

NATIVE LAWS

CENTRAL PACIFIC ISLANDS

(1) Vaitupu

- I Adultery - \$5 to Faipule also \$3 to the wife of the man, and \$3 to the husband of the woman, if married, and 50cts to the man or woman who catches the parties in the act.
- II Stealing - \$5 to Faipule - the same as above. The thief catcher receives 50cts.
- III Falsehood - \$5 to Faipule - also to witness who convicts the party Lying \$3.
- IV Fighting - \$5 to Faipule - If two men or two women fight and draw blood, also \$3 to the man who arrests.
- V - \$5 to Faipule - If any child fights his or her Father or Mother and draws blood. Also \$3 to the party who arrests.
- VI Trespassing \$5.
- VII Murder - Death. But if a man should be nearly killed and recover, the very bad man is fined \$5 to Faipule and also \$3 which is paid to the victim.
- VIII Stealing Coconuts, Taro or Buraka - \$5 to Faipule and \$3 to the party who detects them.
- IX Using Bad Language to Mission Teacher or King - \$2 to Faipule.
- X If Banns of marriage are posted in a public place, any one wilfully destroying the same shall be fined \$2.
- XI If a man and woman are detected meeting in an out of way place with intent to commit Adultery they shall be fined \$5.
- XII If a man and woman (unmarried) commit fornication in the Mission House they shall be fined \$2.
- XIII If two men have a dispute about a taro patch the one that is proved to be in the wrong shall be fined \$2.
- XIV If an orphan has been deprived of his land, and the present holders of the said land do not return it to him when ordered to do so, they shall be fined \$5 to Faipule also \$3 to the real owner of the land.
- XV If anyone kills a pig or a fowl belonging to another - The offender shall pay a fine to the Faipule of \$1 and also return a pig for a pig and a fowl for a fowl.
- XVI If two or more persons will persist in holding a conversation

outside of the Church when service is being ~~held~~ carried on they shall be fined 10 old cocoanuts.

- XVII If any children male or female hear the Horn sound at sun down and instead of retiring to their homes still walk about the village they shall be fined 6 cocoanuts also if they absent themselves from family worship they shall be fined 6 cocoanuts.
- XVIII If any children are found trying to snare birds with a stick, a line or stone attached they shall be fined 4 cocoanuts.
- XIX If any bathe in the waterhole belonging to the native teacher thereby endangering the body of the missionary to disease the offender shall be fined 10 cocoanuts.
- XX If any children bathe in the sea and then pour drinking water over their bodies they shall be fined 10 cocoanuts.
- XXI If a man is accused of committing adultery and plead not guilty and prove that he is not guilty he is discharged - but if he plead guilty he is fined \$5.
- XXII If anyone is found cutting the leaves of Burak plants or cocoanut branches of tree any other than his own he or she shall be fined \$1.
- XXIII If any man goes to a place sacred to Government he shall be fined \$1.
- XXIV If anyone commits a crime and convicted and he has an accomplice the latter shall be fined \$5.
- XXV If a young man and a young woman are detected talking privately - they shall be fined \$1.
- XXVI If a man neglects to clear away rubbish about his house he shall be fined 6 cocoanuts.
- XXVII If any attempt to leave the island in a canoe they shall be fined \$1. Also if any canoe arrives from another island the Faipule shall confiscate the canoe.
- XXVIII That all dead shall be buried in proper graveyards set aside for that purpose (4 in number) anyone attempting to bury outside of these graveyards shall be fined \$1.
- XXIX If a child is born and the parents neglect to report same to the Faipule they shall be fined 25cts.
- XXX If any go to the store and contract debt they shall be fined \$1.

(2) Nukulaelae

- 1 Adultery \$10
- 2 Stealing \$4.50
- 3 Falsehood \$5
- 4 Acting the fool, or causing disturbance - shall be fined
- 5 Anyone threatening another with a knife \$3.50
- 6 Neglecting to clean in and around dwelling every month \$1
- 7 Neglecting to keep a light burning in each house every night \$1
- 8 Anyone being insolent to King and Council \$2.50
- 9 Neglecting to register birth ~~of~~ of a child to Judge within 3 days \$1.

(3) Funafuti

- 1 Adultery £15
- 2 Fornication \$10
- 3 Stealing \$10
- 4 Bloodshedding \$5
- 5 Using Spirits or Drunkenness \$5
- 6 Getting credit at a store \$5
- 7 Bad language 25cts
- 8 Killing a fowl or pig or any animal or bird of another 25cts
- 9 Dancing \$1
- 10 Tatooing \$2.50
- 11 Falsehood \$5
- 12 Appearing rude 25cts
- 13 Destroying anything belonging to another £5
- 14 Taking by force any article belonging to another ~~£5~~ \$1.50

- 15 Causing a foolish disturbance in the village 25cts
- 16 Bad conduct in public places 25cts.

(4) Niutao

- 1 Adultery - punishment one lime kiln 2 fathoms long 3 yards wide and one fathom deep.
- 2 Stealing - punishment same as for adultery
- 3 Bloodshedding - punishment same as for stealing
- 4 Falsehood - punishment same as for bloodshedding
- 5 Worshipping Idols - punishment a fine of 300 old cocoanuts
- 6 Paganism, or Disregard for the name of God - punishment the same as for Adultery
- 7 Neglecting to obey the commands of father or mother - fine 500 stones for building purposes
- 8 Working on Sundays - 1000 stones for building purposes

Anyone concealing a crime shall be fined

Visiting neighbours is forbidden on the sabbath day - punishment 20 baskets shingle

Bathing on Sunday without a waist cloth is prohibited - punishment 20 baskets shingle.

(5) Nukufetau

- 1 Fornication 300 cocoanuts
- 2 Reporting lies to King and Kaubure 300 cocoanuts
- 3 Theft 300 cocoanuts
- 4 Murder - Death, but left to be decided by High Commissioner or man of war.
- 5 Treachery, as prowling at night with a knife or wooden spear with intent to do bodily harm 500 cocoanuts
- 6 Wilfully inciting people to anger 500 cocoanuts
- 7 Bloodshedding - confiscation of land and taro patches: amount to be decided by Kaubure Faibuli.

- 34 10
- 8 Disregarding the authority of King and Faipuli 500 cocoanuts
 - 9 Attempted Rape 400 cocoanuts
 - 10 Non attendance at church 10 cocoanuts
 - 12 Quarrelling with Mission Teacher 100 cocoanuts
 - 13 Working on Sunday 100 cocoanuts
 - 14 Refusing to work for King and Church 10 cocoanuts
 - 15 Omitting to keep pigs in sty~~n~~ or pen 10 cocoanuts
 - 16 Neglecting to keep house and land clean 10 cocoanuts
 - 17 Walking about the settlement after hours 10 cocoanuts
 - 18 Trespass 10 cocoanuts
 - 19 Killing a fowl or pig belonging to another - a fowl or pig in return.
 - 20 Anyone professing a belief in the Roman Catholic Religion - confiscation of land and taro patches: amount to be decided by Faibuli.
 - 21 Anyone feeding a bird or animal on poisoned fish 10 cocoanuts
 - 22 Blasphemy 200 cocoanuts
 - 23 Destroying trees or taro 100 cocoanuts
 - 24 Drinking spirits 100 coconuts
 - 25 Getting credit 50 cocoanuts
 - 26 Tatooing the body 10 cocoanuts
 - 27 Piercing the lobes of the ears 10 cocoanuts
 - 28 Adultery - punishment not mentioned
 - 29 Fornication or Adultery on the Sabbath day 1300 cocoanuts
 - 30 Illegitimacy 1000 cocoanuts.

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LAWS OF BERU ISLAND:

HC to Old men of Beru, 10.7.93: I have heard that there are some men on Beru who teach and say the following things:-

(1) That the old men do not rule everybody; that there are some outside the rule of the old men.

This saying is foolish and wrong. The old men rule everybody excepting white men living on the land. White men of every nation are subject to the Queen's laws only. As to all others see that you rule over them kindly but strongly.

(2) That anybody may get drunk on toddy so long as they make no noise or other disturbance.

This is the talk of a foolish or a mischievous man. If any native talks like this let him be tried, and if the proof of his so speaking or teaching be proved let him be punished by work on the road, or on the reef, no matter what native he may be.

(3) That people may commit adultery so long as they are not found out.

This language is that of a disturber of the land. Is adultery a small thing?

If any man teaches or talks such evil things let him be brought before the old men by the person aggrieved, and if the charge is proved let him be punished by work on the reef or roads as in the last case.

All laws will presently be printed in a book for your use, but in the meantime you the old men of Beru will carry out these orders that I now give you. It is my desire that the land should be in peace and all men friendly disposed towards one another. But this cannot be if men may get drunk, or may commit adultery, or may pretend that they and not the old men govern the land.

These are my words to you, make them known all over the land.

(Sgdn) John B. Thurston
10th July, 1893.

NATIVE LAWS OF THE GILBERTS

R.C. to H.C., No. 11 of 29.12.93: I have the honour to submit the following observations on the Native Laws of the Gilbert Island Protectorate.

1. The Laws have been drawnup in accordance with your instructions in as simple a form as possible. At the same time I have endeavoured to make them sufficiently comprehensive in order to meet the wants of the people for some time to come.
2. While the Native Authorities are allowed to apply at any time to the British Resident for advice and assistance the whole administration of law excepting the infliction of the penalty of death is left in their hands,
3. I have had as many of the laws of Islands as I could obtain translated and in the framing of the Native Laws now submitted consideration has as far as possible been given to native ideas of gravity of offence.
4. Adultery, Seduction of betrothed wife and causing fire whereby damage to houses or cocoanuts was done were formerly punished by death. A penalty of forfeiture of land (little short in the native mind of the ancient punishment) has been with imprisonment substituted in later years. For obvious reasons this penalty has not been embodied in the Laws.
5. The Native Laws such as they are; and all islands claim to have laws of their own, I found to be actively administered and probably with a fair amount of justice.
6. The reason of this active attention to the punishment of crime (of which there seems to be as in Fiji comparatively little) may be found partly in the natural good sense of the people and partly in the fact that the authorities of the island administering the law receive and divide among themselves the fines collected.
7. This very natural way of disposing of fines does not obviously tend in the direction of moderate fines for venial offences.
8. Under the Native Laws the authorities of the island can still make regulations as to all minor offences but as they will have no interest or only a very remote one in the amount of fines inflicted they can I think be trusted to act with considerable fairness and if requisite to limit and control the amusements of the people without stopping them altogether.
These people love amusement and their amusements are with few exceptions quite harmless.
9. I find by enquiry that the heavy fines inflicted by their own laws are in many cases quite beyond the power of the individual to pay and are collected from relations and friends.
10. There will probably be some little difficulty at first in the Democratic Governments of the Southern Islands in obtaining Magistrates and in such islands as Tobetenia and Nonuiti where the North and South ends of the islands are living in a state of smothered hostility, comparatively slow progree (as compared with some of the Northern islands) in inducing a reliance on the law as supremen arbiter of all disputes will be made.

NATIVE LAWS OF THE GILBERTS (Contd)

11. Scribes also will be difficult to find but these are men I believe well fitted for the position in the Islands.
12. In view of the repugnance there exists in the Democratic Governments to any one member of the community assuming the slightest superiority to another (an assumption formerly settled by the death of the aspirant) I have provided for Magistrates being assisted by some of the Councillors or Old Men.
13. Gradually no doubt men will be found strong enough to decide cases without assistance and the Magistrate may in islands South of the Line become the trading authority of the island.
14. A sentence of death is not allowed to be carried into execution without the approval of the British Resident. If the Magistrate and the jury are unanimous and the prisoner confesses to the murder, the Resident should I think approve the sentence.

I have &c.

C.R. Swayne
British Resident, Gilbert Island
Protectorate.

NATIVE LAWS

In a HC file in the archives there is the ms copy of the "Native Laws of the Gilbert Islands British Protectorate 1894" as printed, with a Gilbertese version in ms, presumably also printed.

There are also the following printed laws -

- (1) Native Laws of the Gilbert Islands (British Protectorate) 1894.
- (2) Native Laws of the Ellice Islands (British Protectorate) 1894.
- (3) Samoan ~~test~~ version of (2).
- (4) Native Laws of the Union Group (British Protectorate) 1912 (including Samoan version).
- (5) Revised Native Laws of the Gilbert, Ellice and Union Groups (Gilbert & Ellice Islands Colony) 1916.

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NATIVE LAWS: GILBERTS

RC (Swayne) to HC No.2 of 22.1.95: "I regret to say that on leaving Suva a parcel containing copies of the Native Laws of the Gilbert Islands was left in the Office at Nasova. I would ask that a copy of the Native Laws be placed in each of the enclosed envelopes and the parcel sent to the Archer SS for delivery at the several islands on her return trip.

The remaining copies of the Native Laws I would ask you to direct to me here." (i.e. Butaritari).

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NATIVE LAWS

GILBERT ISLANDS

The following is marked "draft reply to C.O.14361/95" and addressed by Thurston to John Bramiston Esq., C.B. Its date was presumably sometime in 1895. I have not checked up by looking for the copy of the actual d/o/ letter, but D.C. believes it does not exist as Thurston wrote from the U.K. when on leave.

Sir,

In reply to your letter specified in the margin I have the honour to state for the information of Mr Secretary Chamberlain that I transmitted the Native Laws of the Gilbert Islands as approved by me for the information, and if necessary instruction, of Lord Ripon and not for submission to Her Majesty.

If you will refer to my letter of the 2nd of September 1893 reporting my visit to the Gilbert Group it will be observed that it was then my intention, in conformity with promises and arrangements made with the local authorities of each island to revise and make uniform their own local laws.

This intention was subsequently carried out. The authorities of each island supplied a copy in manuscript of their so called laws from which with the aid of my interpreter an improved and uniform rough draft was prepared in my office. This was subsequently brought before the 'Manaipa' or Council of the several islands by the Resident Commissioner Mr Swayne and with the assistance of the Maniapa and Mr Corrie the Government Interpreter amended in certain particulars. The laws were then adopted and passed by the native authorities, who are in fact the makers.

I should perhaps add that it would have been both inexpedient and impossible to have set aside the laws, such as were already in existence. It appeared therefore to be my duty to avail of such organization as already existed and to improve upon it from time to time as the natives advance in civilization and as other circumstances permit.

These local native laws in no way derogate from the authority invested in the High Commissioner's Court should it see fit in any case to take action under the provisions of Art.4 of Part 1, section (b), of Her Majesty's Western Pacific Order in Council 1893 and this the natives are fully cognizant and satisfied.

I beg leave, as requested, to return the enclosure to your letter.

I have,

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