

Pitcairn Island,
Eastern Pacific,
October, 1940.

Sir,

I have the honor to forward herewith ^{a copy of} the final text of the "Pitcairn Island Government Regulations, 1940", as agreed upon at a General Meeting of all resident native born inhabitants of the island on the age of seventeen years, held in the ^{Island} Court House on the 7th October, 1940.

2 I also enclose copies of -

(a) a memorandum dealing with the amendments made to the draft King's Regulations forwarded to the Secretary of State under care of the Assistant High Commissioner's confidential despatch of the 11th July, 1939, as revised by His Honor the Chief Judicial Commissioner in the light of the Secretary of State's observations forwarded by the Colonial Office on the 10th May, 1940; and

(b) a declaration assenting to the new regulations, signed by the adult resident native born inhabitants of Pitcairn Island; and

next (c)

3. Before proceeding with the preparation of the regulations now being forwarded, I called a General Meeting of the islanders on the 28th August in which the reasons for my visit to Pitcairn Island were fully explained. The meeting then elected four representatives, all of whom had previously held office in the local government, who formed, together with the five members of the Island Council, an Advisory Committee to assist me in the compilation of the new code.

4. Meetings of the Advisory Committee were held at irregular intervals throughout the following month and the draft regulations were discussed clause by clause in detail, complete unanimity being obtained on each point at issue before the next clause was dealt with. As a result of the discussions the final draft was ready for sending to the islanders by the end of the first week in October and a General Assembly of all adult inhabitants was accordingly held in the Court House on the 7th October. At this meeting each regulation was read and fully explained to the people and every opportunity afforded them for discussion and criticism. Owing to the thorough manner in which the Advisory Committee had

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

performed their work, however, there was ~~scarcely~~ little criticism of the provisions of the regulations, and remarks were almost entirely confined to requests for additional explanation.

5. At the conclusion of the reading a resolution was unanimously carried thanking His Excellency the High Commissioner for having caused such a ~~prompt~~ ~~and~~ suitable constitution and code of laws to be framed. A further resolution was carried declaring that it was the wish of the island that the code should be brought into force forthwith, ~~taking the place of all former laws and regulations~~

6. In accordance with the instructions contained in the Secretary of State's telegram No 92 of the 7th June, the new code has been based on the draft King's Regulation forwarded to the Secretary of State under cover of the Assistant High Commissioner's confidential despatch of the 11th July, 1939. This draft had been already revised in Fiji by His Honor the Chief Judicial Commissioner, in accordance with the instructions contained in para. 3 (a) of the Secretary of State's telegram. The further changes made by me in conjunction with the local Advisory Committee are detailed in the memorandum which accompanies this letter but in general it may be stated that no alterations were made unless -

- (a) owing to the legal phraseology employed, the meaning of the regulation was not clear to the Committee and it was consequently desirable to use more colloquial expressions;
- (b) the regulation was not based on any previous law or custom and was regarded as ~~quite~~ undesirable or unnecessary by the Committee; or
- (c) the Committee was of the unanimous opinion that the regulation, while not included in the draft code, should be inserted as being either in conformity with some existing law or custom or else a definite improvement on present practice.

No alteration, other than in wording, was made until I was satisfied that it was in accordance with the wishes of the islanders themselves.

7. The main amendments made to the draft regulation brought to the island may be summarized as follows:-

- (1) Rules made by the Island Council are to come into force on public notification, the High Commissioner having the right to amend or revoke them at his discretion;
- (2) Voting at the annual election of government officers has been made compulsory;
- (3) The system of voting has been changed from open to secret ballot;
- (4) The elections for each office are to be conducted separately;
- (5) Judgments of the local Court may be reviewed by the Supreme Court of Fiji;
- (6) All clauses requiring the issuing of summonses and warrants have been deleted;
- (7) The clause instituting a system of court fees has been similarly ~~deleted~~ ^{omitted}; and
- (8) a regulation has been inserted making it an offence to have carnal knowledge with a girl under 14.

8. →

9. as directed by the High Commissioner the new regulations have been issued by me, in my capacity as a Deputy Commissioner for the Western Pacific with jurisdiction in the Pettauco Islands District, as "instructions" for the guidance of the local government. A typewritten copy has been handed to the Chief Magistrate, who has ^{been} professed that the text is subject to the ^{control} revision and approval of His Excellency.

10. In ^{order} ~~an endeavour~~ to make the regulations as legally valid as possible, a declaration is enclosed signed by all the adult resident native born inhabitants of the island in which they finally declare their desire that the new code shall be fully binding on them and that it shall supersede all other laws and regulations hitherto in force. It is suggested that this declaration confers on the regulations the most authoritative sanction possible: the free and unvarnished consent of the entire population, and that in view of this any attempt to obtain further formal legal authority is in a sense unnecessary.

1 etc,

(c) a table showing the reasons for which the regulations are changed.

H. C. Representative,

8. It is sufficient that the new code will enable the islanders to maintain and preserve their traditional system of local self-government in the difficult period of social transition which lies immediately ahead; a period in which the present tendency to change the social organization from a community basis to one dependent on individualism and a money economy will become accentuated. Essentially based on existing island custom, the regulations leave the whole social and administrative structure of the island intact, while at the same time they have been framed as far as possible in accordance with modern legal requirements, differing in this particular from the constitution, framed by Mr R. T. Smith in 1904, which they supersede. In all other respects Mr Smith's code proved excellently adapted to local ^{needs} requirements and, despite its loose wording and the consequent unusual uncertainty as to its meaning, it served the needs of the community for nearly 40 years.

11. While it appears probable that greater familiarity with conditions on the island may suggest the desirability of modifying certain of the regulations in the enclosed code and of adding ~~the~~ further provisions to deal with matters now omitted, I have thought it best to forward the regulations in their present form, to be followed if necessary by a supplementary letter dealing with any amendments which can be inserted in the final code before printing. The main consideration which has decided me to take this course was the uncertainty as to the legal effect of such amendments and the possibility that I might have to leave it to their notice.

Part I Preliminary

Regulation 1. The ^{sketch} title suggested in Mr. Neill's original draft has been retained as being more indicative of the scope of the Regulations. In view of the fact that the draft is no longer to be issued as a single King's Regulation but as a series of Regulations, representing "instructions" issued by a Deputy Commissioner, each section has been treated as a separate regulation and the sketch title amended accordingly.

Regulation 2. The former clause has been amended by the deletion of the definitions of "Cattle", "Gazette", "month", "person", "public holiday", and "Supreme Court", and the addition of a definition of "Sabbath Day".

"Cattle" - definition not required. The only cattle on the island are goats, which are referred to specifically when necessary; while for various reasons it is unlikely that the islanders will permit any other variety to be landed.

"Gazette" - definition not required

"month" - though the islanders would not understand the words "calendar month", they have, in actual fact, no conception of any other form: a definition, therefore, seems unnecessary and confusing.

"person" - few, if any, on Pitcairn Island would grasp the significance of "body of persons corporate or uncorporate" and it seems undesirable to confuse them with any technical expressions which can be dispensed with.

"public holiday" - public holidays on Pitcairn are neither proclaimed nor declared. Certain days have become established as customary holidays and there would appear to be no reason to interfere with the existing practice or to define too closely the days ^{that are} to be recognized as holidays of the community.

"Supreme Court" - definition not required. The meaning of the term "Supreme Court" in Regulation 21 (4) is quite clear.

6 + 41 + 20
+ 3 + 6 = 76.

a definition of "Sabbath Day" appeared to be necessary - vide Regulation 33 (d). The community being adherents of the Seventh Day Adventist Church, the Jewish Sabbath, from

sunset on Friday to sunset on Saturday, is strictly kept, while Sundays form part of the ordinary working week.

The definition of "cald" has been altered, in accordance with the Secretary of State's observations on Clause 29.

Part II Island Council, Internal Committee and Island Officers.

Regulation 3. The ^{Secretary of} Chief Negotiator has been inserted in the list of elected

officials, in accordance with the views of the Secretary of State as stated in his notes on Clause 3 of the Draft Order. The appointment of the Chief Negotiator for five years by the High Commissioner, ^{for five years period} world, I believe, has proved a most unfortunate move and the cause of much friction on the island.

Regulation 4. The former subsection (4) has been replaced by new Regulation 8(2).

The former subsection (5) has been reworded to avoid the word "quorum", which would not be understood by most of the islanders.

Regulation 5. The wording of this clause has been slightly altered to make it clear that, apart from the present Regulations and any rules made under them, laws and regulations must be authorized by the High Commissioner before being enforced by the Council.

Regulation 6(1). The following subjects have been included among the list of matters concerning which the Council are empowered to make Rules:—

- (a) the keeping clean of the town and any other settlements on the island;
- (b) the provision, use and maintenance of public property; and
- (c) the control of livestock.

The wording of several other paragraphs has been slightly changed.

Regulation 6(2). ~~It would not appear practicable~~ To ^{have to} wait until the High Commissioner ^{does not appear practicable} has approved a rule before bringing it into force. Most of the rules are of very minor importance and can safely be left to the discretion of the Council; at the same time many ~~of~~ ^{in order} are passed to deal with a situation which essentially requires immediate action, and if the island has to wait possibly six months before such a rule can be enforced the effective administration of island affairs will become very difficult. Just prior to my visit it had

been necessary to pass an urgent rule prohibiting women from visiting cargo vessels in the public boats after nightfall, and had it been necessary for that rule to remain a dead letter ^{in the face of} the sanction of the High Commissioner there would probably have been serious trouble on the island.

According to local custom, as codified by Mr R T Semors in 1904, "local regulations ... will become law on being approved and promulgated by the Chief Magistrate in Council"; and in view of the Secretary of States' instructions not to interfere unnecessarily with existing customs I have not hesitated to amend this section. At the same time a paragraph has been inserted directing that a copy of every rule shall be forwarded to the High Commissioner, who shall have power to amend or revoke it should he consider it to be necessary.

Regulation 6 (5). It appears to be customary to read orders of the High Commissioner, and other regulations and orders, in Council rather than in Court. When necessary they are read later to the people at a General Meeting.

Regulation 8 (1). The final part of this clause is taken, at the request of the Council, from Mr Neill's original draft.

Regulation 8 (2). This new section was framed by His Honor the Chief Judicial Commissioner to provide for the appointment of an Acting Chief Magistrate during the temporary incapacity of the substantive holder of the office. In accordance with existing practice on the island, a permanent vacancy in the office of Chief Magistrate would be filled by the Council under Regulation 3 (3).

Regulation 8 (3). Former clause 8(2) has been slightly amended to bring it into line with established practice. The amendments were in each case taken from Mr Semors codification of the Pitcairn Island Laws, made in 1904.

Part III Election of Island Officers.

Regulation 10. As it has been agreed that the Chief Magistrate is to remain one of the elected island officials, the words "Chief Magistrate a" have been inserted.

Regulation 11. In the recommendation of the Advisory Committee the dates between which the Register of Voters is to be published, and the final date for objecting to anything contained in, or omitted from, the Register, has been changed to "between the first and seventh day of December" and "not later than the twelfth day of December" respectively. This meets the criticisms of the wording of clause 11 advanced by the Secretary of State.

Regulation 13. This regulation has had to be reworded throughout in order to provide for -

- (a) compulsory voting;
- (b) Secret Ballots; and
- (c) separate voting for each office.

A separate letter is being forwarded explaining why such changes are desirable, and the matter is only dealt with briefly here. The recommendation that the present system should be altered came from the Advisory Committee, who stated that -

- (a) only a small percentage of the voters troubled to record their votes, though dissatisfaction with the personnel of the government was the invariable rule once the elections were over; that
- (b) the open Ballot was apt to lead to frauds and as a result the more numerous members of the community were loath to express their preferences; and that
- (c) as all officers were elected at the one time, an experienced official who failed to be elected for ^{any} Chief Magistrate had no chance of then being considered for any other position.

According to the ^{new} proposed system being introduced on the island each voter will be required to register his ^{own} preference (vide Regulation 86) on a numbered card which will bear no indication of his name. These cards will be placed in a ballot box, and the number of votes recorded for each candidate will be counted at the end of the election for that particular office.

Part IV. THE ISLAND COURT

Regulation 14 (1) (B). According to Mr. Stone's certification of island ^{custom,} "does not exceed" is correct. vide the Secretary of State's observations on clause

Regulation 14 (2). Mr. Neill's draft ^① has been reverted to, as stated in the Secretary of States' notes, there is no reason why the Chief Magistrate should ^{know} any one about law than the assessors; in actual fact, the present Chief Magistrate appears to know less. ^① which stated the local practice as fixed by Mr. Simms

in 1904,

Regulation 15 This regulation is taken from clause 4 of the draft Order in Council, amended in the light of the observations contained in the Secretary of States' notes. There appeared to be no advantage in reverting to Mr. Neill's clause 15, which was not based, except as regards paragraph (b), on any codification of country practice.

Regulation 16. This regulation is the same as Mr. Neill's original clause 16, which was based on Mr. Simms' ~~idea~~ ^{idea}: it was considered advisable to reinsert it in the new regulations ^{to avoid} ^{the possibility of} any future misapprehension.

Regulation 19 (2). The final paragraph of former clause 17 (2) has been rewritten in order to make it understood by a limit unversed in legal phraseology.

Regulation 20 as suggested by the Secretary of State this regulation (former clause 29) has been placed here in order that it may apply to both civil and criminal proceedings.

next Reg 21

Criminal Proceedings.

Criminal Proceedings—(Former clauses 18-40). The procedure governing the conduct of criminal proceedings has been ~~wholly~~ ^{first} sketched and simplified, in accordance with the Secretary of States' directions that the ^{first} code should be both intelligible to the islanders and in conformity with their own usages and customs. It is ^{the} ~~the~~ necessity for introducing an elaborate system of summonses and warrants appeared to be very questionable. The existing practice, should any person's attendance before the Island Court be required, is for the Chief Magistrate to send a constable or other person to fetch him, and it is believed that in the whole history of the island there has never been an instance of anyone neglecting to attend the Court when called. In the numerous advice of the Advisory Committee I have,

therefore, deleted clauses 19, 22-26, and 28 from the revised text and added a short paragraph to a later regulation - 54 (i) (2) - , making it contempt of court should any person "wilfully refuse or neglect to appear before the court when duly summoned".

That this simple procedure represents former custom can be seen from Regulation 1 of Mr. Simons' code, which states that "summons and orders of the court are to be obeyed immediately. Any infringement of this regulation will be deemed contempt of court....."

Fine clause 18. The Advisory Committee appeared very averse to this clause and as it did not appear in any previous codification of laws I have deleted it from the new Regulations.

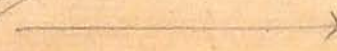
Regulation 25. as there are now no written summonses or warrants fine clause 30 has been reworded.

Regulation 29. Fine clause 34 has been amended by the addition of a paragraph permitting the Chief Magistrate to allow a prisoner to work on his own plantation once a week, this being in accordance with local custom. In this connection see the Secretary of State's notes on clause 29; had it also been included in that clause, however, the concession would have applied solely to persons imprisoned for neglecting to pay a fine.

Regulation 30 (2). see the Secretary of State's observations on fine clause 35(2). The Advisory Committee were unable to recollect any instance in which a child had been fined by the local court, but considered that should a case arise the parents would be expected to pay ~~the~~; the section has therefore been retained.

Regulation 30 (3). The provision permitting a parent or guardian to be present when a child is being whipped by order of the Chief Magistrate has been omitted. It has apparently never been the custom on the island, ~~and~~ and the committee were of the opinion that such a practice, besides being unbecomingly, would probably lead to disputes and should not be encouraged.

next for
Fine clause 38



Regulation 33. In conformity with the Secretary of State's observations on former clause 39, a proviso has been placed at the end of the regulation permitting the Chief Magistrate to allow persons imprisoned or ordered to work on the public roads in default of the payment of a fine to attend to their plantations for one day in each week. This proviso merely confirms the existing practice in the island.

The rate at which persons may make off their fines by labour on the public roads has been increased from 2/6 per day to 5/-. Mr. Simons' codification of island custom states that "Persons unable to pay cash fines or penalties may be permitted to work out the same in the service of the Public departments at the rate of 5/- per day," and, since the penalties for the various offences remain substantially the same in the new regulations while the daily wage rate for manual labour has ^{since 1904} risen, it seemed best to defer to the strong recommendation of the Advisory Committee that no change should be made in ~~the~~ a valuation which the island has been accustomed to for nearly 40 years.

Regulation 34. See former clause 40. The period of imprisonment which may be ordered in default of the payment of a fine not exceeding 5/- has been reduced from four days to three. The scale still remains out of proportion to the rate at which a fine may be made off on the public roads, but as in actual practice imprisonment is never ordered for the non-payment of a fine, the regulation has been left unaltered, except for the minor amendment mentioned above. It may conceivably be of use in cases where a person declines to pay a fine although well able to do so.

Regulation 35. As the clause requiring the payment of fees of Court has been omitted - see note on former clause 52 - the remainder of former clause 53 has been inserted here.

Civil Proceedings.

Civil Proceedings. As in the case of Criminal Proceedings, the procedure ^{generally} for civil actions has been simplified as far as possible by deleting former clauses 41, 42, and 44, which require the serving of summonses on the defendant and witnesses.

Former clause 43. Like Clause 18, this restriction in ^a bringing civil action has been deleted at the request of the Advisory Committee. Several members of the Committee pointed out that a person might leave the island without being aware that an injury for which a civil action could be had been done to him and

return only to find that his right to take legal action was debared by this clause. As the clause introduced an entirely new principle it was considered best to delete it in deference to the opinion of the islanders.

Regulations 39 and 40. As there are now no written summonses, former clauses 48 and 49 have been reworded.

Former clause 51. See note on former clause 52.

Fees of Court.

Former clause 52. The Advisory Committee were strongly opposed to the institution of a system of fees to be charged by the local court and there appears little to be said in favour of such an innovation. Even without having to pay fees it is difficult enough to persuade the islanders to use the facilities provided by the court for the settlement of their disputes, and as a consequence inter-family feuds and vendettas are incessant. At present one month or more may pass without a single case being brought to the Island Court, though the islanders are not a law-abiding community and offences are frequent, while still if complainants and plaintiffs were expected to pay fees, however small, it is probable that the ^{suiting} unfortunate tendency to take the law into their own hands would become still more marked. The entire clause has therefore been deleted from the new regulations.

Former clause 53. See Regulation 35.

Recognizances.

Regulations 42-44. Although the whole idea of recognizances and binding over was a novel one to the islanders, it was warmly welcomed, both by the Advisory Committee and the General Assembly, as likely to prove a valuable method of dealing with scoundrelmongers and busy-bodies, who are an active evil on Pitcairn Island as in other small and isolated communities. The wording of former clauses 54-56 has been slightly altered in an endeavour to make it more intelligible to people not accustomed to legal terminology.

Part V. Miscellaneous Provisions.

Regulation 48. It is presumed that in former clause 60 the words "sections fifty-one or sixty-one" should have read "sections fifty-seven or fifty-nine", since there would otherwise be no provision for compelling the attendance of witnesses at a death inquest; penalties for not assisting the chief magistrate during his annual inspection of boundaries are, furthermore, provided in clause 101.

Regulation 50 (1). The ^{maximum} maintenance allowance payable by the father of an illegitimate child was fixed at 2/- per week by Mr. Simons as long ago as 1904 (vide Simons' local Law 2). With the fall in the value of money which has since taken place, however, this sum has not always proved sufficient and, with the agreement of the Advisory Committee, I have increased the maximum rate to 5/- per week.

Regulation 50(2). In conformity with local custom I have added a section enabling allowances to be paid in kind, at the discretion of the chief magistrate. I understand that in actual practice such allowances are almost invariably paid in garden produce, firewood, or imported commodities such as soap, rather than in actual cash.

omit Reg 50(2)

Regulation 51 (2). The proviso contained in clause 91(2) of Mr. Neill's original draft has been added; - see the Secretary of State's observation in clause 95. It is a long-established custom on the island to send written notice when unable to attend public work owing to illness.

Regulation 52. Sub-section (2) of former clause 64, which required all persons called upon to man the public boats to assemble at the landing place within 15 minutes after the public bell has been rung five times, has been deleted. I found no one who did not consider this clause unjust and oppressive and as it was not based on any previous custom or practice I did not press its retention. There is actually no need for any compulsory measure of this nature, ^{and} the competition to man the public boats is intense and in the public bell sounding ~~the~~ every man, woman, and child in the community runs to the landing place in Bounty Bay in order not to miss their boat.

The only persons who would apparently be liable for punishment under clause 64 (2) would be those ^{either} out fishing or working in distant parts of the island, who were unable to reach the landing place within the stipulated time. These unfortunate individuals would be in any case adequately furnished by missing the visiting ship.

Regulation 53 (1). See the Secretary of States' observations on former clause 65. Art. 211's clause 81 (1) has been reinserted, as it was found to reproduce the local custom and was considered by the Advisory Committee to be a most necessary provision. The laws relating to dego used actually to be considerably more drastic (vide Law 20 in the 1893 code, and Internal Committee Regulation 7 in the 1904 code), and it was not until 1924 that the regulation was framed in its present form.

Part VI. Offences.

Regulation 54 (1) (b). For an explanation as to the reason for adding this paragraph see the notes headed "Criminal Proceedings" in Part IV above.

Regulation 54 (2). This section reproduces one of the oldest laws of the island - see Law 15 of the 1893 code, where it states that "It shall be unlawful for any person to carry concealed weapons, or to appear before the Court or Parliament with deadly weapons on their person". There is little likelihood of the law being required for practical application and it is retained ^{here} more as a historical curiosity than for any other reason.

Regulations 55 and 56. See the Secretary of States' observations on former clause 67. The Advisory Committee considered that the use of threatening language was a far more serious offence than using profane or obscene language and that the former should be prohibited in any place whatsoever. This has apparently always been the case, at any event as regards threats against the life of a person (vide Law 22 of the 1893 code and Law 14 of the 1904 code); these serious threats are not uncommon among the islanders who ^{taken as a whole} ~~as a group~~ appear unable to control their tempers.

Regulation 60. The option of a fine has been inserted among a group such as the Pitcairn Islanders, who profess entirely the strictest moral

principles, it is likely that ^{many instances} ~~conducts~~, such as bathing in a secluded spot without a costume, might be considered to be indecent although they could not be held to be serious enough to warrant a sentence of imprisonment.

Regulation 61. at the earnest request of the Advisory Committee, a regulation prohibiting carnal knowledge of a girl under the age of 14 years has been inserted in the revised code. This crime, together with various other sexual offences, is far from uncommon among the islanders and a law prohibiting seduction under the age of 14 years formed part of the 1904 code (Law 2), taking the place of Law 4 in the 1893 code which punished fornication in any form. It is presumed that it was intended that offences such as rape, seduction, and carnal knowledge, should in future be tried by a Judicial Commissioner sent from Fiji, but it is submitted that such a course would not be practically ^{at any rate} ~~as regards~~ carnal knowledge, which is, furthermore, not regarded locally as a serious offence.

Regulation 64. The local Court has been given power to deal with cases of theft where the value of the stolen property does not exceed £10, as it seemed scarcely necessary to send an official from Fiji to deal with theft of property worth less than that sum. In this connection, ^{please} see Law 8 of the 1904 code, where no rigid limit is set to the Court's jurisdiction in cases of theft.

Regulation 67. As there is a good deal of public property on Pettaun Island the words "public or private" have been inserted in the text, in order to make it clear that property owned by the community is within the scope of the regulation. As in the case of Regulation 64, the Court has been given power to deal with all cases of malicious damage where the property does not exceed £10 in value.

Regulation 71 (1). see former clause 82. The words "who will only grant such licence if he is satisfied that the applicant is a fit and proper person to possess a gun" have been added to the section to make it clear that the Chief Magistrate may refuse to grant a licence should he consider such a course desirable.

The license fee, which was fixed at $\frac{1}{8}$ a year as long ago as 1904, has been increased to $\frac{1}{4}$. The people are well able to pay this amount and there are, in any case, far too many firearms on the island.

Regulation 71 (2). The age limit under which no firearms license may be issued has been increased from 14 to 16 years at the request of the Advisory Committee. At present it is the custom for children to carry and use rifles and shot-guns at an age when their sense of responsibility is but barely developed, and it is surprising that more accidents do not occur.

Regulation 72. While Mr. Neill's clause 78 reproduces previous legislation more exactly than clause 83 of the revised code (see Law 13 and Internal Committee Regulation 8 in the 1904 code), the Committee considered the text of the latter preferable and it has therefore been retained.

Regulation 74 (2). This Regulation, to my surprise, caused more argument among the community than any other, and a special meeting of the entire island had to be called to decide the principle, ^{as to} whether a family who left the island should still be entitled to keep their fowls and goats. After several hours of heated discussion it was decided that the privilege should expire after 10 years absence from the island.

Insert here
Forma
Reg. 76
Clause 87

Regulation 77. See the final paragraph of the Secretary of State's notice. At the unanimous request of the Committee Mr. Neill's clause 83 was re-inserted in the code, with an ^{amendment} providing that the land-owner, on shooting fowls or goats damaging his land, may not retain the carcass but must deliver them to their owner. The Regulation represents island custom, ^{as} enforced from very early days: according to the code of 1850, "If a fowl be seen trespassing in a garden, the proprietor of the garden is allowed to shoot and keep it, while the owner of the fowl is obliged to return the charge of fowls and shot expended in killing the bird". Even ^{at that date} ~~they~~, however, we recall that the actual practice was to "send back the dead fowl, and drop the claim for ammunition".

Regulation 78. This Regulation has been inserted on the recommendation of the Advisory Committee. It represents former Pitcairn custom - see Internal Committee Regulation

8 (b) in the 1904 code).

The substance of Regulation 81 (2). ^{clause 86(2) of Mr. Neill's draft has been inserted.}

see - see the secretary of states' notes in former clause 91. The clause reproduces the old-established custom as codified by Mr. Simons in 1904 (see Law 20 of Mr. Simons' code).

Regulation 83. The written consent of the Chief Magistrate has been made renewable annually, this being the practice in the island hitherto.

Regulation 85. The words "horses" and "pigs, dogs, cats" have been deleted - see the secretary of states' observations on former clause 94. Mr. Neill's clause 90(2) would appear to read that while fowls, ducks, or turkeys, may be imported only if accompanied by a ^{note} certificate of freedom from disease, domestic animals such as cattle, sheep, or goats, may be imported even without a certificate. As this differentiation is presumably not intentional the wording of former clause 94 has been followed, subject to the deletions mentioned above.

Regulation 86. This Regulation has been inserted at the request of the

Advisory Committee - see the note on Regulation 13.

Insert here Reg. 87. →

Regulation 90. This Regulation has also been inserted at the request of the Committee. The younger generation, like their fathers before them, consider it to be a new-fangled source of amusement to start out "sail Ho" and watch the intense excitement as the cry is repeated from end to end of the island and the people come running in from the distant plantations. Unfortunately the joke often costs the community several hours of work, and as a consequence legislation similar to this regulation has had to be passed in almost every small island in the South Seas.

Former Clause 98. This clause has been deleted as unnecessary and oppressive - see the note on Regulation 52.

Regulation 91. Subsections (5), (6), (9), and (10), of Mr. Neill's clause 94 have been included, where it was considerable desirable, among the rules passed by the Island Council under Regulation 6 (j) and (l). They are taken from Mr. Neill's

the regulations of the Internal Committee and not from the Island Laws.

Former Clause 100. This clause has been deleted. It does not apparently reproduce any previously existing law or custom and the Committee considered that the blabber of a government officer abusing his authority was so remote that the clause was ~~quite~~ unnecessary. Owing to the great difficulty in inducing the local government to take any proper action, even though they may be perfectly aware that an offence has been committed, I am averse from including anything in the code that might conceivably frighten them into doing still less than at present.

Regulation 93. Former Clause 101 has been slightly reworded to make it clear that the necessity for accompanying the Chief Magistrate only applies to occasions when he is visiting and watching level marks.

Errata.

Regulation 21. This regulation is substantially the same as clauses 6-8 of the draft code in Council. Owing to the infrequency of communication between Pitcairn Island and Fiji and the pressing necessity for preserving the authority of the local Court, which would be seriously weakened were an offender to remain at large pending the issue of his case, it seemed best to leave the question of suspending the execution of a sentence to the Court's discretion, subject to any directions given by the High Commissioner. It is probable that were the Court expected in every instance to state a case why ^{the} execution of a sentence should not be suspended pending review, they would invariably release the offender, as being the line of least resistance.

Former clause 38. This clause has been omitted as being not strictly necessary in the present simple stage of Court procedure. The Advisory Committee had difficulty in grasping the meaning of the clause and it can be safely held that in actual practice no person who had been lawfully convicted by the Island Court would ~~not~~ be released owing to a technical defect in his warrant of commitment.

Regulation 50 (3) at the request of the Advisory Committee, clause 76(3) of Mr. Hall's original draft has been reinserted here. It appears to provide a useful safeguard.

Former clause 87. This has been deleted as an unnecessary innovation. See the Secretary of States' note on the clause.

Regulation 76. It would appear from Regulation 6 (1) (b) that the presiding authority should be the Council and not the Chief Magistrate. The local practice is, furthermore, for the Council to deal with such matters.

Regulation 87. The custom of sending written notice when too ill to attend public work, mentioned in the Secretary of States' note on clause 95, has been already incorporated in the new code - see Regulation 51 (2).

WESTERN PACIFIC HIGH COMMISSION

REGULATIONS

for the Guidance of the Local Government of Pitcairn Island

as directed by His Britannic Majesty's High Commissioner for the Western Pacific

Arrangement of Sections

Part I. Preliminary.

1. Short Title
2. Interpretation

Part II. Island Council, Internal Committee and Island Officers

3. Island Officers to be elected annually.
4. ^{The} Island Council
5. Duties of Council
6. Island Rules.
7. The Internal Committee
- 8 (1) The Chief Registrar
- (2) Successor to act during temporary vacancy of Chief Registrar
- (3) The Island Society

Part III. Election of Island Officers

9. Qualification of Voters.
10. Qualification of Chief Registrar and Messengers.
11. Register of Voters.
12. Nomination of Candidates.
13. Mode of holding election.

Part IV. The Island Court

14. Composition of the Court.
15. Jurisdiction of the Court.
16. Jurisdiction of the High Commissioner's Court.
17. Sittings of the Court.
- 18 (1) Form of oath
- (2) Solemn affirmation.
19. Evidence of children
20. Committed to prison.

Chief Magistrate, shall be liable to a fine of ten pounds and the liquor aforesaid shall be confiscated and disposed of in such manner as the Court deems fit.

(2) Any visitor to the island who imports intoxicating liquor, other than for his own personal use and with the written consent of the Chief Magistrate, shall be liable to a fine not exceeding five pounds.

Supplying a native born inhabitant with intoxicating liquor.

(3) Any person who sells or supplies intoxicating liquor to any native born inhabitant of the island, otherwise than in accordance with section one of this Regulation, shall be liable to a fine

-2-

21. Review of judgments of Court of Appeal.

Criminal Proceedings

22(1) How charge laid.

(2) Charge to be of one matter only.

23 By whom proceedings taken.

24 Search ^{or} Warrant.

25 When defendant does not appear.

26 When complainant does not appear.

27. Appearance at adjourned hearing.

28 Appearance of both parties, trial and judgment.

29. Imprisonment.

30. Punishment of children.

31. Sentence when person committed is already undergoing imprisonment.

32. Form of warrant of commitment.

33. Power of Court in connection.

34. Scale of imprisonment in default of payment of a fine.

35. Disposal of fines.

Civil Proceedings.

36. Procedure of hearing

37. Judgment

38. Notes of evidence

39. Default of appearance of plaintiff

40. Default of appearance of defendant

41. Enforcement of judgment

Recognizance

42. Bond as to be of good behavior

43. Judgment in default

44. Enforcing recognizance

Part V. Miscellaneous Provisions.

45. Inquiry into cause of death

46. Disinterment of body for the purpose of inquiry

47. Inquiry into cause of fires

48. Power for Chief Magistrate to compel attendance of witnesses

49. Annual inspection of land revenue

50. Order for maintenance of illegitimate children

51. Liability to repair public works

52. Liability to run the public works or act as public works

53 (1) Liability for using covered & dug

(2) Destruction of dangerous dugs

Part VI. Offences.

54. Offence of contempt

55. Offence of threatening language

56. Offence of obscene language

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(2) Any visitor to the island who imports intoxicating liquor, other than for his own personal use and with the written consent of the Chief Magistrate, shall be liable to a fine not exceeding five pounds.

(3) Any person who sells or supplies intoxicating liquor to any native born inhabitant of the island, otherwise than in accordance with section one of this Regulation, shall be liable to a fine

Supplying a native born inhabitant with intoxicating liquor.

- 4 -

57. False reports
58. Assault.
59. Disorderly conduct.
60. Indecent behaviour.
61. Unlawful carnal knowledge.
62. Adultery.
63. Married couples living together.
64. Theft and receiving.
65. Failing to restore property found.
66. Larceny of fowls.
67. Unlawful damage to property.
68. Trespass.
69. Polluting drinking water.
70. Killy or taking the Noddy or the White Bird or their eggs during the close season.
71. Possession of firearms.
72. Firing a gun carelessly.

73. Slaughtering goats within the prohibited area.
74. Keeping one than four she-goats.
75. Keeping a diseased goat.
76. Failure to breed a male goats or poultry.
77. Damage of bows or goats.
78. Killing of birds.
79. Unlawful planting a building.
80. Cruelty to animals.
- 81 (1)⁽²⁾ Inflicting unnecessary injuries.
- 81 (3) Supplying a note to prohibit with unnecessary injuries.
82. Making unnecessary injuries.
83. Inflicting drugs.
84. Boarding ships or aircraft.
85. Inflicting plants, animals or birds.
86. Failure to vote.
87. Failure to keep public works.
88. Misuse of public tools.
89. Misuse on public roads.
90. Calling "Sail Ho".
91. Offences in relation to public boats and public trading.
92. Failure to appear school attendance.
93. Offences relating to land marks.
94. Lying and cheating.

or disrespectful manner to the disturbance of the Court or to the intimidation of persons in the Court; or

(d) Wilfully insults any member of the Court or any person acting as clerk or officer of the Court during the sitting of the Court or in his going to or returning from the Court;

such person shall be liable to be apprehended by order of the Court and, after hearing any defence which such person may offer, the Court may order him to be punished with a fine not exceeding five pounds or to be imprisoned for any period not exceeding two months.

(2) If any person enters the room where the Court is sitting with arms on his person, he shall be liable to a fine not exceeding two pounds or to be imprisoned for any period not exceeding one month.

55. Any person who makes use of any abusive or threatening language in any place to the annoyance of anyone, or by reason whereof an assault may be committed, shall be liable

Abusive or threatening language.

- 6 -

List of Forms contained in the Schedule

1. Written charge
2. Search warrant
3. Commitment of ~~by~~ a witness
4. Warrant of commitment where punishment is by imprisonment
5. " " " in default of payment of a sum of money
6. Order for recognizance to be of good behaviour
7. Recognizance to be of good behaviour with sureties or sureties

Notes on final revision of the Pitcairn Island Government Regulations, 1940.

In accordance with the instructions contained in the Secretary of States' telegram No. 92 of the 7th June, I took with me to Pitcairn Island a copy of the draft King's Regulation forwarded to the Secretary of State by His Excellency the High Commissioner under cover of his confidential despatch of the 11th July, 1939. This draft had already been revised by His Honour the Chief Judicial Commissioner in the light of the Secretary of States' observations forwarded on the 10th May.

at a General Meeting

Pitcairn Island,
July, 1940.

We, the undersigned resident native born inhabitants of Pitcairn Island are the age of seventeen years, hereby state that we have had duly read and explained to us the code of regulations entitled the "Pitcairn Island Government Regulations, 1940". We ^{unanimously} agree that the provisions of each and all of these regulations shall be ^{fully} binding on us, and ^{debatable} that it is our desire that they shall take the place of all former laws, regulations, and ^{ordinances} in force on the island, subject to any changes ~~which~~ that may be considered desirable by His Excellency the High Commissioner for the Western Pacific.

Chief Magistrate.

.....
Assessor

.....
Chairman of the Local Committee.

.....
Assessor

.....
Deputy of the Local Committee.

.....
Island Secretary

.....
Deputy of the Local Committee

- (a) ~~the~~ on to the legal theory applied, the way of the way was not clear to the
and it was equally desirable to adopt the one alleged English expression;
- (b) the regulation was not based on any previous law ~~regulation~~ a custom and was regarded as
either desirable or unnecessary of the Committee, a
- (c) the Committee were of the opinion that the regulation, while not included in
the draft code, should be inserted ~~in order to~~ clear up any doubt in conformity with
one country law a custom or else a definite aspect of ~~one country~~ rule
best practice.

- (1) P.I.C. - 1850. This ~~refers to~~ ^{the original code of the island, as drawn up between 1838, when} the original code of the island, as drawn up between 1838, when
after Russell ^{of the "Fg"} ~~of the "Fg"~~ ^{arranged for the election of the first C. 2, ed 1850, when the code was} first published by Bredie.
- (2) P.I.C. - 1893. This ~~refers to~~ ^{the code established in 1893} of ^{at the instance of} after Reeves of H 2 s. "Chambers"
- (3) P.I.C. - 1904. This ~~code established in 1904~~ ^{drawn up} of ^{by} W. B. F. Swain, District Agent at Tokohi
- (4) P.I. Const - 1904. The ^{island} Constitution estab in 1904 of W. B. F. Swain
- (5) Swain's Instructions - 1904. The "instructions in regard to the Young Election of Government Officials",
drawn up of W. B. F. Swain in 1904.
- (6) I.C. Reg - 1904. The Regulations made by the I.C. of P.I. in 1904.
- (7) Hall, Peter - The draft "King's Reg. to handle for the govt of P.I." draw up of W. B. F. Swain
^{in 1907} see Colonial No. 155, 1938, pp. 29-51.
- (8) Murray, H. - Murray, Rev. T. B. - "Pitcairn: The Island, the People, and the Pastor"
London, 1909. The original island code is there quoted in extenso.
- (9) all other large references are to: Shapiro, H. L. - "The Heritage of the Bounty". London,
1936. Appendix A contains a exact reproduction of the 1893 and 1904
codes, ^{as well as} the 1904 Constitution, instructions, and actual Councils' Regs.

Pitcairn Island Government Regulations, 1940.

TABLE

showing the sources from which the Regulations are derived.

Mr J S Neill, who prepared the original draft of these regulations, based them on the existing code then force in Pitcairn Island (i.e. the code prepared by Mr B. F. Smith in 1904). In amending and extending this code he borrowed freely from the Fiji Native Courts Code, 1927.

2 While the Laws of Pitcairn Island, as laid down by Mr Smith, represent a good, common sense code well adapted to the needs of the local community, they were not couched in exact legal phraseology; as a consequence Mr Neill reworded almost every regulation, while in the majority of instances leaving the intention of the original provision unaltered. When, therefore, it is stated in the table given below that the source of any particular regulation is the Pitcairn Island 1904 code, all that is meant is that the ^{substance} principle of the regulation has been taken from the code, while the wording has in almost every instance been altered to conform with legal usage.

abhorrentus etc

No of Regulation

Source

- 1. (Short Title)
- 2. (Interpretation).
- 3. P I Const. - 1904. Pk 302-304
- 4 (1), (3). " " P 302.
- 4 (2), (4) - (7). Local customary procedure.
- 5. P I Const. - 1904. Pk 302, 304.
- 6 (1). " " Pk 302, 303.
- 6 (2) New provision. Cf. rule, section 6(2).
- 6 (3) P I C - 1904. Law 12. P. 306.
- 6 (4), (5). Local customary procedure.
- 7 P I Const. - 1904. Pk 302, 303.
- 8 (1) " " P. 302.
- 8 (2) New provision. Cf. rule, section 4(4).
- 8 (3) P I Const. - 1904. Pk. 303, 304.
- 9 Simons: Instructions - 1904. P. 309 - (a).
- 10 " " " P 309 - (a)
- 11 " " " Pk 309, 310 - (b), (c).
- 12 (1), (3). " " " P 310 - (c).
- 12 (2) New provision. Cf. rule, section 12(2).
- 13 (1), (3), (4) Simons: Instructions - 1904. P 310 - (d) - (g). amended.
- 13 (2) Rule, section 13 (3).
- 14 P I Const. - 1904 P 304.
- 15 Draft Preamble O. I. C., section 4.
- 16 P I Const - 1904. P 304.
- 17 " " " P 304.
- 18 (1) P I C - 1893. P 295.
- 18 (2) Rule, section 58 (2).
- 19 (1) P I C - 1904 Law 17.
- 19 (2) Children & Young Persons Act 1933, sec 38.
- 20 Fiji Native Courts Code 1927, sec 16(3).
- 21 Draft Preamble O. I. C., sections 6-8. amended
- 22 Fiji Native Courts Code 1927, sec. 6, 7.
- 23 Vaughan Lewis: Instructions - 1909. P. 311.
- 24 P I C - 1904 Law 24 Pk 309, 310.
- 25 Fiji Native Courts Code 1927, sec 18.

1-7
Foras
Schedule

Page 27th Code Form 1-14

- 94- Page 27th Code 1927, Act 84
- 93- P 1 C-1850 "Law respecting Landmarks" among 7200
- 92- P 1 Code Rules
- 91 (4)- P 1 C-1904 Law 16 P 307
- 91 (3)- " 2-1904 P 313
- 91 (1), (2)- 1 C Reg 5 (a) & (d) - 1904 P 313, 314
- 90- non-humans
- 89- " 2 (c) & (d) - 1904 P 315
- 88- 1 C Reg 2 (a) - 1904 P 315

26. Fiji Native Courts Code 1927, sec. 19.
27. " " " " " , sec. 20.
28. " " " " " , sec. 21.
29. " " " " " , sec. 23; and local custom.
30. " " " " " , sec. 25.
31. " " " " " , sec. 26.
32. " " " " " , sec. 22.
- 33(a)-(c) " " " " " , sec. 29.
- 33(d) P.I.C. - 1904. Law 18.
- 33(e) Local Customary procedure. Cf. Vaughan Lewis: *Introduction* - 1909. P. 311.
34. Fiji Native Courts Code 1927, sec. 30.
35. P.I.C. - 1904. Law 18.
36. Fiji Native Courts Code 1927, sec. 35.
37. " " " " " , sec. 36.
38. P.I. Const. - 1904. P. 303.
39. Fiji Native Courts Code 1927, sec. 38.
40. " " " " " , sec. 39.
41. " " " " " , sec. 41.
42. " " " " " , sec. 45.
43. " " " " " , sec. 46.
44. " " " " " , sec. 47.
45. P.I.C. - 1904. Law 21. P. 308.
46. Fiji Death & Fine Inquiring Ordinance 1883, sec. 3.
47. " " " " " , sec. 4.
48. " " " " " , sec. 5.
49. P.I.C. - 1850. "Law respecting Landmarks" Murray, p. 220.
- 50(1) P.I.C. - 1904. Law 2. P. 305.
- 50(2) Local customary procedure.
- 50(3) Hall, section 76(3).
- 51(1) P.I.C. - 1904. Law 16. P. 307.
- 51(2) I.C. Reg. 1(a) & (b) - 1904. P. 315.
52. P.I.C. - 1904. Law 16. P. 307.
53. I.C. amended Reg. 7 - 1924. P. 318.
- 54(1) P.I.C. - 1904. Law 1. P. 304.
- 54(2) P.I.C. - 1904. Law 11. P. 306.
55. P.I.C. - 1904. Laws 10 & 14. Pp. 306, 307; and
Fiji Native Courts Code 1927, sec. 56(1).
56. Hall, section 61.

57. P.I.C - 1904. Law 7. P 305.
58. " " Law 10. P 306.
59. P.I.C - 1904. Law 14. P. 307; and
Fiji Native Courts Code 1927, sec. 63.
60. " " " " " , sec. 67.
61. new provision; but cf. P.I.C - 1904 Law 2 P 305.
62. P.I.C - 1893. Law 5. P. 297; and
" - 1904. Laws 3 & 4. P 305.
63. Fiji Native Courts Code 1927, sec 59(3).
64. P.I.C - 1904. Law 8. P 305.
65. Fiji Native Courts Code 1927, sec. 65.
- 66(1),(2) " " " " " , sec. 61.
- 66(3),(4) I.C. Reg. 13 - 1904. P 317.
67. Fiji Native Courts Code 1927, sec 69.
68. " " " " " , sec 77.
69. " " " " " , sec 74.
70. I.C. Reg. 5(c) - 1904 P 316.
71. P.I.C - 1904 Law 11 P 306.
72. " " Law 13. P 306; and
I.C. Reg. 8(b) & (c) - 1904 P 316.
73. " " 8(a) - 1904 P 316.
74. I.C. amended Reg. 10 - 1907. P. 317.
75. I.C. Reg. 10(c) - 1904. P 317.
76. I.C. Reg. 9(a) & 10(b) - 1904. P 316, 317.
77. P.I.C - 1893. Law 18 P 299.
78. I.C. Reg. 11(b) - 1904. P. 317.
79. " " 12 - 1904. P. 317.
80. " " 5(a) - 1904. P 316.
81. P.I.C - 1904. Law 20. P 308.
82. Hall, section 86(4).
83. P.I.C - 1904. Law 15. P 307.
84. P.I.C - 1904. Law 25. P 309, 311.
85. Hall, section 90.
86. new provision.
87. I.C. Reg. 1 - 1904. P 315; and
P.I.C - 1893. Law 27. P 301.

No of Regulation.

Source.

1.

(Stat Table).

2

(Interpretation).

3 (1), (3)

P. I C - 1904. Section H. 302.

3 (2), (4) - (7)

" " " " f 302.

4

" " " " f 304.

5

" " " " f 303.

6

" " " " H. 302, 303.

7

8 (1)

" " " " f 302.

8 (2)

New provision.

8 (3)

Petroleum Island Constitution - 1904. Pt 303, 304.

6-1

a, b, c,

2

d. Law 18

(3) Law 12

e. Local acts of Virgin Islands. Interpretation - 1909. P. 311.

4 5 local c.

INSTRUCTIONS

for the Guidance of the Local Government of Pitcairn Island

The following instructions for the guidance of the Local Government of Pitcairn Island have been issued by me as a Deputy Commissioner for the Western Pacific in accordance with the directions of His Britannic Majesty's High Commissioner for the Western Pacific

Pitcairn Island,
September, 1940.

a Deputy Commissioner for the Western Pacific.

~~The following instructions are hereby issued by me as a Deputy Commissioner for the Western Pacific in the form of Regulations for the guidance of the Local Government of Pitcairn Island, as directed by His Britannic Majesty's High Commissioner for the Western Pacific.~~

as directed by His Britannic Majesty's High Commissioner for the Western Pacific, the following instructions are hereby issued by me in the form of Regulations for the guidance of the Local Government of Pitcairn Island. The Regulations have been assented to by a General Assembly of all resident native born inhabitants of the island not the age of seventeen years, held at Pitcairn Island on the seventh day of October, 1940, and are subject to His Excellency's review and approval.

Pitcairn Island,
7th October, 1940.

a Deputy Commissioner for the Western Pacific,
with jurisdiction in the Pitcairn Islands District

which are subject to His Excellency's review and approval.

~~The~~ Rules made by the Island Council shall be published by
offering copies thereof, signed by the Chief Magistrate, to the notice-board
of the Court and shall come into force on the date of such
publication. Copies of all Rules shall be forwarded to the High
Commissioner who may, by order publicly notified in the island, revoke
or amend any rule.

in the manner provided ~~in~~ in section (2) of this Regulation.

and any rules made under the

and any other law ^{or} Regulation authorized by the H.C.

of these Regulations and any

of these Regulations and any rules made under Regulation 6 ~~below~~, and by other

relevant
record

Siddall Day

Guttle
Gupte
with
from
Hilli Hilli
Ravida
Siddall Day

1. "These Regulations may be called the Pitcairn Island Government Regulations, 1940."

2 include all, sketches deleted in green ink a set, but delete definitions of "month" and "person". See "out" still include, also required, a solemn declaration and affirmation. See 5.05 (129).
Find out about "public holidays".

3 (2). "Island officers shall remain in office"

3 (3) Delete "other than Chief Magistrate".

4 (2) Delete "subject to the provisions of the next following sub-section".

6 (before a) add "the keeping clear of the town and of settlements on the island".

6 (between i & j) insert "the provision, use and maintenance of public property".

6 (between l & m) insert "the control of livestock".

6 (2) substitute the following - "Rules made by the Island Council shall be publicly notified by affixing copies thereof, signed by the Chief Magistrate, to the public notice-board of the Court and shall come into force on the date of such notification. Copies of all Rules shall be forwarded to the High Commissioner who may, by order notified in like manner, revoke or amend any rule".
? Is it the Council or Court notice-board?

6 (3) delete "approved by the High Commissioner and".

6 (4) ascertain about constables. Suggest that the members of the Internal Committee act *ex officio* as constables.

6 (5) delete "rule". Should it be read in Court or Council? What notice-board?

7 (1) Discuss part in brackets would they help the term to be invariably 1 year?

8 (2) insert "for the time being" between "responsible" and "of performing his duties".

10. add "Chief Magistrate and" both in text & margin.

11 (1) & (2) What dates do they set? or I suggest as below

12 (2) ? cannot women be elected to any office?

8 (3) add before last para - "He shall undertake the official correspondence of the Chief Magistrate and see that copies of the same are kept and filed in the archives of the island, together with all other official documents".

8 (1) add "and shall discharge any duties which may from time to time be assigned to him by the High Commissioner".

11 (1) between the first and seventh (2) "not later than the twelfth".

Part IV. The Island Court.

Composition of the Court

14. - (1) The Island Court shall consist of the Chief Magistrate and two Assessors, provided that the Chief Magistrate may sit without assessors to hear -

- (a) any criminal case in which the penalty does not exceed a fine of two pounds or imprisonment for one week; or
- (b) any civil case in which the amount in dispute does not exceed two pounds.

In all other cases, criminal and civil, within the jurisdiction of the Court, the Chief Magistrate shall sit with assessors.

(2) In all cases where the Chief Magistrate sits with assessors the decision of the Court shall be given in accordance with the votes of the assessors. In the event of the assessors differing the Chief Magistrate shall decide alone.

(3) In all criminal cases the punishment to be awarded shall be decided by the Chief Magistrate alone.

Jurisdiction of the Court

15. Subject to the provisions of these Regulations the Island Court shall have jurisdiction:-

- (1) In civil cases between persons resident in the Island where the amount in dispute does not exceed $\frac{10}{12}$ pounds;
- (2) over such offences committed in the Island or the territorial waters thereof as may, under the provisions of these or any other Regulations, be declared to be within the jurisdiction of the Court: provided that the Court shall not impose a sentence exceeding a fine of ten pounds or imprisonment for a term of three months or both such fine and imprisonment; and

(3) To make all such rules as may be necessary or expedient for the execution of any judgement or order of the Court made in exercise of the jurisdiction conferred upon it by this Regulation.

Jurisdiction of High Commissioner's Court

16. All cases, civil and criminal, not within the jurisdiction of the Island Court, shall be heard and determined by the High Commissioner's Court for the Western Pacific in accordance with the provisions of the Pacific Order in Council, 1893.

17 18. old

17 (1) stet.

19(2) - When any child called as a witness does not, in the opinion of the Court, understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the Court he understands the duty of speaking the truth and is possessed of sufficient intelligence to justify receiving his evidence; provided that no person shall be convicted upon the unconfirmed statement of a child who has not been sworn.

20. If a witness refuses to be examined on oath or affirmator, or refuses to take the oath or to affirm, a having done so, refuses without just cause to answer any lawful question put, the Chief Magistrate may by warrant commit that person to prison for any period not exceeding ten days, unless in the meantime such person consents to be examined on oath or affirmator or to answer the question.

Review of judgements by Court of Appeal.

21 (1) - The High Commissioner or a Judicial Commissioner may direct that any judgement of the Court shall be sent to the Court of Appeal for review in the manner laid down below.

(2) When a judgement is, under this Regulation, submitted for review, the Court shall send a copy of the minutes of the case, signed by the Chief Magistrate, and the notes of evidence, with such remarks as it thinks necessary, and the Court of Appeal shall return the minutes, with such instructions as they think fit to give, ~~either as to findings of fact, or as to law, or, in the case of a judgement in a criminal matter, as to the attention of sentence;~~ and the Court shall carry out such instructions.

(3) While a judgement in a criminal matter is being reviewed by the Court of Appeal, the Island Court may suspend the execution of the sentence and shall do so if directed to by the High Commissioner.

(4) The Court of Appeal rules this Reg. shall be His Majesty's Seal of Fiji.

22. stet. (20 - omit.)

23. stet, but omitting "when it shall be in Form 1 in the Schedule hereto."

24 - Form 28 Search Warrant

25 - If on being summoned to appear before the Court the person charged does not appear at the time and place notified to him and it be proved on oath that he was duly summoned within a reasonable time before the time appointed for his appearance, the Court may proceed to hear and determine the case without his attendance.

26 - Form 31 - Non-attendance of Ampleman

27 - Form 32 - Adjourned Hearing

53 (2) Goods to the value of 2/- to be brought
forward to the introduction of the A.R.

54 & 55 - No fee

73 - ? ten pounds as previously.

82 - Director to be given to C.R. to get a refund
basis. Raise cap limit to 16 years in law test-?

83 (revised) This law is noted with the amendment

"and take the course a course to the owner" instead of
"take the course a" "for his own use".

add law re cheques as at Statute 1 317 (110).

90 - add with cost of C.R. necessary for changes to what liquor.

92 - C.R. limits to be revised annually.

<u>mitted</u>	<u>Retained</u>	<u>small</u>
41	45	41
42	46	42
43	47	44
44	48	
51	49	
	50	

28 - Form 33 - Appearance of both parties.

29 - Form 34 - Imprisonment.

30 - Form 35 - Punishment of children. But ascertain whether the local custom is for fines against children to be enforced against parents & guardians & retain a delete section (2) accordingly.

31 - Form 36 - School orders.

32 - Form 37.

33 - Form 39 but choose, before finalizing form of section (d), the question whether a person in prison is by custom allowed one day off per week to attend to his plantations.

34 - Form 40.

35 - Form 45 - Proceeds of hearing.

36 - Form 46

37 - Form 47.

38 - Form 43 - Barren of claims after 2 years.

39 - If a party summoned to appear before the court the plaintiff does not appear at the time and place notified to him, the Chief Magistrate may dismiss the case.

40 - If a party summoned to appear before the court the defendant does not appear at the time and place notified to him, the court may, on it being proved on oath that he was duly summoned a reasonable time before the time appointed for his appearance and upon the plaintiff proving to the court's satisfaction the claim sought to be enforced, make such order as the nature of the case may require.

41 - Form 50.

42 - Form 51.

43 - Form 52.

44 - Form 53.

45 - (1) any person may summon another to give reasons why he should not be bound over to be of good behaviour towards the complainant, and the court may make an order as in Form 4 in the schedule ordering the person charged to enter into a recognizance and find sureties and the person making the charge and the person charged and witnesses may be called and examined.

(2) a recognizance shall be in accordance with Form 5 in the Schedule.

46. The court may order the person charged, should he not comply with an order made under Regulation 45, to be imprisoned for a period not exceeding six months.

47 - Form 56.

48-55 - Form 57-64 (Do they suit Zeillo's (3) of 76 in 53?)

56 - Zeillo's clause 81.

54 - (2) add last part of Zeillo's 91 (2) - See S.O.S. at (18a)

Part VI - Offences.

57-(1) - as in draft, but add

(a) Wilfully refuses to obey a summons of the Court; or

58 - Former 67, but delete "public"? } suggest deleting "public" in 58 but not 59.
59 - Former 68, but delete "public"? } see s.o.s. at (56).

60 - Former 69.

64 - Former 73

61 - Former 70.

65 - Former 74 (But would this not offend several - delete?)

62 - Former 71

66 - Former 75. (But is $\frac{1}{2}$ high enough?)

63 - Former 72

67 - Former 76

68 - Former 77

73 - Former 82

69 - Former 78 (But is $\frac{1}{2}$ high enough).

74 - Former 83 (do they prefer Hall's 78?)

70 - Former 79

75 - Former 84

71 - Former 80

76 - Former 85

72 - Former 81

77 - Former 86

78 - Former 87.

83 - Former 92 (But do they want this & what use is it?)

79 - Former 88.

84 - Former 93

80 - Former 89.

85 - Former 94

81 - Former 90 - should write get a permit?

86 - Former 95.

82 - Former 91

87 - Former 96

88 - Former 97

89 - Former 98

(2) Any person called upon by the Committee to act as public trader on ships calling at the island who fails without lawful excuse so to act shall be guilty of an offence.

90 - Former 99, but add - of the island, "which shall be under the control of the Council", and

91 - Former 101 - but add - chief magistrate "when visiting and inspecting land works in accordance with Regulation 52" or to replace

92 - Former 102.

shall 83 - Do they want this? If so, place between 78 & 79.

Extra Regulations

What public buildings are kept?

(1) Law re 'Criminal Knowledge' or seduction, as at s.o.s. - law 2.

(2) Law re 'Sail Ho'.

(3) Law re 'Bounty Relief'.

(4) Summary law 9 (1st section) - hotly taking children to steal. ✓

(5) Wild cats & animals - s.o.s. p. 316, reg 5(B) ✓

(6) Cats - s.o.s. p. 299, law 16. ✓

(7) Appointment of Constables.

(8) Chief Magistrate not to be a Church Officer.

Rules made by the Council under Regulation 6 of
the Pitcairn Island Government Regulations, 1940.

Part 1 - The Public Boats, Boat Houses, and Public Trading.

Powers of the
Committee

1. The building, naming, and general management of the public boats, the construction and maintenance of the public boat houses, and the conduct of public trading shall be under the control of the Committee.

Appointment of
Boat Captains.

2. The Committee shall appoint a Captain for each boat, such appointments to be subject in each case to the approval of the Council.

Committee to approve
use of boats.

3. Any person using a public boat without obtaining the consent of the Committee shall be liable to a fine not exceeding three pounds.

Inter-island
travellers.

4. The Committee shall not grant their consent to a public boat being used for visiting any other island until they have obtained the approval of the Council.

Powers of Boat
Captains.

5. The Captain of each boat shall have charge of its navigation and working when on the water. He shall be responsible for the safety of the boat and in the event of rough weather he shall have power to refuse to take more than the number of passengers and the amount of cargo that he considers safe. Any passenger or member of the crew disobeying an order of the Captain made in pursuance of the powers conferred upon him by this Rule shall be liable to a fine not exceeding two pounds.

Care of boats
while lying
alongside ships.

6. The Captain of each boat shall detail one or more members of the crew in rotation who shall be responsible for the care of the boat while lying alongside a ship. Any member of the crew who fails to perform this work when ordered to do so or who performs it negligently or carelessly or who leaves his boat without the prior sanction of the Captain shall be liable to a fine not exceeding two pounds.

Loading and
discharging of
cargo.

7. The crew of each boat shall be responsible, under the direction of the Captain, for the loading and discharging of cargo to and from the boat. Any member of the crew who fails to perform this work or who performs it negligently or carelessly shall be liable to a fine not exceeding one pound.

Repairs to
boats.

8. The Captain shall report to the Committee whenever his boat requires any large repairs and shall have the right to work with the carpenters in his own boat. All small repairs shall be done by the Captain himself with the assistance of his crew.

Part II - Use of Public Boats for Visiting Ships.

Women to have
turns for visiting
ships.

9. The Committee shall prepare a list containing the names of all women over the age of sixteen years who desire to visit ^{in the public boats.} passing ships. This list shall be divided up in such a manner as to give every woman included in it a turn in rotation; provided that any woman who has no man in her family or household to do her trading shall be entitled to visit every alternate ship for which turns are permitted to the other women.

Privilege of Chief
Magistrate and
boat-tenders.

10. The Chief Magistrate, together with the men whose turn it is to look after the boats while they are alongside the ship, shall be entitled to take a woman each to do their trading for them.

Gift or exchange
of turns.

11. Any woman may give her turn to another, or exchange her turn with another by mutual agreement; provided that such gift or exchange is ratified to a member of the Committee.

Women visiting
ships on the
Sabbath Day.

12. The system of turns shall not operate on the Sabbath Day. any woman who wishes to visit a ship ^{on public boat} on the Sabbath Day shall apply to one of the Boat Captains who may in his discretion allow her to visit the ship in his boat.

Restrictions on women
visiting cargo and
passenger ships.

13. Women are not permitted to visit cargo ships at any time or passenger ships between the hours of 8 p.m. and 4 a.m. in the public boats.

Penalty for unlawful
use of a public
boat.

14. Any woman who visits a ship ^{in a public boat} other than in accordance with the foregoing rules shall be liable to a fine not exceeding one pound and to forfeiture of her next succeeding turn.

Penalty for Boat
Captains who permit
unlawful use of a
public boat.

15. Any Boat Captain who permits a woman to enter a public boat for the purpose of visiting a ship other than in accordance with the foregoing rules shall be liable to a fine not exceeding ten shillings.

Children and young
persons visiting
ships.

16. It shall be unlawful for a child or person under the age of sixteen years to visit any ship; provided that males between the ages of fourteen and sixteen may, with the consent of the Committee, visit ships after school hours ^{and before 6 a.m.} for the purpose of learning to man the boats. The parent or guardian of any child offending against this Rule shall be liable to a fine not exceeding ten shillings.

Exception when medical
advice or attention
is required.

17. Nothing in the foregoing rules shall apply to cases where it is necessary for a woman or person under the age of sixteen years, owing to illness, to visit a ship in order to obtain medical advice or attention; provided that in every such case the ~~consent~~ consent of the Council or, in a case of urgent necessity, of the Chief Magistrate shall have been first obtained, and further provided that such woman or person under the age of sixteen years does not engage in any trading activities while on board.

Part III - Use of Public Property.

Use of public
buildings.

18. Any person who, with the consent of the Committee, makes use of any public building and fails to sweep out and tidy up such building before his departure therefrom, shall be liable to a

fine not exceeding ten shillings and the Court may order him to pay compensation for any damage done by him to the building.

Use of the sugar mill house.

19. Any person who, with the consent of the Committee, makes use of the sugar mill house and neglects to carry the refuse resulting from his work beyond the first row of coconut trees shall be liable to a fine not exceeding ten shillings.

Part IV - Control of Livestock.

Branding of goats.

20. The Committee shall appoint one or more Goat Masters who shall be responsible for the branding of all goats on the island.

Chasing, catching, or killing goats.

21. Any person chasing, ^{or} catching ~~or~~ goats without the prior sanction of one of the Goat Masters shall be liable to a fine not exceeding ten shillings.

Neglecting to show care of goats killed.

22. Any person neglecting to show the carcass of a goat killed by him to the Head Goat Master shall be liable to a fine not exceeding one pound.

Part V - Sanitation

Cleaning the public road.

23. Any person refusing or neglecting to keep clear that portion of the public road lying within the limits allotted to him by the Committee shall be liable to a fine not exceeding ten shillings.

Lattices to windows.

24. Every inhabited dwelling house shall be provided with a proper ^{lattice} ~~lattice~~ to the satisfaction of the Committee. The owner or occupier of any house who refuses or neglects to comply with this rule shall be liable to a fine not exceeding two pounds.

H.	E	A
44	59	0
47	41	29
-	5	55
21	0	
<hr/>		
112	105	84
34	50	50
	10	
<hr/>		
146	165	134
49	19	
<hr/>		
195	184	134
	30	
<hr/>		
	220	

any person neglecting to keep clear that portion of the public road by
within the limits allotted to him by the Committee shall be liable to a
fine not exceeding ten shillings.

~~The sum of all goats killed must be paid to the Head Goat Master~~
Any person neglecting to show the sum of a goat killed by him to the
Head Goat Master shall be liable to a fine not exceeding ten pounds.

Every substituted shelly horse shall be branded with a mark
like to the substitution of the Council. The on-charge board shall register a fine
only with the rule shall be liable to a fine not exceeding ten pounds.

For Council Meeting.

- (1) New Post Office to be built. Site chosen. Show plan suggest. Women direct public works to proceed immediately.
Remains of timber to be put aside ready for Ward's house.
- (2) Purpose amended Regulation 10 -
"No person other than a native born inhabitant of the island shall be eligible for election as Chief Magistrate or Assessor unless he shall have resided in the island for not less than twenty-one years".
- (3) H.C. directs new law regarding rock coverings, which are public property -
"any person removing, defacing, or otherwise injuring any of the historic rock coverings at Rapa or St Paul's shall be liable to a fine not exceeding ten pounds or to imprisonment for any period not exceeding three months".
Lenny to go to Suna Museum for present.
- (4) Grant to be approved.
- (5) Question of mail bags has been carried up. Any transport should be met by taxation.
- (6) Payment of Island officials. Directors of S.O.S.
I know they were offered but hope none would refuse office because of transport.
They can be treated to check a given away.
They may or will be of great benefit to island, especially if not used selfishly.
Under present system it is evident that all are not willing to serve govt.
New trial is best chance for present system.
- (7) How are boat rego being received. answers to report to H.C. re failure of voluntary system.
- (8) H.C. directs us to stop now that laws are finished & settle question of Island Govt.
Put transport govt. in office & try them.