

- (d) the term of imprisonment which is imposed in default of payment of a fine shall, whenever a part of the fine is either paid or levied by process of law, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum bears to the sum imposed;
- (e) the Court shall in its discretion have power to allow time for the payment of any fine imposed.

PART IV.—CIVIL LAW.

53.—(1) Native Courts shall have power to adjudicate in cases of contract in which the value of the property or the debt claimed does not exceed fifty pounds. CONTRACT.

(2) No contract shall be enforceable in a Native Court unless it was made by the parties before the Native Court, signed by the parties thereto and witnessed by the Chief of Kaubure and the Scribe, and the details thereof recorded in a register kept for that purpose by the Scribe.

(3) The Native Court may—

- (a) give judgment for the amount claimed or such lesser amount as it thinks fit; or
- (b) enforce specific performance; or
- (c) award damages not exceeding the sum of twenty pounds for breach of contract, to be enforced if necessary by seizure and sale of the debtor's goods to the amount of the judgment.

BASTARDY.

54.—(1) If in any island a single woman is delivered of a bastard child the Native Court may summon before it that woman and all other such natives as it may think fit and may enquire into the paternity of the child.

(2) If after enquiry the Native Court is satisfied that any native is the father of the child it may order that such portion of any land belonging to such native as it shall think necessary for the maintenance and support of the child shall be transferred from such native to the child according to the native custom, and upon such order being made the land shall be deemed to be transferred forthwith: Provided that every such order shall be made within twelve months of the birth of any such child.

DIVORCE.

55.—(1) The Native Court shall have power to hear petitions for divorce between natives and may grant divorces: Provided that no divorce shall be valid until it has been confirmed by an Administrative Officer.

GROUNDS FOR
 DIVORCE.

(2) A petition for divorce may be presented to the Court either by the husband or the wife on the ground that the respondent—

- (a) has, since the celebration of the marriage, committed adultery; or
- (b) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition; or
- (c) has, since the celebration of the marriage, treated the petitioner with cruelty; or
- (d) has wilfully refused to consummate or is incapable of consummating the marriage; or
- (e) is certified by a European Medical Officer to be incurably of unsound mind, and has been continuously under care and treatment for a period of at least five years since the celebration of the marriage and immediately preceding the presentation of the petition; or
- (f) is certified by a European Medical Officer to have been subject during the three years previous to the presentation of the petition to recurrent fits of epilepsy; or
- (g) is certified by a European Medical Officer to be suffering from venereal disease; or
- (h) that the marriage was induced by duress or mistake; or
- (i) the parties were within the prohibited degrees of consanguinity or affinity; or
- (j) the temperaments of the parties to the marriage are incompatible.

PROCEDURE
 AND FORMS.

(3) The Resident Commissioner may from time to time prescribe the procedure to be followed and the forms to be used in divorce cases and may at any time add to such rules of procedure or forms as he may deem expedient so to do. The form contained in Schedule I to this Ordinance shall be followed and used unless and until varied amended or replaced.

CERTIFICATE.

(4) In the event of a divorce granted by a Native Court being confirmed a certificate of divorce in the form contained in Schedule II. to this Ordinance shall be issued by the officer confirming the same to the petitioner and the respondent respectively.

FEES.

(5) Every petitioner shall pay to the proper officer of the Native Court one uniform fee of five shillings in respect of each divorce petition filed and all amounts so received shall be paid over by the aforesaid officer of the Native Court to the Administrative Officer for the credit of the general revenue of the Colony.

PART V.—MISCELLANEOUS.

REGISTRATION
 OF NATIVE
 ARTS AND
 CRAFTS.

56.—(1) On the payment of a fee of five shillings the Native Court shall have power to register any design, mark, pattern, chant or other native art or craft as being the exclusive privilege of any

individual, family or clan during a period of five years from the date of registration: Provided that it shall be permissible to renew the registration of such design, mark, pattern, chant or other native art or craft for a further period or periods of five years on payment of a further fee of five shillings in respect of each such period.

(2) An Administrative Officer may at any time cancel any such registration on the ground that such registration is contrary to the public interest. On any such cancellation a proportion of the fee levied by virtue of the preceding subsection amounting to the sum of one shilling in respect of each unexpired year of the period of registration shall be returned to the individual who made payment.

(3) Any native who shall on conviction be found guilty of infringing or using without lawful excuse any design, mark, pattern, chant or other native art or craft duly registered in accordance with the provisions of subsection (1) of this section as being the exclusive privilege of any individual, family or clan shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding fifty shillings.

57.—(1) One of the parents shall report the birth of each of their children within twenty-one days after birth to the Scribe of the island in which the birth took place. REGISTRATION
OF BIRTHS
AND DEATHS.

(2) The nearest relative of a deceased native shall report the death within twenty-one days to the Scribe of the island in which the death occurred.

(3) Any native who shall contravene the provisions of any one of the two preceding subsections shall on conviction be liable to imprisonment for a term not exceeding two weeks or to a fine not exceeding ten shillings.

58.—(1) A male native shall not be permitted to marry until he shall have attained the age of eighteen years nor a female native until she shall have attained the age of sixteen years. MARRIAGE.

(2) In any case in which either party to the marriage shall be under the age of twenty-one years the prior consent of the parents or guardians of such parties to the marriage shall be necessary.

(3) A marriage shall not be performed between natives unless the contracting parties shall have given notice to the Native Court at the session prior to that at which it is proposed that the ceremony shall be performed.

(4) Every marriage between natives shall be performed by the Magistrate of the island in which one of the parties resides. It shall be an offence for the contracting parties to a marriage to undergo any other form of ceremony prior to that performed by the Magistrate.

(5) Any native shall on payment of a fee of twenty shillings be exempted from the provisions of subsection (3) of this section and may on the issue to him of a special licence by the Magistrate be married forthwith: Provided that before he issues such special licence the Magistrate shall satisfy himself that no legal hindrance or other just cause exists whereby the marriage should not take place.

(6) Subject to the provisions of subsection (5) of this section any native who shall contravene any of the provisions of this section shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five pounds.

59.—(1) No native owner of a canoe shall undertake a voyage from one island to another without first obtaining a certificate, as hereinafter provided, in respect of each such voyage, signed by the Kaubure of the village whence he is about to sail, to the effect that the Kaubure has personally inspected the canoe and has satisfied himself immediately prior to the canoe's departure that:— INTER-ISLAND
CANOE
SAILING.

- (a) the canoe is seaworthy in every respect and is properly equipped with sails, paddles, stear-oar and other serviceable gear;
- (b) there is a sufficient crew of experienced seamen and that the owner or a member of the crew is an efficient navigator;
- (c) the canoe is not overloaded; and
- (d) having regard to the number of natives travelling, there is an ample reserve of food and drinking water for the voyage which it is proposed to undertake.

(2) Any native owner who sets out on an inter-island voyage without being in possession of a Kaubure's certificate as provided for in subsection (1) of this section shall be liable on conviction to imprisonment for any term not exceeding six months.

REPEAL.

60. The Native Laws Ordinance 1917, the Native Laws Amendment (Bastardy) Ordinance 1921, the Native Laws (Divorce) Ordinance 1921, the Native Laws Amendment Ordinance 1923, the Native Laws (Divorce) Amendment Ordinance 1928 and the Native Laws Amendment Ordinance 1930 are hereby repealed.

SCHEDULES.

SCHEDULE I.

(Section 55 (3).)

NATIVE DIVORCE REGISTER..... ISLAND

Year.....

Divorce No.	Name and island of Petitioner.	Name and island of Respondent.	Name and island of Co-Respondent (if any).	Ground of Petition.	Date of Native Court's Decree.	Signature of Native Magistrate.	Date of Confirmation.	Signature and title of confirming officer.
	of	of	of					
	of	of	of					

SCHEDULE II.

(Section 55 (4).)

FORM F.

CERTIFICATE OF DIVORCE [*island*]..... No.....

Native Court at.....

The divorce of [*man*]..... and [*woman*].....

To the man.....

A decree of divorce has been pronounced between you [*man*]..... and your wife [*woman*]..... before this Court, and I [*officer's name*]..... have confirmed that decree: now therefore is dissolved the marriage between you and [*woman's name*]..... which was performed on the..... in the year 19.....

The above decree was confirmed by me this..... 19..... at.....

Witnesses.....
Native Magistrate.

Resident Commissioner or
District Officer.

Chief Kaubure.

(This form to be given to the man.)

CERTIFICATE OF DIVORCE [island]..... No.....

Native Court at.....

The divorce of [woman]..... and [man].....

To the woman.....

A decree of divorce has been pronounced between you [woman].....
and your husband [man]..... before this Court and I [officer's
name]..... have confirmed that decree: now therefore is dis-
solved the marriage between you and [man's name]..... which was
performed on the..... in the year 19.....

The above decree was confirmed by me this..... 19.....
at.....

Witnesses.....
Native Magistrate...... *Resident Commissioner or
District Officer.*

.....
*Chief Kaubure.**(This form to be given to the woman.)*

SCHEDULE III.

(Section 59.)

CERTIFICATE OF SEAWORTHINESS.

Issued by..... Kaubure at the Island of.....

This is to certify that I have this day inspected the canoe belonging
to..... in which he proposes to make a voyage to..... on
the....., 19....., and that I have satisfied myself that:—

1. The canoe is seaworthy in every respect and is properly equipped with sails, paddles, steer-oar and other serviceable gear.
2. There is a sufficient crew of experienced seamen and that the owner or a member of the crew, named..... is an efficient navigator.
3. The canoe is not over-loaded.
4. Having regard to the fact that..... natives are travelling thereon for the purpose of sailing to....., there is an ample reserve of food and drinking water for the voyage.

..... Island.
..... Date. *Signature of Kaubure.*

Note.—Any native owner who sets out on an inter-island voyage without being in possession of a Certificate in this form duly certified by the Kaubure of the village whence he is about to sail shall be liable, on conviction, to imprisonment for any term not exceeding six months.

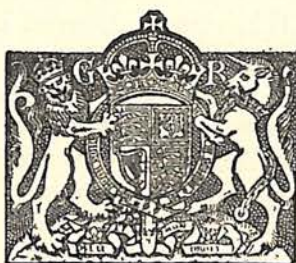
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GILBERT AND ELLICE ISLANDS COLONY.

No. 4 of 1940.



[L.S.]

H. C. LUKE,

High Commissioner.

11th March, 1940.

AN ORDINANCE

TO AMEND AND CONSOLIDATE THE LAW RELATING
TO LEASES OF NATIVE LANDS.

[11th March, 1940.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited for all purposes as the Native Lands (Leases) Ordinance, 1940. SHORT TITLE.

2. In this Ordinance—

“ native ” means any aboriginal native of any island in the Pacific Ocean and includes the descendants of any such native whether wholly or partly of native descent;

“ native land ” means land owned by a native or natives or subject to the exercise by a native or natives of customary rights of occupation, cultivation or other user;

“ non-native ” means any person other than a native.

INTERPRETATION.

3. Save as provided in this Ordinance, native land in the Colony shall not be alienated by sale, gift, lease or otherwise to a non-native: Provided that native land which is not required for the present or future support of the natives may be acquired by the Crown: And provided further that any native land may be acquired compulsorily by the Crown for public purposes.

RESTRICTION ON ALIENATION OF NATIVE LAND TO NON-NATIVES.

4. A lease of native land shall not be valid until it has received the approval of the Resident Commissioner.

LEASES OF NATIVE LAND INVALID UNTIL APPROVED BY THE RESIDENT COMMISSIONER.

5. Any non-native who desires to obtain a lease of native land shall submit such lease to the Resident Commissioner who shall make inquiry of the proposed lessor and of the native authorities of the island in which the land sought to be leased is situated. If it shall appear that such land is not the property of the proposed lessor, or that the lease has been unfairly obtained, or that the terms are manifestly to the disadvantage of the lessor, or that there will not be left sufficient land to support the lessor and his family, the Resident Commissioner shall refuse to approve of such lease;

LEASES TO NON-NATIVES.

REGISTRATION
OF LEASE.

otherwise the Resident Commissioner shall cause a copy of such lease to be entered in a book to be kept for that purpose, and shall cause an indorsement to be made upon the lease to the effect that it has been approved and registered.

LEASES TO
NATIVES.

6. Any native who desires to obtain a lease of native land shall submit such lease to the Resident Commissioner, who shall satisfy himself that such land is the property of the proposed lessor and that the terms and conditions of the lease are fair both to the lessor and the lessee and that there will be left sufficient land to support the lessor and his family; and thereupon shall cause a copy of such lease to be entered in the book kept for that purpose under section five hereof, and shall cause an indorsement to be made upon the lease to the effect that it has been approved and registered.

REGISTRATION.

TERM AND
EXTENT OF
LEASE.

7.—(1) No lease shall be granted for a longer period than ninety-nine years or, without the approval of the High Commissioner, of any parcel of land of greater extent than five acres.

TRANSFER OF
LEASE.

(2) No lease granted under the provisions of this Ordinance shall be assigned or transferred without the approval of the High Commissioner or of the Resident Commissioner. Any such assignment or transfer approved as aforesaid shall be registered in the book kept under the provisions of section five of this Ordinance.

REGISTRATION.

REGISTRATION
NOT TO BE
CONCLUSIVE
EVIDENCE OF
TITLE.

8. Registration of a lease assignment or transfer shall not be conclusive evidence of title against a person not claiming through the lessor, assignor or transferor.

FEES.

9.—(1) The several fees specified in the Schedule hereto shall be levied and paid.

POWER TO
ALTER
SCHEDULE.

(2) The High Commissioner may from time to time, by order under his hand to be published in the Gazette, alter, add to or revoke all or any of the fees specified in the said Schedule.

REPEAL OF
ORDINANCES—
NO. 16 OF 1917.
NO. 1 OF 1919.
NO. 1 OF 1928.

10. The following Ordinances are hereby repealed:—
The Native Lands Ordinance 1917;
The Native Lands (Amendment) Ordinance 1919;
The Native Lands (Amendment) Ordinance 1928.

THE SCHEDULE.

On the registration of every lease, assignment or transfer of a lease, instrument in writing or other document (other than "Phosphate Deeds") between natives and non-natives	£1	0	0
On the registration of every lease, assignment or transfer of a lease, instrument in writing or other document between natives	0	2	6
On every certified copy of any lease, assignment or transfer of a lease	0	5	0
On the registration of Phosphate Deeds or on issuing certified copies thereof (each)	0	2	6
On every certified copy of any other instrument in writing or other document, for the first five folios of 72 words each	0	5	0
On every folio or part thereof after the first five	0	0	8
On search for any specified document	0	2	6
On general search	0	5	0
On every lease prepared in which one of the parties thereto is a non-native	0	5	0
On every lease prepared in which the parties thereto are natives	0	2	6
On every duplicate or copy of such lease	0	2	0
On every plan—			
not exceeding 6 inches square	0	5	0
over 6 inches square	0	10	0

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1940.

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GILBERT AND ELLICE ISLANDS COLONY.

No. 3 of 1940.



[L.S.]

H. C. LUKE,

High Commissioner.

11th March, 1940.

AN ORDINANCE

TO PROVIDE FOR THE ASCERTAINMENT OF NATIVE
CUSTOM RELATING TO LAND.

[11th March, 1940.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited as the Native Land Codes Ordinance 1940. SHORT TITLE.
2. In this Ordinance unless the context otherwise requires— DEFINITIONS.
 - “ native ” includes an aboriginal inhabitant of any island in the Colony and a descendant of any aboriginal inhabitant, whether wholly or partly of aboriginal descent, who, according to the law and custom of the aboriginal inhabitants, is eligible to own land in the island or an interest therein;
 - “ native land ” means land owned by a native or natives or subject to the exercise by a native or natives of customary rights of occupation, cultivation or other user;
 - “ Person ” includes clan and kinship and any other social group recognized by the natives of an island or district.
3. Subject to the provisions of any Ordinance or regulation now or hereafter in force in the Colony and to section four hereof, the ownership, possession, user, alienation and inheritance of native land or any interest therein shall be governed by native custom. NATIVE LAND TO
BE GOVERNED
BY NATIVE
CUSTOM.
4. Nothing in the foregoing section shall affect in any way the validity of any licence now or hereafter granted by the Crown conferring upon any person or persons the right to carry out mining operations within the Colony. MINING LICENCES
NOT TO BE
AFFECTED
- 5.—(1) The Resident Commissioner shall cause the native custom governing the ownership, possession, user, alienation and inheritance of native land or any interest therein in each island or part of an island to be ascertained and reduced into writing in the form of a draft code of laws in the language of the said island or part thereof. DRAFT CODE
OF NATIVE
CUSTOM IN
RELATION TO
LAND TO BE
DRAWN UP

DRAFT CODE TO
BE SUBMITTED
TO NATIVE
GOVERNMENT.

(2) Every such draft code shall be submitted by the Resident Commissioner, or by such officer as the Resident Commissioner may depute, to the Native Government of such island or part thereof, for approval.

NATIVE
GOVERNMENT
MAY PROPOSE
AMENDMENTS.

(3) If a majority of the Native Government considers that the native custom relating to land is not truly or fully set out in the draft code, it shall return the draft code to the Resident Commissioner with a statement of the amendments which it considers necessary; and the Resident Commissioner shall cause the draft code to be amended accordingly.

APPROVAL BY
NATIVE
GOVERNMENT.

(4) If a majority of the Native Government considers that the native custom relating to land is truly and fully set out in the draft code, the Magistrate, the Scribe and the Chief of Kaubure shall thereupon certify the draft code as approved on behalf of the Native Government.

PUBLICATION
OF DRAFT
CODE.

6. The Resident Commissioner shall cause the draft code, with such amendments thereto (if any) as the Native Government considers to be necessary, to be published in such manner as the Resident Commissioner shall prescribe, in the island, islands or part of an island (hereinafter called "the district") to which such draft code relates: and any native of the district who within three months of such publication gives notice to the Native Government objecting that the native custom of the district is not truly or fully set out in the draft code shall be entitled to be heard (together with any witnesses whom he may desire to call) by the Native Government in the presence of the Resident Commissioner, or such officer as the Resident Commissioner may depute for the purpose; and if the native shall establish his case to the satisfaction of a majority of the Native Government, the Resident Commissioner shall cause the draft code to be amended accordingly.

OBJECTIONS TO
BE HEARD.

PROCLAMATION
OF CODE

7. At any time after the expiry of the said period of three months or the decision of the Native Government upon any objection made under section six hereof, whichever shall last happen, the High Commissioner may, by Proclamation published in the Gazette, declare a draft code, with such amendments thereto (if any) as aforesaid, to be the code of laws governing native land in the district to which it relates: and as from the date of publication thereof in the Gazette such code shall be conclusive as to the native custom governing the ownership, possession, user, alienation and inheritance of native land in such district. A copy of the code in English and in the language of the District shall be annexed to the Proclamation.

AMENDMENT
OF A CODE.

8. The Resident Commissioner, on receiving a petition signed by not less than fifty male natives of the age of sixteen years and upwards of any district requesting that the code applicable to such district be amended, shall cause the wishes of the natives of such district to be ascertained; and if he is satisfied that the amendment is desired by at least two-thirds of the male natives of or over the age of sixteen years of the district, he shall, after obtaining a certificate signed by the Magistrate, the Chief of Kaubure and the Scribe that a majority of the Native Government of the district approves of the proposed amendment, represent the matter to the High Commissioner, who may by Proclamation amend the code accordingly.

REGULATIONS.

9.—(1) The Resident Commissioner with the approval of the High Commissioner, may make regulations to give effect to the provisions of this Ordinance; and in particular (but without prejudice to the generality of the power hereinbefore given) may

prescribe procedure for—

- (a) ascertaining the native law and custom of any district;
- (b) hearing objections to a draft code;
- (c) ascertaining the opinions of the natives of a district with regard to a proposed amendment of a code.

(2) Such regulations may impose a penalty not exceeding ten pounds for any offence against the provisions thereof. PROVISION OF PENALTIES.

(3) Such regulations when approved by the High Commissioner shall be published in the Gazette and shall thereupon have the force and effect of law. REGULATIONS TO BE PUBLISHED.

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1940.

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GILBERT AND ELLICE ISLANDS COLONY.

No. 2 of 1940



[L.S.]

H. C. LUKE,

High Commissioner.

28th February, 1940.

AN ORDINANCE

TO AMEND THE GILBERT AND ELLICE NATIVE
LANDS ORDINANCE 1922.

[28th February, 1940.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited as the Native Lands (Amendment) Ordinance 1940 and shall be read and construed as one with the Gilbert and Ellice Native Lands Ordinance 1922 (hereinafter termed the Principal Ordinance).

SHORT TITLE
AND CON-
STRUCTION.
ORDINANCE
NO. 8 OF 1922.

2. Section 2 of the Principal Ordinance is hereby amended by the addition of the following definition—

AMENDMENT OF
SECTION 2 OF
ORDINANCE
NO. 8 OF 1922.

“ ‘ Chief Lands Commissioner ’ means the Lands Commissioner so designated by the High Commissioner by notice in the Gazette.”

3. Section eleven of the Principal Ordinance is hereby repealed and the following substituted therefor:—

AMENDMENT OF
SECTION 11 OF
ORDINANCE
NO. 8 OF 1922.

“ 11.—(1) Any person feeling himself aggrieved by any decision of the Commission may give notice of his desire to appeal. Such notice shall be signed by the appellant or his duly authorised agent before the Native Magistrate and lodged with the Lands Commissioner who shall without undue delay forward it to the Chief Lands Commissioner together with a copy of the record of the decision of the Commission and of the notes of evidence taken at the inquiry.

APPEALS.

(2) Every appeal against any decision of the Commission shall be heard and determined by the Chief Lands Commissioner whose decision shall be final.

(3) Except as hereinafter provided notices of appeal shall be signed before the Native Magistrate within seven days of the decision of the Commission: Provided that in the event of the person concerned being absent from the island or unable for any reason to the satisfaction of the Chief Lands Commissioner to give notice of his desire to appeal within the period hereinbefore prescribed such period shall be extended to six months which period may be farther extended by the Chief Lands Commissioner in his discretion on sufficient cause therefor being shown.

(4) There shall be no appeal from a decision of the Commission on which the Chief Lands Commissioner is one of the Lands Commissioners appointed under section three of the Principal Ordinance.

(5) The Resident Commissioner may subject to the approval of the High Commissioner make regulations for regulating the practice and procedure to be followed in the lodging and hearing of appeals and such regulations may provide for penalties not exceeding five pounds for the setting up of frivolous appeals and any other matter incidental to the decision on an appeal and may provide for the payment of costs incurred in the hearing of appeals."

Suva, Fiji: Printed by HAMISH R. CRAIGIE,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

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[Price, 1s. To be purchased from the Resident Commissioner, Ocean Island; the Secretary, Western Pacific High Commission, Suva; and Messrs. Burns, Philp & Company, Limited, Sydney.]

26X40-500

Rules

MADE BY THE HIGH COMMISSIONER UNDER THE PROVISIONS OF ORDINANCE NO. 8 OF 1922 AS AMENDED BY ORDINANCE NO. 2 OF 1927, SECTION 2 (3) REGULATING THE PRACTICE AND PROCEDURE IN CASES OF APPEALS AGAINST THE RECORD OF THE NATIVE LANDS COMMISSIONER.

Short title.

1. These Rules may be cited as the Native Lands Commission Appeal Rules, 1928.

Notice of appeal.

2. Every notice of appeal shall state in a clear and concise form the grounds of appeal together with the reasons upon which the appeal is founded and whether all or part only of the record of the Commission is complained of.

Form of Notice, &c.

3. Every such notice of appeal shall be in writing and signed by the appellant or his duly authorised agent before the native magistrate of the island and shall be given to the Lands Commissioner within three days after the public meeting at which the record was read—(cf. Ordinance No. 2 of 1927, section 2).

Service of notice.

4. A copy of the said notice shall be served on all interested parties within such time as the High Commissioner may consider reasonable having regard to local conditions.

English translation if notice in native language.

5. In the event of the notice of appeal being in the native language an English translation certified by the Lands Commissioner or other competent person should accompany the same.

Procedure.

6. Upon receipt of the notice of appeal, together with a copy of the record of the Commission and of the notes of evidence, the High Commissioner may proceed to determine the appeal in a summary manner.

When appeal will not be allowed—Claim not brought at proper time.

7. No appeal will be allowed in any case where the Lands Commission has refused to record a claim for hearing on the ground that such claim was not brought before the Commission at the proper time, provided it appear from the record of the Commission—

- (a) that full notice and opportunity were given to the appellant to bring his case before the Commission at a prescribed time; and
- (b) that the appellant thereafter failed for no good cause to present his claim at such prescribed time.

In cases of settlement.

8. No appeal will be allowed where the parties to any claim agree to a settlement or compromise in accordance with the provisions of Ordinance No. 8 of 1922, section 7 (4), unless the appellant satisfies the High Commissioner that any such settlement or compromise was obtained by misrepresentation, fraud, duress or undue influence.

Evidence of terms of settlement.

9. A certificate under the hand of the Lands Commissioner and two native members of the Lands Commission shall be deemed sufficient to prove that the record, the subject of the appeal, contains a true and correct statement of the terms of the settlement or compromise agreed upon by the appellant.

Adverse possession.

10. No appeal will be allowed in any case where it has been proved to the satisfaction of the High Commissioner that the land or any interest in the land, the subject of the appeal, has not at any time since the establishment of the Protectorate, namely, in the year 1892, been in the possession, use or enjoyment of the appellant or of the person or persons from whom the appellant claims to have received such land or interest.

Admission of further evidence, &c.

11. The High Commissioner may upon the determination of the appeal receive further evidence upon questions of fact or may remit the appeal to the Lands Commission to admit such further evidence and to adjudicate thereon.

Further evidence will be admitted only if the High Commissioner is satisfied that there has been due diligence by the party seeking to adduce it before the Lands Commission and that his failure to adduce such evidence before the Lands Commission was not due to any fault or neglect of his own; and that such evidence, if admitted, is likely to affect the record of the Lands Commission.

Powers of High Commissioner.

12. The High Commissioner may, upon the determination of the appeal, confirm, revise or modify the record of the Lands Commission or make any such other order in the matter as to him may seem just and reasonable, including the payment of any costs incurred consequent upon the appeal.

Made by the High Commissioner at Suva, Fiji, this fifteenth day of November, 1928.

EYRE HUTSON,

High Commissioner.

M.P. 1466/28.

Suva, Fiji: Printed by J. J. McHUGH,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

1928.

160-r-28

GILBERT AND ELLICE ISLANDS COLONY.

No. 1 of 1928



[L.S.]

A. W. SEYMOUR,

High Commissioner.

31st January, 1928.

AN ORDINANCE

TO AMEND THE NATIVE LANDS ORDINANCE 1917.

[31st January, 1928.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited for all purposes as the Native Lands (Amendment) Ordinance 1928. SHORT TITLE.

2. Section six of the Native Lands Ordinance 1917 as amended by section two of Ordinance No. 1 of 1919 is hereby repealed and the following section shall be substituted therefor:— SECTION 6 OF ORDINANCE 16 OF 1917 REPEALED AND REPLACED.

“6.—(1) No lease shall be granted for a longer period than ninety-nine years nor without the approval of the High Commissioner for any one parcel of land in any one island of greater extent than five acres.

“(2) No lease granted under the provisions of this Ordinance shall be assigned or transferred without the approval of the High Commissioner or Resident Commissioner as the case may be. Any such assignment or transfer approved as aforesaid shall be registered in the book kept under the provisions of section five of this Ordinance.”

3. The Schedule to the Native Lands Ordinance 1917 is hereby repealed and the Schedule to this Ordinance shall have effect in substitution therefor. SCHEDULE TO ORDINANCE NO. 16 OF 1917 REPEALED AND REPLACED.

4. The High Commissioner may from time to time by order under his hand to be published in the Gazette alter add to or revoke all or any of the fees specified in the said Schedule. POWER TO ALTER ETC. SCHEDULE.

THE SCHEDULE.

On the registration of every lease assignment or transfer of a lease instrument in writing or other document other than " Phosphate Deeds "	£1 0 0
On every certified copy of any lease assignment or transfer of a lease	0 5 0
On the registration of Phosphate Deeds or on issuing certified copies thereof (each)	0 2 6
On every certified copy of any other instrument in writing or other document for the first five folios of 72 words each	0 5 0
On every folio or part thereof after the first five	0 0 8
On search for any specified document	0 2 6
On general search	0 5 0
On every lease prepared for the parties thereto	1 0 0
On every duplicate or copy of such lease	0 5 0
On every plan—	
not exceeding 6 inches square	0 5 0
over 6 inches square	0 10 0

Suva, Fiji: Printed by J. J. MCHUGH,

Acting Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific
1928.

[Price, 1s. To be purchased from the Resident Commissioner, Ocean Island; Secretary, Western Pacific High Commission, Suva; and Messrs. Burns, Philp & Company, Limited, Sydney.] 2X28--500

GILBERT AND ELLICE ISLANDS COLONY.

No. 2 of 1927



[L.S.]

EYRE HUTSON,

High Commissioner.

10th June, 1927.

AN ORDINANCE

TO AMEND THE GILBERT AND ELLICE NATIVE LANDS
ORDINANCE 1922.

[10th June, 1927.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited for all purposes as the Gilbert and Ellice Native Lands (Amendment) Ordinance 1927. SHORT TITLE.

2. Section 11 of the Gilbert and Ellice Native Lands Ordinance 1922 is hereby repealed and in place thereof the following section shall have effect:— SECTION 11 OF ORDINANCE NO. 8 OF 1922 REPEALED AND REPLACED.

“ 11.—(1) Any person feeling himself aggrieved by any record of the Commission shall within three days of the aforesaid public meeting at which the record was read give notice of his desire to appeal which notice shall be signed by the appellant or his duly authorised agent before the native magistrate and forwarded through the Lands Commissioner to the Secretary to the High Commission at Suva for submission to the High Commissioner. Any appeal against the record of the Commission shall be determined by the High Commissioner whose decision in the matter shall be final. APPEALS AGAINST DECISION OF COMMISSION.

“ (2) In the event of any notice of appeal being given as aforesaid the Lands Commissioner shall forward together with the notice of appeal a copy of the record of the Commission and of the notes of evidence taken at the inquiry.

“ (3) For the purposes of such appeals the High Commissioner may make rules regulating the practice and procedure to be followed.”

Suva, Fiji: Printed by S. BACH,
Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.
1927.

[Price, 1s. To be purchased from the Resident Commissioner, Ocean Island; the Secretary, Western Pacific High Commission, Suva; and Messrs. Burns, Philp & Company Limited, Sydney.] 95x27—500

GILBERT AND ELLICE ISLANDS COLONY.

No. 8 of 1922



[L.S.]

C. H. RODWELL,

High Commissioner.

30th June, 1922.

AN ORDINANCE

TO MAKE PROVISION FOR THE DETERMINATION OF OWNERSHIP OF NATIVE LANDS WITHIN THE GILBERT AND ELLICE ISLANDS COLONY AND FOR THE LEGALISATION AND REGISTRATION OF TITLE TO SUCH LANDS.

[30th June, 1922.]

BE it enacted by the High Commissioner as follows —

1 This Ordinance may be cited for all purposes as the Gilbert and Ellice Native Lands Ordinance 1922. SHORT TITLE.

2. In this Ordinance—

“Lands Commissioner” means any person appointed by the High Commissioner to be a Native Lands Commissioner under this Ordinance. INTERPRETATION

“Native Member” means any native appointed by the Resident Commissioner to be a member of the Native Lands Commission under this Ordinance.

3. The High Commissioner shall appoint a Native Lands Commission consisting of one or more Commissioners each of whom shall likewise hold the office of Deputy Commissioner under the provisions of the Pacific Order in Council 1893 and shall have the powers of the Commission who shall be charged with the duties of ascertaining what lands in such islands of the Colony as the Resident Commissioner shall specify are in accordance with native customs and usage the rightful and hereditary property of native owners whether of individuals or families or in whatever other manner or way the same may be held. APPOINTMENT AND DUTIES OF LANDS COMMISSION.

4. The Lands Commissioner shall appoint one or more natives of good repute from each island in which the Commission may sit to be native members of the Commission with regard to land on the island from which he or they have been appointed. NATIVE MEMBERS.

5. The native magistrate the chief of kaubure and any recognised hereditary chief may sit as assessors during such time as the Commission shall conduct any inquiry in the island in which such native magistrate chief of kaubure or hereditary chief holds office or recognised chieftainship. ASSESSORS.

INTERESTED
PARTIES MAY
BE DEBARRED
FROM TAKING
PART IN THE
PROCEEDINGS
OF THE
COMMISSION.

6. If any native member or assessor is the claimant to ownership of any land or appears to the Lands Commissioner to be a near relation to any claimant to ownership of any land or to be otherwise interested in such land it shall be lawful for the Lands Commissioner to debar such native member or assessor from taking any part in the proceedings of the Commission during any inquiry or discussion concerning such land. Any native member or assessor so debarred shall be permitted to give evidence before the Commission regarding the land in which he is or appears to be interested.

PROCEEDINGS
OF COMMISSION.

7.—(1) The Commission shall institute a preliminary inquiry regarding the title to all lands claimed by individuals or by families or otherwise on each island and if satisfied that such claims are well founded shall record the same for hearing.

(2) When the recording of such claims has been completed on any island the Commission shall on notice to the parties proceed to adjudicate on such claims.

(3) On a decision being arrived at on any claim the Commission shall record the place name of the land the subject of the claim together with names of individuals or families or other bodies found to be the rightful owners thereof and shall also record the name of any person who holds with respect to any land any customary title of office or any encumbrance or easement.

(4) Where the parties to any claim agree to a settlement or compromise in presence of the Commission the particulars required by the last subsection shall be recorded and shall have the same force and effect as a decision under this section.

(5) The Commission shall where necessary cause the erection of suitable marks along the boundaries of the land the subject of inquiry.

COMMISSION TO
MAKE RULES AS
TO PROCEDURE.

8. The Commission shall with the approval of the Resident Commissioner make rules for regulating the procedure to be followed including the fees to be paid in connection with the recording of titles to land and may prescribe forms for use at any such inquiry.

FINDING OF THE
COMMISSION TO
BE READ IN
PUBLIC.

9. When the Commission has completed an inquiry in any island it shall cause a public meeting to be held in such island and the findings of the Commission shall be read in the native tongue at such meeting and a copy of such record in the native language shall be left for examination by interested parties with the native magistrate of the island.

PROCEDURE IN
CASES WHERE
CLAIMS ARE NOT
DISPUTED.

10. If there is no dispute as to the ownership of any lands and the Commission is satisfied that the claim is *bona fide* and that all conditions as to notice of the inquiry and the claim have been duly complied with and that full opportunity for objecting to the ownership claimed has been given to all interested the Commission shall record the place names of such lands together with the names of individuals or families or other bodies owning the same.

APPEALS
AGAINST
DECISION OF
COMMISSION.

11. Any person feeling himself aggrieved by any record of the Commission shall within three days of the aforesaid public meeting at which the record was read give notice of his desire to appeal which notice shall be signed by the appellant or his duly authorised agent before the native magistrate and forwarded through the Lands Commissioner to the Resident Commissioner. Any appeal as to any record of the Commission shall be heard and determined by the Resident Commissioner whose decision shall be final if his finding upholds the records of the Commission. When the finding of the Resident Commissioner on appeal does not uphold the records of the Commission the Resident Commissioner shall forward to the High Commissioner a copy of the record of the Commission together with a copy of the evidence taken on appeal and the decision of the High Commissioner in the matter shall be final.

12. If no notice of desire to appeal is given within the specified time the record of the Commission shall be conclusive and final. FINALITY OF RECORD WHERE NO APPEAL

13. For the purposes of any inquiry the Commission shall have such powers as are vested in Deputy Commissioners for the Western Pacific to summon and examine upon oath or otherwise any person who may be thought able to give relevant evidence and to require the attendance of all claimants to any land the title to which is the subject of inquiry and of all persons likely to be interested in the title to such land. POWERS OF COMMISSION TO SUMMON AND EXAMINE WITNESSES.

14. The Lands Commission shall have power to establish on every island wherever it sits a Register of Native Lands in the form prescribed in the Schedule to this Ordinance. Such registers shall be kept in such manner as the Lands Commissioner may determine and when completed shall be transmitted to the Resident Commissioner for safe custody. REGISTER TO BE DEPOSITED IN OFFICE OF RESIDENT COMMISSIONER.

15. If any person wilfully obstructs or insults a member of the Commission appointed in pursuance of this Ordinance while engaged in taking evidence for the purpose of an inquiry held under this Ordinance or interrupts the proceedings or in any way interferes in the inspection of land or boundaries or otherwise misbehaves during the holding of such inquiry or fails to attend an inquiry or to give evidence when required to do so under the provisions of this Ordinance he shall be liable on conviction to a penalty not exceeding ten pounds (£10) or to imprisonment for a period not exceeding six months. PENALTY FOR INSULTING OR INTERRUPTING COMMISSIONER.

16. If any person being required to make a statement on oath or otherwise as a witness in the course of any inquiry under this Ordinance wilfully makes a statement material for the purposes of such inquiry which he knows to be false or does not believe to be true he shall be liable on conviction to a fine not exceeding fifty pounds (£50) or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment. PENALTY FOR GIVING FALSE EVIDENCE.

17. The Gilbert and Ellice Native Lands Ordinance 1919 is hereby repealed.

THE SCHEDULE.

REGISTER OF NATIVE LANDS.

[Model.]

Name of Owner.	Names of Lands.	Received from.	By what title held.	From folio No.	Encumbrances or other conditions of tenure.	Conveyed to.	Under what title.	To folio No.	Encumbrances or conditions imposed on transfer.	Signatures of District Officer Magistrate and Chief Kaubure.	Date.

Suva, Fiji: Printed by S. BACH,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

GILBERT AND ELLICE ISLANDS COLONY.

No. 5 of 1919



[L.S.]

C. H. RODWELL,

High Commissioner.

24th September, 1919.

AN ORDINANCE

TO MAKE PROVISION FOR THE DETERMINATION OF OWNERSHIP OF NATIVE LANDS WITHIN THE GILBERT AND ELLICE ISLANDS COLONY AND FOR THE LEGALISATION AND REGISTRATION OF TITLE TO SUCH LANDS.

[24th September, 1919.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited for all purposes as the SHORT TITLE. Gilbert and Ellice Native Lands Ordinance 1919.

2. In this Ordinance—

INTERPRETATION

“Lands Commissioner” means any person appointed by the High Commissioner to be a Native Lands Commissioner under this Ordinance.

“Native Member” means any native appointed by the Resident Commissioner to be a member of the Native Lands Commission under this Ordinance.

3. The High Commissioner shall appoint a Native Lands Commission consisting of one or more Commissioners each of whom shall likewise hold the office of Deputy Commissioner under the provisions of the Pacific Order in Council 1893 and which shall have the powers of the Commission who shall be charged with the duties of ascertaining what lands in such islands of the Colony as the Resident Commissioner shall specify are in accordance with native customs and usage the rightful and hereditary property of native owners whether of individuals or families or in whatever other manner or way the same may be held.

APPOINTMENT AND DUTIES OF LANDS COMMISSION.

NATIVE
MEMBERS.

4. The Resident Commissioner shall appoint one or more natives of good repute from each island in which the Commission may sit to be native members of the Commission.

ASSESSORS.

5. The native magistrate the chief of kaubure and any recognised hereditary chief shall sit as assessors during such time as the Commission shall conduct any inquiry in the island in which such native magistrate chief of kaubure or hereditary chief holds office or recognised chieftainship.

INTERESTED
PARTIES MAY
BE DEBARRED
FROM TAKING
PART IN THE
PROCEEDINGS OF
THE COMMISSION.

6. If any native member or assessor is the claimant to ownership of any land or appears to the Lands Commissioner to be a near relation to any claimant to ownership of any land or to be otherwise interested in such land it shall be lawful for the Lands Commissioner to debar such native member or assessor from taking any part in the proceedings of the Commission during any inquiry or discussion concerning such land. Any native member or assessor so debarred shall be permitted to give evidence before the Commission regarding the land in which he is or appears to be interested.

DESCRIPTION OF
BOUNDARIES
AND CLAIMANTS
TO BE RECORDED.

7. The Commission shall institute inquiries regarding the title to all lands claimed by individuals or by families or otherwise and shall describe in writing the boundaries and situation of such lands together with the names of individuals or families or other bodies claiming to be the owners thereof.

COMMISSION TO
MAKE RULES AS
TO PROCEDURE.

8. The Commission shall with the approval of the Resident Commissioner make rules for regulating the procedure to be followed and prescribe forms for use at any such inquiry.

CLAIMANTS TO
MARK AND
DEFINE
BOUNDARIES.

9. When any inquiry is to be held in any island of which notice in accordance with the rules of the Commission has been duly given it shall be the duty of the persons claiming to own lands in that island to mark out and to define in such manner as the native magistrate of the island may direct the boundaries of the lands of which they claim to be the respective owners. Every person failing to comply with this provision shall be liable to a fine not exceeding one pound (£1) or to imprisonment for a period not exceeding one month and shall defray any expenses incurred in marking out and defining the boundaries caused by such default.

PROCEDURE IN
CASES WHERE
CLAIMS ARE NOT
DISPUTED.

10. If there is no dispute as to the ownership of any lands marked out and defined as aforesaid and the Commission is satisfied that the claim is *bona fide* and that all conditions as to notice of the inquiry and the claim have been duly complied with and that full opportunity for objecting to the ownership claimed has been given to all interested the Commission shall record the boundaries of such lands and the names of the owners

PROCEDURE IN
CASES WHERE
CLAIMS ARE
DISPUTED.

11. If there is any dispute as to the ownership of any lands marked out and defined as aforesaid the Commission shall inquire into such dispute and after hearing evidence and the parties to the dispute decide the question of ownership and record its decision. Provided that if the parties to the dispute agree in writing in the presence of the Lands Commissioner to a compromise and the Lands Commissioner is satisfied that such compromise is *bona fide* and is a just and equitable arrangement the Commission shall record the boundaries of the land and the names of the owners in accordance with such compromise.

12. When recording the owners of any land the Commission shall ascertain and record the name of any person who holds with respect to such land any customary title or office and shall also record any encumbrance or easement to which the land may be subject.

ENCUMBRANCES
AND EASEMENTS
TO BE RECORDED.

13. When the Commission has completed an inquiry in any island it shall cause a public meeting to be held in such island and the findings of the Commission shall be read in the native tongue at such meeting and a copy of such record in the native language shall be left for examination by interested parties with the native magistrate of the island.

FINDING OF THE
COMMISSION TO
BE READ IN
PUBLIC.

14. Any person feeling himself aggrieved by any record of the Commission shall within three days of the aforesaid public meeting at which the record was read give notice of his desire to appeal which notice shall be signed by the appellant or his duly authorised agent before the native magistrate and forwarded through the Lands Commissioner to the Resident Commissioner. Any appeal as to any record of the Commission shall be heard and determined by the Resident Commissioner whose decision shall be final if his finding upholds the records of the Commission. When the finding of the Resident Commissioner on appeal does not uphold the records of the Commission the Resident Commissioner shall forward to the High Commissioner a copy of the record of the Commission together with a copy of the evidence taken on appeal and the decision of the High Commissioner in the matter shall be final.

APPEALS AGAINST
DECISION OF
COMMISSION.

15. If no notice of desire to appeal is given within the specified time the record of the Commission shall be conclusive and final.

FINALITY OF
RECORD WHERE
NO APPEAL.

16. For the purposes of any inquiry the Commission shall have such powers as are vested in Deputy Commissioners for the Western Pacific to summon and examine upon oath or otherwise any person who may be thought able to give relevant evidence and to require the attendance of all claimants to any land the title to which is the subject of inquiry and of all persons likely to be interested in the title to such land.

POWERS OF
COMMISSION TO
SUMMON AND
EXAMINE
WITNESSES.

17. The Lands Commission shall cause the description of the boundaries and situation of land recorded and settled in the manner aforesaid to be entered in a register denominated the "Register of Native Lands" and shall have power to order the owners of the land to mark off the boundaries upon the ground where there is no natural boundary by planting lines of trees or placing boundary stones or in any such other manner as the Commission may order so that the written description given in the register can be followed without difficulty and any person who shall fail to comply with such order or shall tamper with or destroy or remove any such boundary mark set up by the orders of the Commission shall be liable on conviction to a fine not exceeding ten pounds (£10) or to imprisonment for a period not exceeding six months.

REGISTRATION
OF BOUNDARIES
AND PLACING
OF BOUNDARY.

18. The volumes of such register shall be kept in such manner as the Lands Commission may determine and shall be transmitted to the Resident Commissioner in whose office they shall be retained.

REGISTER TO BE
DEPOSITED IN
OFFICE OF
RESIDENT
COMMISSIONER.

PROCEEDINGS TO
BE TAKEN DOWN
IN WRITING.

19. The Commission shall take or cause to be taken a full account in writing of all proceedings and of the evidence given at all inquiries held under this Ordinance.

PENALTY FOR
INSULTING OR
INTERRUPTING
COMMISSIONER.

20. If any person wilfully obstructs or insults a member of the Commission appointed in pursuance of this Ordinance while engaged in taking evidence for the purpose of an inquiry held under this Ordinance or interrupts the proceedings or in any way interferes in the inspection of land or boundaries or otherwise misbehaves during the holding of such inquiry or fails to attend an inquiry or to give evidence when required to do so under the provisions of this Ordinance he shall be liable on conviction to a penalty not exceeding ten pounds (£10) or to imprisonment for a period not exceeding six months.

PENALTY FOR
GIVING FALSE
EVIDENCE.

21. If any person being required to make a statement on oath or otherwise as a witness in the course of any inquiry under this Ordinance wilfully makes a statement material for the purposes of such inquiry which he knows to be false or does not believe to be true he shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

PENALTY FOR
ASSAULTING
ETC. A PERSON
MARKING OUT
LAND.

22. If any person wilfully obstructs or assaults any person who is engaged in marking out and defining land as provided in section nine hereof he shall be liable on conviction to a penalty not exceeding five pounds or to imprisonment for a period not exceeding three months.

Suva, Fiji: Printed by J. J. McHugh,

Acting Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

[Price 1s.]

1919.

500—136x19

GILBERT AND ELLICE ISLANDS COLONY.

No. 1 of 1919



[L.S.]

C. H. RODWELL,

High Commissioner.

6th February, 1919.

AN ORDINANCE

TO AMEND THE NATIVE LANDS ORDINANCE 1917.

[17th February, 1919.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited as the Native Lands, Amendment, Ordinance 1919. SHORT TITLE.

2. The Native Lands Ordinance 1917 is hereby amended as follows:— AMENDMENT OF ORDINANCE 16 OF 1917.

- (1) In section six the words "without the approval of the High Commissioner" are inserted after the word "nor."
- (2) Section seven is repealed.

Suva, Fiji: Printed by S. BACH,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

[Price 1s.]

1919.

GILBERT AND ELLICE ISLANDS COLONY.

No. 16 of 1917



[L.S.]

BICKHAM ESCOTT,

High Commissioner.

22nd December, 1917.

AN ORDINANCE

TO GOVERN THE SALE AND LEASE OF NATIVE
LANDS.

[28th December, 1917.]

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited as the Native Lands Ordinance 1917. SHORT TITLE.

2. In this Ordinance—

“Colony” means the Gilbert and Ellice Islands Colony. INTERPRETA-
TION.

“Resident Commissioner” means the Resident Commissioner of the Colony.

“Native” means aboriginal native of any island in the Colony.

“Native land” means land owned by natives or subject to the exercise by natives of customary rights of occupation, cultivation or other uses.

3. Nothing in this Ordinance shall affect the power of natives to dispose of their lands amongst themselves according to their native laws and customs. POWER OF NATIVES TO
DISPOSE OF LAND
AMONGST THEMSELVES
NOT AFFECTED.

4. Save as provided in this Ordinance, native lands in the Colony shall not be alienated by sale, gift, lease or otherwise to non-natives. ALIENATION OF
NATIVE LAND TO
NON-NATIVES
FORBIDDEN.

Provided that native land which is not in cultivation nor required for the future support of natives may be sold to the Colonial Government. PROVISO.

Provided further that native land may be acquired compulsorily by the Colonial Government for public purposes. PROVISO.

PROCEDURE ON
LEASING LAND.

5. If any non-native person enters into a lease of land owned by a native, he shall forthwith submit such lease to the Resident Commissioner who shall, at a convenient opportunity, make inquiry of the native lessor and of the native authorities of the island in which the land sought to be leased is situated. If it shall appear that such land is not the property of the proposed lessor, or that the lease has been unfairly obtained, or that the terms are manifestly to the disadvantage of the native lessor, or that there will not be left sufficient land to support the family of the lessor, or that the lease is otherwise contrary to sound public policy, the Resident Commissioner shall refuse to confirm such lease; otherwise the Resident Commissioner shall cause a copy of such lease to be entered in a book to be kept for that purpose, and shall make an indorsement on the lease to the effect that the lease has been approved and registered. Provided that the registration of the lease shall not be conclusive evidence against a person not claiming through the lessor.

REGISTRATION
OF LEASE.

PROVISIO.

TERM AND
EXTENT OF
LEASE.

6. No lease shall be granted for a longer period than ninety-nine years, nor for any one parcel of land in any one island of greater extent than five acres.

APPROVAL OF
HIGH COM-
MISSIONER.

7. Every lease shall be subject to the approval of the High Commissioner.

FEES.

8. It shall be lawful for the Resident Commissioner to demand and receive the several fees specified in the Schedule hereto for the performance of the several acts, matters, and things therein specified relating to the registers kept in his office of deeds and other documents concerning land.

REPEAL OF SEC-
TIONS 22, 23 AND
24 OF KING'S
REGULATION 3
OF 1908 AND OF
KING'S REGULA-
TION 11 OF 1915.

9. Sections twenty-two, twenty-three, and twenty-four of the Gilbert and Ellice Islands Protectorate (Consolidation) Regulation 1908, and the Solomons and Gilbert and Ellice (Registration Fees) Regulation 1915, so far as it relates to the Colony, are hereby repealed.

THE SCHEDULE.

	£	s.	d.
Registration of claim			Nil.
Registration of original deeds other than "Phosphate deeds," or certified copies thereof, and all documents filed :—			
For the first 100 words	0	5	0
For every additional 100 words or fraction thereof .	0	1	0
For every plan attached to a deed or other document :—			
Not exceeding 6 inches square	0	5	0
Over 6 inches square	0	10	0
Registration of Phosphate deeds or certified copies thereof (each)	0	2	6
Registration of leases by natives to non-natives ..	1	0	0
Certified copies of entries in Register of claims or of documents :—			
For the first 100 words	0	5	0
For every additional 100 words or fraction thereof .	0	1	0
For every plan :—			
Not exceeding 6 inches square	0	5	0
Over 6 inches square	0	10	0

Suva, Fiji : Printed by S. BACH,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

[Price, 1s.]

1917.

GILBERT AND ELLICE ISLANDS COLONY.

No. 1 of 1935



[L.S.]

M. FLETCHER,

High Commissioner.

14th August, 1935.

AN ORDINANCE

TO AMEND THE GILBERT AND ELLICE NATIVE LANDS
ORDINANCE 1922.

14th August, 1935.

BE it enacted by the High Commissioner as follows:—

1. This Ordinance may be cited for all purposes as the Native Lands (Amendment) Ordinance 1935 and shall be read and construed as one with the Gilbert and Ellice Native Lands Ordinance 1922 hereinafter termed the Principal Ordinance.

SHORT TITLE AND
CONSTRUCTION.
ORDINANCE NO. 8
OF 1935.

2. Section seven of the Principal Ordinance is hereby amended by the addition thereto of the following subsection:—

AMENDMENT OF
SECTION 7 OF
PRINCIPAL
ORDINANCE.

“(6) The Commission may award to any unsuccessful claimant compensation for any work done in good faith by such claimant upon the land forming the subject of the claim: provided that such compensation shall not exceed the appropriate amount under a scale to be fixed by the Resident Commissioner with the approval of the High Commissioner.”

“AWARD OF
“COMPENSA-
“TION.”

3. Section eight of the Principal Ordinance is hereby repealed and the following substituted therefor:—

AMENDMENT OF
SECTION 8 OF
PRINCIPAL
ORDINANCE.
“REGULATIONS.”

“8.—(1) The Resident Commissioner may make regulations subject to the approval of the High Commissioner prescribing the procedure to be followed generally by the Commission.

“(2) Such regulations may provide for the fees to be levied in connection with the making and hearing of claims and the recording of titles to land for the levy of penalties not exceeding the sum of one pound in each case for offences against the provisions of such regulations or the making of frivolous or vexatious claims and may prescribe forms for use in connection with the work of the Commission.”

AMENDMENT OF
SECTION 11 OF
PRINCIPAL
ORDINANCE.
"APPEALS.

4. Section eleven of the Principal Ordinance is hereby repealed and the following substituted therefor:—

" 11.—(1) Any person feeling himself aggrieved by any decision of the Commission may give notice of his desire to appeal. Such notice shall be signed by the appellant or his duly authorised agent before the Native Magistrate and lodged with the Lands Commissioner who shall without undue delay forward it to the ^{Director of Native Lands} ~~Resident Commissioner~~ together with a copy of the record of the decision of the Commission and of the notes of evidence taken at the inquiry.

" RESIDENT
" COMMISSIONER
" TO HEAR
" APPEALS.

" (2) Every appeal against any decision of the Commission shall be heard and determined by the ^{Director of Native Lands} ~~Resident Commissioner~~ whose decision shall be final if it upholds the decision of the Commission. In the event of the ^{Director of Native Lands} ~~Resident Commissioner~~ after hearing the appeal not being able to uphold the decision of the Commission he shall forward to the ^{Resident} ~~High~~ Commissioner a copy of the record of the decision of the Commission together with a copy of the evidence taken on appeal and a statement of his views as to the decision that should be given and his reasons therefor and the decision of the ^{Resident} ~~High~~ Commissioner in the matter shall be final.

" HIGH COMMIS-
" SIONER TO
" DECIDE IN
" CERTAIN CASES.

" PERIOD FOR
" APPEALS.

" (3) Except as hereinafter provided notices of appeal shall be signed before the Native Magistrate within three days of the ^{decision} ~~public reading of the findings of the Commission as provided in section nine hereof~~: provided always that in the event of the person concerned being absent from the island or unable for any reason to the satisfaction of the ^{Director of Native Lands} ~~Resident Commissioner~~ to give notice of his desire to appeal within the period hereinbefore prescribed such period shall be extended to six months which period may be further extended by the ^{Director of Native Lands} ~~Resident Commissioner~~ in his discretion on sufficient cause therefor being shown.

" PROVISO.

" REGULATIONS.

" (4) The Resident Commissioner may make regulations subject to the approval of the High Commissioner for regulating the practice and procedure to be followed in the lodging and hearing of appeals and such regulations may provide for penalties not exceeding five pounds for the setting up of frivolous appeals and any other matter incidental to the decision on an appeal and may provide for the payment of costs incurred in the hearing of appeals."

AMENDMENT OF
SECTION 12 OF
PRINCIPAL
ORDINANCE.
" DECISION TO BE
" FINAL WHERE
" NO APPEAL.
REPEAL OF
ORDINANCE 2
OF 1927.

5. Section twelve of the Principal Ordinance is hereby repealed and the following substituted therefor:—

" 12. In all cases where no appeal is made against the decision of the Commission such decision shall be conclusive and final."

6. The Gilbert and Ellice Native Lands (Amendment) Ordinance 1927 is hereby repealed.

Suva, Fiji: Printed by J. J. McHUGH,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

1935.

[Price, 1s. To be purchased from the Resident Commissioner, Ocean Island; the Secretary, Western Pacific High Commission, Suva; and Messrs. Burns, Philp & Company Limited, Sydney.]

125:35—500

GILBERT AND ELLICE ISLANDS COLONY.

THE GILBERT AND ELLICE NATIVE LANDS ORDINANCE, 1922.

REGULATIONS

MADE BY THE RESIDENT COMMISSIONER, WITH THE APPROVAL OF THE HIGH COMMISSIONER,
UNDER SECTION 8 OF ORDINANCE NO. 8 OF 1922.

Short Title.

1. These Regulations may be cited for all purposes as the Native Lands Commission (Fees and Forms) Regulations 1940.

Claim Fee.

2. In all cases where a dispute as to the ownership of any lands is to be adjudicated on by the Commission each party shall deposit at the preliminary inquiry a fee not exceeding the sum of two shillings in respect of each claim to be adjudicated on. On a decision being arrived at by the Commission the amount of the fee paid by the party found to be the rightful owner of the lands in dispute shall be returned to him, the fees paid by all other parties being forfeited.

In the case of claims heard at the preliminary inquiry and disqualified for adjudication by the final Court under subsection one of section seven of the Ordinance the fees paid by an unsuccessful party shall be similarly forfeited.

Late Entry Fee.

3. In all cases where a claim to the ownership of any lands is lodged after the Commission has completed the recording of claims in respect of the village or district where the possessor of the lands claimed belongs, the claimant shall pay a fee not exceeding the sum of two shillings in addition to the fee deposited by him in accordance with regulation two hereof: Provided always that in the event of the claimant being unable for any reason to the satisfaction of the Native Lands Commissioner to lodge his claim within the period hereinbefore stipulated the fee under this regulation shall not be charged.

Late Hearing Fee.

4. In all cases where a dispute as to the ownership of any lands has to be adjudicated on by the Commission at a special session owing to one or more of the parties to the dispute failing to attend after due notice at the time and place announced for hearing the claim, the party or parties in default shall pay a fee not exceeding the sum of ten shillings in addition to any fee chargeable under any other regulation hereof: Provided always that in the event of the party or parties in default being unable for any reason to the satisfaction of the Native Lands Commissioner to attend at the time and place announced for hearing the claim the fee under this regulation shall not be charged.

Boundary Inspection Fee.

5. In all cases of boundary or other disputes where it is necessary for the Commission to inspect the land or boundaries the subject of dispute, the fee paid in accordance with regulation two hereof shall not exceed the sum of eight shillings.

Partition Fee.

6. In all cases where it is necessary for the Commission to partition an estate the parties to the partition shall pay a fee not exceeding the sum of three shillings in respect of each estate partitioned.

Scale of Fees.

7. The scale of fees to be charged under these regulations on any island shall be fixed by the Native Lands Commissioner before the commencement of the sittings of the Commission on that island; provided that in no case shall a fee exceed the maximum provided in the regulation.

Return of Fee in cases of settlement.

8. In all cases where the parties to a dispute agree to a settlement or compromise in the presence of the Commission the amounts paid as fees under regulations two, three, four, five and six hereof shall be refunded, provided that the settlement or compromise has been reached prior to the claim being adjudicated on by the Commission or heard and disqualified from adjudication at the preliminary inquiry held under subsection one of section seven of the Ordinance or in the case of disputes where an inspection of land or boundaries is necessary prior to such inspection.

Collection of Fees.

9. All fees payable under these regulations shall be collected by the Native Lands Commissioner and shall be recorded in his Travelling Cash Book for subsequent incorporation in the Treasury accounts through the accounts of the Sub-Accountant.

Disposal of Fees.

10. All fees collected under these regulations shall when the Commission has completed an inquiry on any island be paid by the Native Lands Commissioner to the native members of the Commission appointed in accordance with section 4 of the Gilbert and Ellice Native Lands Ordinance 1922 in respect of that island. All such payments shall be recorded by the Native Lands Commissioner in his Travelling Cash Book for subsequent incorporation in the Treasury accounts through the accounts of the Sub-Accountant.

Forms to be Used.

11. The forms specified in the schedule hereto shall be used in proceedings before the Native Lands Commission.

Made by the Resident Commissioner at Ocean Island this _____ day of _____, 1940.

Resident Commissioner.

Approved.

Suva, Fiji,

High Commissioner.

THE SCHEDULE.

FORM A.

REGISTER OF NON-DISPUTED LANDS.

No.	Name of Owner.	Village of Owner.	Name of Land.	Old Register.	By what Title held.	Conditions of Tenure.

FORM B.

REGISTER OF LAND CLAIMS.

Claim No.	Name of Claimant.	Village of Claimant.	Land Claimed.	Name of Landholder.	Old Register.	Description of Claim.	Record.

FORM C.

RECORD OF CLAIMS DISMISSED AT THE PRELIMINARY INQUIRY.

Claim No.	Name of Claimant.	Village of Claimant.	Land Claimed.	Present Landholder.	Old Register.	Reasons for Dismissal.

FORM D.

RECORD OF CLAIMS IN WHICH A SETTLEMENT HAS BEEN REACHED.

Claim No.	Names of Disputants.	Village of Disputants.	Land in dispute.	Old Register.	Settlement reached.

FORM E.

REGISTER OF CLAIMS RECORDED FOR ADJUDICATION BY THE FINAL COURT.

Claim No.	Name of Claimant.	Village of Claimant.	Name of Land.	Present Landholder.	Old Register.	Signature of Lands Commissioner.	Date.

FORM F.

RECORD OF THE FINDINGS OF THE FINAL COURT.

Claim No.	Names of Parties.	Villages of Parties.	Old Register.	Name of Land.	Decision of Final Court.	Signature of Lands Commissioner, Native Magistrate and Chief of Kaubure.	Date.

FORM G.

REGISTER OF APPEALS FROM THE DECISIONS OF THE FINAL COURT.

Claim No.	Name and Village of Appellant.	Name of Land.	Name and Village of Defendants to Appeal.	Remarks.

Suva, Fiji, Printed by HAMISH R. CRAIGIE,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.

1939.

[Price, 1s.]