

WESTERN PACIFIC HIGH COMMISSION.

Pitcairn Island,
Eastern Pacific,
1st December, 1940.

Sir,

I have the honour 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 over 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 Regulation forwarded to the Secretary of State under cover of the Assistant High Commissioner's confidential despatch of the 11th July, 1939, as revised by His Honour the Chief Judicial Commissioner in the light of the Secretary of State's observations forwarded by the Colonial Office on the 10th May, 1940;
- (b) A declaration assenting to the new regulations, signed by the adult resident native born inhabitants of Pitcairn Island; and
- (c) A table showing the sources from which the regulations are derived.

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 thereupon 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

Council, an

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

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 reading 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 performed their work, however, there was 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 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.

6. As directed by the Secretary of State in his telegram No. 92 of the 7th June, the new code has been based on the draft King's Regulation forwarded to him under cover of the Assistant High Commissioner's confidential despatch of the 11th July, 1939. This draft had been already revised by His Honour the Chief Judicial Commissioner, in accordance with the instructions contained in paragraph 3 (a) of the Secretary of State's telegram. The further changes made

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 undesirable or unnecessary by the Committee; or
- (c) the Committee were 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) Judgements 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 omitted; and
- (8) A regulation has been inserted making it an offence to have carnal knowledge of a girl under 14.

8. I am confident 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

social transition which lies immediately ahead; a period in which the present tendency to change the social organization from a community basis to one dependant 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. Simons in 1904, which they supersede. In all other respects Mr Simons's code proved excellently adapted to local needs and, despite its loose wording and the consequent occasional uncertainty as to its meaning, it served the needs of the community for nearly forty years.

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 Pitcairn Islands District, as "Instructions" for the guidance of the local government. A typewritten copy has been handed to the Chief Magistrate, who has been informed that the text is subject to the eventual revision and approval of His Excellency.

10. In order 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 formally 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

the free and unanimous consent of the entire population, and that in view of this any attempt to obtain further formal legal authority is in a sense unnecessary.

II. While it appears probable that greater familiarity with conditions in the island may suggest the desirability of modifying certain of the regulations in the enclosed code and of adding 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 and additions, which can be inserted in the final code before printing. The main consideration which decided me to take this course was the uncertainty as to the length of my residence in the island and the possibility that I might have to leave at short notice.

I have the honour to be,

Sir,

Your obedient servant,

(Signed). H.E. Maude.

High Commission Representative,
Pitcairn Island.

I N S T R U C T I O N S

for the Guidance of the Local Government of
Pitcairn Island.

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 over the age of seventeen years, held at Pitcairn Island on the seventh day of October, 1940, and are subject to His Excellency's revision and approval.

(Signed). H.E. Maude.

Pitcairn Island,
1st December, 1940.

A Deputy Commissioner for the
Western Pacific with jurisdiction
in the Pitcairn Islands District.

Part I. Preliminary.

- Short Title. 1. These Regulations may be called the Pitcairn Island Government Regulations, 1940.
- Interpretation. 2. In these Regulations -
- "child" means a person who is under the age of fourteen years;
- "Committee" means the Internal Committee of the Island;
- "Council" means the Island Council;
- "Court" means the Chief Magistrate's Court;
- "High Commissioner" means His Britannic Majesty's High Commissioner for the Western Pacific;
- "Island Officer" means one or other of the following persons - the Chief Magistrate, an Assessor, the Chairman of the Internal Committee, or the Island Secretary;
- "the Island" means Pitcairn Island;
- "Judicial Commissioner" means a Judicial Commissioner for the Western Pacific exercising jurisdiction under the Pacific Order in Council, 1893;
- "oath" shall be construed, where the case so requires, as including a solemn declaration and affirmations;
- "public bell" means the public bell of the Island;
- "public boat" means a boat owned and used jointly by the community;
- "public trading" means trading with ships on behalf of the community;
- "public work" means the performance of services for the common benefit;
- "Recorder" means the person appointed to receive and record votes at the election of Island Officers;
- "Sabbath Day" means the period between sunset on Friday and sunset on Saturday.
-

Part II. Island Council, Internal Committee
and Island Officers.

Island Officers
to be elected
annually.

3. - (1) In the last week of December in every year the inhabitants of the island shall elect, in the manner provided in Part III of these Regulations, the following Island Officers -

A Chief Magistrate.

Two Assessors.

A Chairman of the Internal Committee.

An Island Secretary.

(2) Island Officers shall remain in office from the 1st January to the 31st December of the year following the year of their election, and shall be eligible for re-election.

(3) Any vacancy in the office of Island Officer shall be forthwith filled by the Council for the remainder of the current year of office.

Island Council.

4. - (1) Subject to such Regulations and Orders as may from time to time be made or given by the High Commissioner, the Government of the Island and the management of the affairs thereof shall be administered by the Island Council, consisting of the Chief Magistrate, the two Assessors, the Chairman of the Internal Committee and the Island Secretary.

(2) The Council shall meet in the first week of every month and at such times as it may be summoned by the Chief Magistrate, who shall fix the time of ordinary and special meetings.

(3) The Chief Magistrate shall preside at every meeting of the Council. He shall have an original vote and, in the case of an equal number of votes on any question before the Council, a second or casting vote.

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(3) The Chief Magistrate shall preside at every meeting of the Council. He shall have an original vote and, in the case of an equal number of votes on any question before the Council, a second or casting vote.

(4) No business shall be transacted at any meeting of the Council unless at least three members of the Council are present.

(5) Every question before the Council shall be decided by the majority of the votes of members present.

(6) The Council shall have power to adjourn its sittings from time to time.

(7) No act or proceeding of the Council shall be questioned on account of any vacancy in its body.

Duties of Council.

5. It shall be the duty of the Council to provide for the enforcement of the provisions of these Regulations, together with any rules made under Regulation 6, and any other laws and regulations authorized by the High Commissioner.

Island Rules.

6. - (1) It shall be lawful for the Council to make, alter, or revoke rules relating to any of the following matters -

- (a) the keeping clean of the town and any other settlements in the island;
- (b) the removal or stopping of any public nuisance;
- (c) the removal and disposal of rubbish;
- (d) the provision of and cleanliness of latrines;
- (e) the enforcement of drainage, and cleaning of houses;
- (f) the making, maintenance and cleaning of roads;
- (g) the water supply and household tanks;
- (h) the determination of the locality where burials may take place, and the care and maintenance of cemeteries;
- (i) the performance of public work;
- (j) public trading;
- (k) the provision, use and maintenance of public property;

- (l) the building, manning and general management of the public boats and boat houses;
- (m) the island prison;
- (n) the public schools;
- (o) the control of livestock;
- (p) the branding or marking of goats and poultry and the recording of brands and marks;
- (q) the appointment, discharge, payment, discipline and duties of police constables, warders and wardresses.

(2) Rules made by the Island Council shall be publicly notified by affixing copies, signed by the Chief Magistrate, to the public notice-board and shall come into force on the day of such notification. Copies of all rules shall be forwarded to the High Commissioner who may, by order notified in the same manner, alter or revoke any rule.

(3) Any person refusing or neglecting to comply with the provisions of a rule which has been publicly notified shall be liable to a fine not exceeding five pounds, or such less sum as may be prescribed by rule.

(4) Every proceeding against a person for the contravention of a rule shall, unless the rule provides otherwise, be taken by a constable or an officer appointed by the Council for that purpose.

(5) Public notification of any order of the High Commissioner, or other law, regulation or order shall be made by reading the same in Council and affixing a copy to the public notice-board.

Internal Committee.

7. - (1) The Internal Committee shall consist of the Chairman, who shall preside, and two members who shall be appointed by the Council and shall hold office

for such term not exceeding one year as the Council shall prescribe, and shall be eligible for re-appointment.

(2) It shall be the duty of the Committee to carry out the orders of the Council for the enforcement of all laws, regulations and rules and to perform such other duties as the Council may direct.

(3) The Committee shall meet in the last week of every month on a day to be fixed by the Chairman. Minutes of proceedings and a report on the work done during the month shall be entered in a book which shall be submitted monthly to the Chief Magistrate.

Chief Magistrate.

5. - (1) The Chief Magistrate, in addition to his duties as president of the Island Council and in relation to the Island Court, shall be the chief executive officer of the island, and shall discharge any duties which may from time to time be assigned to him by the High Commissioner.

Assessor to act during temporary incapacity of Chief Magistrate.

(2) In case the Chief Magistrate shall, by reason of illness, temporary absence from the island or otherwise, become incapable for the time being of performing his duties, the assessor who received the greatest number of votes at the election shall act as Chief Magistrate, and while so acting shall have all the powers vested in the Chief Magistrate under these Regulations.

Island Secretary.

(3) The Island Secretary shall be the Clerk of the Council and of the Committee and shall record the minutes of proceedings. He shall keep the Court records. He shall act as Island Treasurer and keep the public cash book. He shall prepare half yearly a return of all Court cases and a copy of the minutes of Council and of the proceedings of the Internal Committee

for transmission through the Chief Magistrate to the High Commissioner. He shall undertake the official correspondence of the Chief Magistrate and see that copies of the same are kept and properly filed in the archives of the island, together with all other official documents. He shall discharge such other duties as the Chief Magistrate may from time to time direct.

Part III. Election of Island Officers.

Qualification of Voters.

9. Every native born inhabitant of the island and every other person who has resided on the island for a period of three years shall be qualified to vote provided that he has attained the age of eighteen years.

Qualification of Chief Magistrate and Assessors.

10. No person other than a native born inhabitant of the island shall be eligible for election as Chief Magistrate or Assessor.

Register of Voters.

11. - (1) The Island Secretary shall prepare and, between the first and seventh day of December of every year, shall publish a register of all persons qualified to vote. The register shall be signed by the Chief Magistrate and a copy thereof shall be affixed to the public notice-board.

(2) Any person who desires to make any objection to anything contained in or omitted from the register may do so by giving written notice thereof to the Chief Magistrate not later than the twelfth day of December. The decision of the Chief Magistrate upon such objection shall be final; and, if necessary, the register shall be amended in accordance therewith.

(3) The register so prepared and amended shall be called the Register of Voters and no person

shall be entitled to vote whose name is not upon the register.

Nomination of Candidates.

12. - (1) Candidates for the posts of Island Officers shall be nominated at a public meeting of persons qualified to vote which shall be called and presided over by the Chief Magistrate at least seven days before the day of the election.

(2) Only males of not less than twenty-one years of age may be nominated as candidates.

(3) The names of the nominated candidates shall be publicly notified at least four days before the day of the election.

Mode of holding Election.

13. - (1) In the last week of December in every year, on a day and at a place and an hour of which two days public notice shall have been given, all persons whose names are upon the Register of Voters shall repair to the place so notified for the holding thereof and there indicate in writing on the voting cards prepared by the Recorder, who shall be appointed by the Council, the names of the candidates for whom they desire to vote.

(2) No person shall be permitted to tender a vote for another person.

(3) Immediately after the completion of the voting for each particular post the votes then given shall be counted by the Recorder and the names of the successful candidate or candidates shall be announced by him in the Court House.

(4) All Island Officers for the year shall be elected on the same day.

Part IV. The Island Court.

Composition of the Courts.

14. - (1) The Island Court shall consist of the

Chief Magistrate sitting with the two Assessors, provided that the Chief Magistrate may sit without the 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 the two 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:-

(a) in civil cases between persons resident in the island where the amount in dispute does not exceed ten pounds;

(b) 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 Courts 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

(c) to make all such orders 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 the 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.

Sittings of the Court.

17. The Court shall sit at eight of the clock in the forenoon on the Monday of the second and fourth week of every month unless such day shall be a public holiday, in which case the Court shall sit on the next day which is not a public holiday, and at such other times as the Chief Magistrate may direct. The Court House shall be open to the public.

Open Court.

Form of Oath.

18. - (1) A witness before giving evidence shall take an oath which shall be administered by the Chief Magistrate. The witness shall take the Bible in his uplifted hand and swear as follows -

"I swear that I will speak the truth, the whole truth, and nothing but the truth. So help me God."

Solemn Affirmation.

(2) The Chief Magistrate, if satisfied in the case of an intended witness, that the taking of an oath would not bind his conscience, or that he objects to be sworn on the ground that he has no religious belief, or that the taking of an oath is contrary to his religious principles, may permit him, instead of taking an oath, to make a solemn declaration and affirmation that he will, in giving evidence, speak the truth, the whole truth, and nothing but the truth.

Evidence of Children.

19. - (1) The evidence of a child may be given upon oath provided that such child appears sufficiently to understand the nature of an oath.

(2) Where 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.

Committal to
Prison.

20. If a witness refuses to be examined on oath, or refuses to take the oath, or having done so refuses without just cause to answer any lawful question put, the Chief Magistrate may by warrant in Form 3 in the Schedule 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 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) Where 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, 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 under this Regulation shall be His Majesty's Supreme Court of Fiji.

Criminal Proceedings.

How charge laid.

22. - (1) The Chief Magistrate may require a charge to be put in writing, when it shall be in Form 1 in the Schedule.

Charge to be of one matter only.

(2) Every charge shall be for one offence only, but it shall be lawful for the complainant to lay one or more charges against the same person at the same time.

By whom proceedings taken.

23. Unless a regulation provides that proceedings for offences shall be taken by any other person, those proceedings shall be taken in the name of His Majesty the King by a constable or by any person appointed for that purpose by the Chief Magistrate.

Search Warrant.

24. Where the Chief Magistrate is satisfied by evidence on oath that there is reasonable cause to believe that any property which is alleged to have been stolen is in any place, the Chief Magistrate may grant a warrant in Form 2 in the Schedule, to search for the property, and if the same or any part is found, to bring the same and the owner or occupier of the place where the property is found before him.

When Defendant does not appear.

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 appearance.

When Complainant does not appear.

26. If at the time and place appointed the person charged is present and the person making the charge, having had due notice, does not appear, the Court shall dismiss the charge or adjourn the hearing as to it shall seem fit.

Appearance at
adjourned hearing.

27. If at the time and place appointed for any adjourned hearing either of the parties does not appear the Court may proceed with the hearing as if the party were present. If neither of the parties appears, the Court may dismiss the case.

Appearance of
both parties,
trial and judge-
ment.

28. - (1) If both parties appear, the Court shall state the charge to the person charged and shall call upon him to plead thereto. If the person charged does not plead guilty, the Court shall hear the prosecutor and such evidence as he may bring and shall also hear such evidence as the person charged shall give in his defence.

(2) Subject to the provisions of Regulation eighteen, section two, evidence shall be given on oath, and either party shall be entitled to cross-examine a witness called by the other party, but the person charged shall not be compelled to give evidence on oath or to make any statement unless he elects so to do. The Court shall take notes of the evidence given.

(3) Upon the conclusion of the evidence the Court shall give judgement acquitting or convicting the person charged; and in the latter case the Chief Magistrate shall then pass sentence upon him.

Imprisonment.

29. In all cases where the Court has jurisdiction by these or any other Regulations to impose a sentence of imprisonment, the Chief Magistrate may order the imprisonment to be with or without hard labour, and may further, should he think fit, direct that the person convicted shall be allowed to attend to his plantation for one day in every week during the period of his imprisonment.

Punishment of
Children.

30. - (1) No child convicted of an offence shall be liable to be imprisoned or to pay a fine exceeding ten shillings.

(2) Where a child is ordered to pay a fine, the payment thereof may be enforced against the parent or guardian of the child.

(3) When a child is convicted of an offence the Chief Magistrate, if he thinks it unwise to inflict any punishment, may discharge the accused. If the accused is a male, the Chief Magistrate may order him to be privately whipped with not more than twelve strokes of a cane in his presence.

(4) No corporal punishment shall be inflicted on a child by order of the Court except as provided by these or any other Regulations.

Sentence where person convicted is already undergoing imprisonment.

31. Where the person charged is sentenced to imprisonment and he is then undergoing imprisonment for any other offence, the Chief Magistrate may order that the imprisonment for the second offence shall commence at the end of the period of imprisonment to which he was previously sentenced. If no such order is made, the sentence for the second offence shall run from the date of the sentence.

Form of Warrant of Commitment. Forms 4 and 5.

32. A warrant of commitment shall be drawn up in accordance with one or other of the Forms 4 or 5 in the Schedule, or as near thereto as circumstances will permit, and shall be signed by the Chief Magistrate.

Power of Court on conviction.

33. When a person by a conviction is ordered to pay a sum of money the Chief Magistrate may -

(a) order imprisonment unless the sum be paid forthwith; or

(b) allow time for the payment of the said sum; or

(c) direct payment of the said sum by instalments and order imprisonment in default of payment of any instalments; or

(d) order the person convicted to work on the public roads or other public service for a period of

eight hours a day from the day following the date of conviction, crediting him at the rate of five shillings a day for such work, until the full amount of the sum ordered is thus paid: provided that no work shall be done on the Sabbath Day or any public holiday; or

(e) accept payment of the fine in goods useful for public services, such as oars or sail cloth for the boats, at an amount to be assessed by the Chief Magistrate: provided that where the amount assessed is less than the amount ordered to be paid on conviction, the Chief Magistrate may make such order under this Regulation in respect of the amount still due as he may think fit.

Provided that the Chief Magistrate may, should he think fit, direct that any person ordered to be imprisoned or to work on the public roads or other public service under this Regulation shall be allowed to attend to his plantation for one day in every week during the period of such imprisonment or work.

Scale of imprisonment in default of payment of a fine.

34. The period of imprisonment which may be imposed by the Chief Magistrate under these or any other Regulations in respect of the non-payment of any sum of money ordered to be paid or in respect of the default of payment of any instalment of that sum or in respect of any portion of that sum which remains unpaid when a part of the sum ordered is paid by goods as provided in the last preceding Regulation shall be according to the following scale -

When amount of the sum or sums adjudged to be paid	Period of Imprisonment shall not exceed
does not exceed five shillings,	three days.

exceeds five shillings but does not exceed one pound,	fourteen days.
exceeds one pound but does not exceed two pounds,	one month.
exceeds two pounds but does not exceed five pounds,	two months.
exceeds five pounds but does not exceed ten pounds,	three months.

Disposal of Fines. 35. All fines shall be accounted for and paid over by the Chief Magistrate to the High Commissioner and shall be credited to the Pitcairn Island Fund.

Civil Proceedings.

Procedure at hearing. 36. - (1) Upon the hearing of a Civil Action, the Court, unless the defendant admits the claim, shall first hear the evidence on oath of the plaintiff and his witnesses, and then the evidence on oath of the defendant and his witnesses, and after that give judgement by making such order as the nature of the case may require.

(2) Each party may question a witness of the other party after that witness has given evidence.

Adjournment. 37. The Chief Magistrate may at any time, and whether either or both of the parties be present or not, adjourn the hearing of a case.

Notes of Evidence. 38. The Court shall in all actions take notes of the evidence given.

Default of appearance of plaintiff. 39. If on being 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.

Default of appearance of defendant. 40. If on being 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.

Enforcement of
Judgement.

41. Upon a judgement of the Court for the payment of money the Court may -

(a) order the sum to be paid forthwith and in default that the defendant be imprisoned; or

(b) order the sum to be paid by instalments and in default of the payment of any instalment that the defendant be imprisoned.

Provided that any imprisonment ordered shall be on the scale given in Regulation thirty-four; and provided further that no imprisonment be ordered unless the Chief Magistrate is satisfied at the time of ordering that the defendant is able to pay the sum and will not do so, or that since the date of judgement he has been able to pay and has neglected or refused to do so.

Recognizances.

Binding over to be
of good behaviour.

42. - (1) Any person may summon another to give reason 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 6 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 7 in the Schedule.

Imprisonment in
default.

43. The Court may order the person charged, should he not comply with an order made under Regulation

42, to be imprisoned for a period not exceeding six weeks.

Enforcing recognizance.

44. When a recognizance has been entered into before the Court, the Court, upon proof that the condition thereof has not been observed, may order the person bound by it to pay the sum for which he is bound and the payment may be enforced in the same manner as a fine.

Part V. Miscellaneous Provisions.

Inquiry into cause of death.

45. Wherever the Chief Magistrate shall have reason to believe or suspect that the death of any person occurring or of any person who may be found dead in the island has been brought about or accelerated by any unnatural causes, it shall be lawful for him, if he shall think fit, at such time and place as he shall fix, to hold an inquiry into the cause of such death.

Disinterment of body for the purpose of inquiry.

46. If a body shall have been interred before an inquiry shall have been held, it shall be lawful for the Chief Magistrate, if he shall think fit, by warrant signed by himself to order the disinterment of such body for the purpose of the inquiry and such disinterment shall be made accordingly.

Inquiry into cause of fires.

47. When any property shall have been damaged or destroyed by fire in the island, it shall be lawful for the Chief Magistrate, if he shall think fit, to hold an inquiry into the cause and origin of such fire.

Power for Chief Magistrate to compel attendance of witnesses.

48. For the purpose of any inquiry under Regulations forty-five or forty-seven, the Chief Magistrate shall have all the powers of the Court to summon and compel the attendance of witnesses; to administer oaths to witnesses and compel them to give evidence;

and to punish contempt committed in the presence of the Chief Magistrate during the inquiry.

Annual inspection of land marks.

49. In the month of January in every year, on a day or days to be publicly notified, the Chief Magistrate shall call upon all persons he may consider necessary and with them he shall visit and inspect all land marks in the island and order that any missing mark be forthwith replaced in such manner as he may direct.

Orders for maintenance of illegitimate children.

50. - (1) Upon an application made within twelve months of the birth of an illegitimate child by the mother or, if she is under the age of twenty-one years, by her parent or guardian, the Court may order the father of the child to pay a sum not exceeding five shillings a week to the mother or other person having custody of the child for the maintenance of the child until such time, not later than the date upon which the child shall attain the age of fourteen years, as the Court may direct.

(2) The Chief Magistrate may permit the payment of any sum due under this Regulation to be made in goods of an equivalent value, provided that he is satisfied that the goods offered will be useful in the support of the child and that the mother or other person having custody of the child is willing to accept the goods in place of a money payment.

(3) The mother or other person having custody of the child who shall misapply money paid by the father for the support of the child or who shall abuse, neglect or maltreat such child shall be liable on conviction to a fine not exceeding two pounds.

Liability to perform Public Work.

51. - (1) Every male who has attained the age of sixteen years and has not attained the age of sixty years shall be liable to perform public work without

payment when called upon by the Committee so to do.

(2) All persons called upon shall assemble at the Court House within fifteen minutes after the public bell has been rung three times: provided that any person unable to attend on account of sickness or any other cause shall send written notice to the Chairman of the Committee.

Liability to man
the Public Boats
or act as Public
Trader.

52. Every male who has attained the age of sixteen years and has not attained the age of sixty years shall be liable to man the public boats, or to act as public trader, when called upon by the Committee so to do.

Liability for
Injury caused
by dog.

53. - (1) The owner of any dog who shall injure or destroy goats or poultry may be sued before the Court and damages awarded to the owner of the goats or poultry.

Destruction of
dangerous dogs.

(2) The Court may order that any dog which has bitten any person, or which the Court on more than one occasion has found to have caused damage to goats or poultry, shall be destroyed in such manner as the Court may direct.

Part VI. Offences.

Contempt of Court.

54. - (1) If any person does any of the following things, namely:-

(a) Wilfully by any act or threat obstructs any person carrying out any order of the Court in the performance of his duty; or

(b) Wilfully refuses or neglects to appear before the Court when summoned; or

(c) Within or close to the room where the Court is sitting wilfully misbehaves in a violent, threatening

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.

Abusive or threatening language.

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, or any person may fear that an assault may be committed, shall be liable to a fine not exceeding one pound or to be imprisoned for any period not exceeding fourteen days.

Profane or obscene language.

56. Any person using profane or obscene language in any public place shall be liable to a fine not exceeding ten shillings or to be imprisoned for any period not exceeding seven days.

False reports.

57. Any person spreading any untrue report about any person which may cause such person to suffer in reputation shall be liable to a fine not exceeding two pounds or to be imprisoned for any period not exceeding one month.

Assaults.

58. Any person who without lawful excuse assaults or beats any other person shall be liable to

a fine not exceeding five pounds or to be imprisoned for any period not exceeding two months.

Disorderly conduct.

59.

Any person who in any public place conducts himself in a disorderly manner shall be liable to a fine not exceeding one pound or to be imprisoned for any period not exceeding fourteen days.

Indecent behaviour.

60.

Any person who behaves in an indecent manner in any public place shall be liable to a fine not exceeding five pounds or to be imprisoned for any period not exceeding two months.

Unlawful carnal knowledge.

61.

Any male person who shall have carnal knowledge of any female under the age of fourteen years shall be liable to be imprisoned for three months.

Adultery.

62. - (1)

Any man who, upon complaint of her husband, is found guilty of adultery with a married woman, or any woman who, upon complaint of his wife, is found guilty of adultery with a married man, shall be liable to a fine not exceeding ten pounds.

(2) Any husband who, upon complaint of his wife, or any wife who, upon complaint of her husband, is found guilty of adultery, shall be liable to a fine not exceeding ten pounds.

(3) Presenting a complaint under this section shall not affect the right of the complainant to petition for divorce or judicial separation.

63.

It shall be unlawful for a man and woman to live together as man and wife unless they are legally married and any person convicted of such an offence shall be liable to a fine not exceeding five pounds.

Thrift and Receiving.

64.

Any person who commits theft of any property of a value not exceeding, in the opinion of the Court, the sum of ten pounds, or who receives property not exceeding that value knowing it to have

^{Un} Married couples
living together.

been stolen, shall be liable to a fine not exceeding ten pounds or to imprisonment for any period not exceeding three months and the Court shall, upon conviction, order the stolen goods to be restored to the owner.

Failing to restore property found.

65. Any person who finds any property which does not belong to him and fails to restore the same to the owner or, if the owner is unknown to him, fails to report it to the Chief Magistrate, shall be liable to a fine not exceeding two pounds and shall in addition be ordered to restore the property to the owner.

Causing Fires.

66. - (1) Any person who negligently causes a fire shall, when no property is destroyed, be liable to a fine not exceeding two pounds or to be imprisoned for any period not exceeding one month.

(2) Any person who negligently causes a fire whereby any property is destroyed shall be liable to a fine not exceeding five pounds or to be imprisoned for any period not exceeding two months. The Court shall have power to order that the whole or part of the fine shall be paid to the owner or owners of the property destroyed, provided that the compensation payable under such order shall be apportioned by the Court at its discretion, and provided that no owner shall receive compensation of a greater amount than the value of the property destroyed.

(3) Any person who causes a fire within five yards of the boundaries of any land or lands without the permission of the owner or owners, or who leaves the fire after such permission is obtained before it is extinguished, shall be liable to the penalty laid down in the last section and the Court shall have power to award compensation as prescribed there.

(4) It shall be unlawful for a child to light a fire on any land except under the supervision of an adult. The parent or guardian of any child offending against this Regulation shall be liable to a fine not exceeding ten shillings.

Malicious damage to property.

67. Any person who unlawfully and maliciously commits any damage to any property, public or private, the value of which, in the opinion of the Court, does not exceed ten pounds shall be liable to a fine not exceeding ten pounds or to be imprisoned for any period not exceeding three months, and the Court may order the offender to make compensation for the damage.

Trespass.

68. Any person who without lawful excuse enters or remains in any plantation, garden, land or house after being warned not to enter or to depart therefrom, shall be liable to a fine not exceeding one pound or to imprisonment for any period not exceeding fourteen days.

Polluting drinking water.

69. Any person who discharges any filth or foul water in, or bathes in, or washes his clothes in, or otherwise defiles or pollutes any water used for drinking, shall be liable for a first offence to a fine not exceeding two pounds and for any subsequent offence to be imprisoned for any period not exceeding two months.

Killing or taking the Noddy or the White Bird or their eggs during the close season.

70. Any person who shall -

(a) during the months of August to January, both inclusive, kill, take or in any way molest the noddy, or take any noddy's eggs; or

(b) during the months of August to December, both inclusive, kill, take or in any way molest the bird known in the island as the "white bird", or take any "white bird's" eggs;

shall be liable to a fine not exceeding two pounds.

Possession of
Firearms.

71. - (1) It shall be unlawful for any person to be in possession of a gun unless he has obtained a licence from the Chief Magistrate, who will only grant such licence if he is satisfied that the applicant is a fit and proper person to possess a gun. The licence fee shall be one shilling for each year and the licence shall not be transferable.

(2) No licence may be issued to a person under the age of sixteen years.

(3) Any person found in possession of a gun for which he has not obtained a licence, shall be liable to a fine not exceeding two pounds.

Firing a gun
carelessly.

72. Any person who discharges a gun carelessly or in such a manner or place as to cause danger to the public, shall be liable to a fine not exceeding one pound.

Shooting goats
within the
prohibited area.

73. Any person who shoots a goat within the following boundaries, namely - from the bend of the ridge at White Cow Pen, inland towards Outer Valley, thence following the same line to William's Block, thence across the head of McCoy's Valley and Taro Ground, and thence along the ridge to the head of Paavala Valley, Itie and Mr Nobb's Coconuts, shall be liable to a fine not exceeding two pounds.

Keeping more than
four she-goats.

74. - (1) The head of any family resident in the island which keeps more than four breeding she-goats shall be liable to a fine not exceeding ten shillings, and the Court may make such order as it deems fit for the disposal of the number of she-goats exceeding four.

(2) Should any family leave the island for a period not exceeding ten years the head of such family may nominate any person resident in the island as the caretaker of the breeding she-goats belonging to the family.

Keeping a diseased goat.

75. Any person who shall keep a goat suffering from the disease known in the island as "big bubby" shall be liable to a fine not exceeding one pound; and the Court shall order that the goat be destroyed in such manner as the Court may direct.

Failure to brand or mark goats or poultry.

76. Any person failing to have his goats or poultry marked in the manner ordered by the Council, shall be liable to a fine not exceeding one pound.

Damage by fowls or goats.

77. If fowls or goats do damage to crops on any land the owner of the land shall request the owner of the fowls or goats to remove them from his land, and if this request is not complied with forthwith the owner of the land may shoot the fowls or goats and may also sue for damage caused to his crops, provided that in every such case the owner of the land shall forthwith deliver the carcass or carcasses of any fowls or goats shot to their owner.

Killing of fowls.

78. Any person who shall kill a fowl without forthwith showing the legs to a member of the government shall be liable to a fine not exceeding one pound.

Unlawful planting or building.

79. Any person who shall plant crops or erect a building within one yard of the boundaries of his land without the written consent of the owner or owners of the adjoining land or lands shall be liable to a fine not exceeding two pounds, and the Court may order such crops to be dug up and such building to be pulled down.

Cruelty to animals.

80. Any person who shall be guilty of cruelty to any animal or bird shall be liable to a fine not exceeding five pounds and to imprisonment for any period not exceeding two months.

Importing intoxicating liquor.

81. - (1) Any native born inhabitant of the island who imports intoxicating liquor, except for religious or medicinal purposes with the written consent of the

Chief Magistrate, shall be liable to a fine not exceeding 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.

(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 not exceeding ten pounds.

Supplying a native born inhabitant with intoxicating liquor.

Making intoxicating liquor.

82. Any person who makes or attempts to make any intoxicating liquor shall be liable to a fine of ten pounds and all implements and materials used by him in making or attempting to make such liquor shall be destroyed in such manner as the Court may direct.

Importing drugs.

83. Any person who imports drugs of any kind without the written consent of the Chief Magistrate, which consent shall be renewable annually, shall be liable to a fine not exceeding five pounds and the Court may order that the drugs be confiscated and disposed of in such manner as the Court shall consider fit: provided that any person may upon a written prescription by a duly qualified medical practitioner import any drug for the use of himself or a member of his family.

Boarding Ships or Aircraft.

84. Any person who boards a ship or aircraft before he has ascertained that no sickness of any kind exists on board, shall be liable to a fine not exceeding five pounds.

Importing plants,
animals or birds.

85. Any person who:-

(a) shall import into the island banana plants or any root crops from any tropical country; or
(b) shall import, without a permit issued by the High Commissioner, any animal, reptile, or bird, other than domestic animals or birds, such as cattle, sheep, goats, fowls, ducks or turkeys, accompanied by a certificate of freedom from disease issued by the authority duly empowered to issue such certificates in the country of export;

shall be liable to a fine not exceeding five pounds, and the Court may order that the prohibited plant, animal, reptile or bird be forthwith destroyed in such manner as the Court shall direct.

Failure to Vote.

86. Any person whose name is upon the Register of Voters who, without lawful excuse, fails to record his vote in any election of Island Officers held under Regulation 13 shall be liable to a fine not exceeding three shillings.

Failure to perform
public work.

87. Any person who, without lawful excuse, fails to perform public work or who performs public work negligently or carelessly; and any person who in any way interferes with persons performing public work or hinders them in their performance, shall be liable to a fine not exceeding two pounds.

Misuse of public
tools.

88. - (1) Any person who, with the consent of the Committee, uses public tools and fails to return such tools to the place appointed by the Committee, shall be liable to a fine not exceeding ten shillings and the Court may order him to pay compensation for any tools lost, damaged or destroyed.

(2) Any person who uses public tools without the consent of the Committee shall be liable to a fine not exceeding one pound, and the Court may order him

to pay compensation as provided in section one above.

Nuisance on
public roads.

89. - (1) Any person throwing rubbish on any public road shall be liable to a fine not exceeding ten shillings.

(2) Any person splitting firewood on any part of a public road who fails to sweep that part of the road clean after such firewood is split, shall be liable to a fine not exceeding ten shillings.

Calling "Sail Ho".

90. Any person who shall call out "Sail Ho" when no ship is in sight shall be liable to a fine not exceeding five shillings.

Offences in relation
to public boats and
public trading.

91. - (1) Any woman embarking or attempting to embark in a public boat contrary to the instructions of the Committee shall be guilty of an offence.

(2) Any person embarking or attempting to embark in a public boat against the orders of the Captain shall be guilty of an offence.

(3) 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.

(4) The Committee may call upon all males between the ages of sixteen and sixty years to assist in the building, repairing or alteration of a public boat. Any person called upon, who, without lawful excuse, fails so to do, shall be guilty of an offence.

(5) Any person guilty of an offence against the provisions of this Regulation shall be liable to a fine not exceeding two pounds.

Failure to enforce
school attendance.

92. Every person between the age of six and sixteen years shall attend the public school of the island, which shall be under the control of the Council, and any parent or guardian who, without just cause, refuses or neglects to keep his child in regular attend-

ance at the school shall be liable to a fine not exceeding two pounds.

Offences relating
to landmarks.

93. Any person who fails, when called upon to do so, to accompany the Chief Magistrate when visiting and inspecting land marks in accordance with Regulation 49 or to replace a missing land mark, or who removes an existing land mark, shall be liable to a fine not exceeding five pounds.

Aiding and
abetting.

94. Every person who aids, abets, advises or causes another to commit any offence shall be liable to be proceeded against and convicted for the same, either with the principal offender or before or after that offender's conviction, and shall also be liable on conviction to the same penalties and punishments and to make the same payments as those to which the principal offender would be liable.

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Pitcairn Island Government Regulations, 1940.

Arrangement of Regulations.

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 Magistrate.
- (2). Assessor to act during temporary incapacity of
Chief Magistrate.
- (3). The Island Secretary.

Part III. Election of Island Officers.

9. Qualification of voters.
10. Qualification of Chief Magistrate and Assessors.
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.
- 12). Solemn affirmation.
- 19. Evidence of children.
- 20. Committal to prison.
- 21. Review of judgements by 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 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 judgement.
- 29. Imprisonment.
- 30. Punishment of children.
- 31. Sentence where person convicted is already undergoing imprisonment.
- 32. Form of warrant of commitment.
- 33. Power of Court on conviction.
- 34. Scale of imprisonment in default of payment of a fine.
- 35. Disposal of fines.

Civil Proceedings.

- 36. Procedure at hearing.
- 37. Adjournment.
- 38. Notes of evidence.
- 39. Default of appearance of plaintiff.
- 40. Default of appearance of defendant.
- 41. Enforcement of judgement.

Recognizances.

- 42. Binding over to be of good behaviour.
- 43. Imprisonment 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 marks.
50. Order for maintenance of illegitimate children.
51. Liability to perform public work.
52. Liability to man the public boats or act as public trader.
- 53 (1). Liability for injury caused by dog.
- (2). Destruction of dangerous dogs.

Part VI. Offences.

54. Contempt of Court.
55. Abusive or threatening language.
56. Profane or obscene language.
57. False reports.
58. Assault.
59. Disorderly conduct.
60. Indecent behaviour.
61. Unlawful carnal knowledge.
62. Adultery.
63. ^{Un} Married couples living together.
64. Theft and receiving.
65. Failing to restore property found.
66. Causing fires.
67. Malicious damage to property.
68. Trespass.
69. Polluting drinking water.
70. Killing 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. Shooting goats within the prohibited area.

74. Keeping more than four she-goats.
75. Keeping a diseased goat.
76. Failure to brand or mark goats or poultry.
77. Damage by fowls or goats.
78. Killing of fowls.
79. Unlawful planting or building.
80. Cruelty to animals.
- 81 (1), (2). Importing intoxicating liquor.
- 81 (3). Supplying a native born inhabitant with intoxicating liquor.
82. Making intoxicating liquor.
83. Importing drugs.
84. Boarding ships or aircraft.
85. Importing plants, animals or birds.
86. Failure to vote.
87. Failure to perform public work.
88. Misuse of public tools.
89. Nuisance on public roads.
90. Calling "Sail Ho".
91. Offences in relation to public boats and public trading.
92. Failure to enforce school attendance.
93. Offences relating to land marks.
94. Aiding and abetting.

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List of Forms contained in the Schedule.

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

I N D E X

to the Pitcairn Island Government Regulations, 1940.

(The numbers refer to the regulations).

- A -

- Abusive or threatening language - 55.
Adjourned hearings. In civil cases - 37.
" " , In criminal cases - 27.
Adultery - 62.
Affirmation in lieu of oath - 2, 18.
Aiding and abetting - 94.
Aircraft, Boarding - 84.
Animals, Cruelty to - 80.
" , Importing - 85.
Appeal, Review of judgements by Court of - 21.
Assault - 58.
Assessors, Qualification of - 10.
" , Trial with or without - 14.

- B -

- "Big Bubby", Goats suffering from disease known as - 75.
Binding over to be of good behaviour - 42, 43, 44.
Birds, Importing - 85.
" , Killing, or taking eggs of, certain - 70.
Boarding ships or aircraft - 84.
Boats, Public. See Public Boats.
Branding Goats or Fowls - 76.
Buildings, Erecting. Within 1 yard of boundary - 79.

- C -

- Carnal knowledge, Unlawful - 61.
Charges. How laid - 22.

- Chief Magistrate, Duties of - 4,8.
" " , Qualification of - 10.
" " , Temporary incapacity of - 8.
Child, Definition of - 2.
Children, Evidence of - 19.
" , Illegitimate. See Illegitimate children.
" Lighting fires - 66.
" , Punishment of - 30.
Civil procedure - 36-41.
Commitment, Form of Warrant of - 32.
Committee, The Internal - 2,7.
Complainant, Non-appearance of. In criminal cases - 26.
Constables, Appointment, etc. of Island - 6.
" , Duties of Island - 6,23.
Contempt of Court - 54.
Conviction, Power of Court on - 33.
Council, Composition of Island - 4.
" , Duties of Island - 4,5.
" , Meetings of Island - 4.
Court, Appearing in. With arms on person - 54.
" , Composition of the Island - 14.
" , Contempt of - 54.
" , Jurisdiction of the High Commissioner's - 16.
" , " " " Island - 14,15.
" of Appeal, Review of judgements by - 21.
" , Refusal to obey summons of - 54.
" , Sittings of the Island - 17.
Criminal procedure - 22-35.
Cruelty to animals - 80.

- Death Inquiries - 45,46,48.
" " , Powers of Chief Magistrate at - 48.

- Defendant, Non-appearance of. In civil cases - 40.
" , " " . In criminal cases - 25.
Definitions - 2.
Disinterment of body for purpose of Death Inquiry - 46.
Disorderly conduct - 59.
Dogs destroying Goats or Fowls - 53.
" , Destruction of dangerous - 53.
" , Liability for injuries caused by - 53.
Drugs, Importing - 83.

- E -

- Election of Island Officers - 3,13.

- F -

- False reports, Spreading - 57.
Fee for firearms license - 71.
Fines, Disposal of - 35.
" , Payment of - 33.
" , " " goods in lieu of - 33.
Firearms. Discharging in a careless manner - 72.
" , Possession of - 71.
Fires, Causing - 66.
" , Children lighting - 66.
" , Inquiries into cause of - 47,48.
" , " " " " . Powers of Chief Magis-
at - 48.
" , Lighting of. Close to boundaries - 66.
Firewood, Splitting. On public road - 89.
Fowls, Damage by - 77.
" , Failure to brand - 76.
" , Killing. Without showing legs - 78.

- G -

- Goats, Damage by - 77.
" , Failure to brand - 76.

Goats, Keeping diseased - 75.

" , " more than four female - 74.

" , Shooting. Within the prohibited area - 73.

- H -

High Commissioner's Court, Jurisdiction of - 16.

- I -

Illegitimate child, Order for maintenance of - 50.

Importing plants, animals, or birds - 85.

Imprisonment. For criminal offences - 29.

" . In default of entering into a recogni-
zance - 43.

" . " " " payment of a fine - 33.

" . " " " " " " " . Scale
of - 34.

Indecent behaviour - 60.

Inquiry into cause of death - 45,46,48.

" " " " fires - 47,48.

Internal Committee, The - 2,7.

" " , Composition of - 7.

" " , Duties of - 7.

" " , Meetings of - 7.

Interpretation - 2.

Intoxicating liquor, Importing. By native born inhabit-
ant - 81.

" " , " . By visitor - 81.

" " , Making - 82.

" " . Selling or supplying to native
born inhabitant - 81.

Island Officer. See Officer, Island.

- J -

Judgements. In civil cases - 41.

" . In criminal cases - 28.

- L -

Land Marks, Annual inspection of - 49.

" " , Offences relating to - 93.

Licence for firearms - 71.

- 46 -

- M -

Malicious damage to property - 67.

- N -

Noddy, Killing, or taking eggs of, the - 70.

- O -

Oath, Form of - 18.

" . To include Solemn Affirmation - 2.

Obscene or profane language - 56.

Officer, Definition of Island - 2.

" , Length of term of service of Island - 3.

" , Nomination of candidates for post of Island - 12.

" , Vacancy in post of Island - 3.

Officers, Election of Island - 3.13.

- P -

Plaintiff, Non-appearance of - 39.

Planting. Within 1 yard of boundary - 79.

Plants, Importing - 85.

Polluting drinking water - 69.

Poultry. See Fowls.

Prison, Committal to - 20.

Profane or obscene language - 56.

Property found, Failing to restore - 65.

" , Malicious damage to - 67.

" , Receiving stolen - 64.

Public boats, Liability to man - 52.

" " , Offences in relation to - 91.

" notification of rules, orders, etc. - 6.

" road, Throwing rubbish on the - 89.

" tools, Misuse of - 88.

" trader, Liability to act as - 52.

" trading, Offences in relation to - 91.

" work, Failure to perform - 87.

Public work in lieu of imprisonment - 33.
" " , Liability to perform - 51.

- R -

Receiving stolen property - 64.
Recognizances - 42,43,44.
Recorder, Definition of - 2.
" , Duties of - 13.
Reports, Spreading false - 57.
Review of Judgements by Court of Appeal - 21.
Roads, Throwing rubbish on the public - 89.
Rubbish, Disposal of - 89.
Rules, Island - 6.
" , " . Copies to be sent to High Commissioner - 6.
" , Non-compliance with Island - 6.
" , Powers of High Commissioner regarding Island - 6.
" , Public notification of Island - 6.

- S -

Sabbath Day, Definition of the - 2.
"Sail Ho", Calling out - 90.
School attendance, Failure to enforce - 92.
Search Warrant, Grant of - 24.
Secretary, Duties of the Island - 8.
Sentence, where person convicted is already undergoing imprisonment - 31.
Ships, Boarding - 84.
Summons, Failure to obey Court - 54.
Supreme Court of Fiji, Review of Judgements by the - 21.

- T -

Theft - 64.
Threatening or abusive language - 55.
Title, Short - 1.

Tools, Misuse of public - 88.

Trespass - 68.

Trials, Procedure in civil - 36-41.

" , " " criminal - 22-35.

- U -

Unlawful carnal knowledge - 61.

Unmarried couples living together - 63.

- V -

Vacancy in office of Island Officer - 3.

Vote, failure to - 86.

Voters, Qualification of - 9.

" , Register of - 11.

- W -

Warrant of commitment, Form of - 32.

" , Search - 24.

Water, Polluting drinking - 69.

White Bird, Killing, or taking eggs of, the - 70.

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

Part I. Preliminary.

Regulation 1. The short 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 short 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 could grasp the significance of "body of persons corporate or incorporate" and it seems undesirable to confuse them with any technical expressions which can safely be dispensed with.

"Public Holiday" -

"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 by the community.

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

A definition of "Sabbath Day" appeared to be necessary - vide Regulation 33 (d). The community being adherants 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 "oath" 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 office of Chief Magistrate has been reinserted in the list of elected offices, 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 Magistrate for a five year period by the High Commissioner would, I believe, have proved a most unfortunate move and the cause of much friction on the island.

Regulation 4. The

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;
- (k) the provision, use and maintenance of public property; and
- (o) the control of livestock.

The wording of several other paragraphs has been slightly changed.

Regulation 6 (2). To have to wait until the High Commissioner has approved a rule before bringing it into force does not appear to be practicable. 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 are passed in order 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 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

nightfall, and had it been necessary for that rule to remain a dead letter pending the formal 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. Simons 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 State's 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 Advisory Committee, from Mr Neill's original draft.

Regulation 8 (2). This new section was framed by His Honour 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

The amendments were in each case taken from Mr Simons's 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 or" have been reinserted.

Regulation 11. On 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.

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 feuds and as a result the more timorous members of the community were loth to express their preferences; and that
- (c) as all officers were elected at the same time, an experienced official who failed to be elected for a particular position

a particular position had no chance of then being considered for any other.

According to the improved system now being introduced on the island each voter will be required to register his 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). Vide the Secretary of State's observations on clause 14. According to Mr Simons's codification of island custom, however, "does not exceed" is correct.

Regulation 14 (2). Mr Neill's draft, which stated the local practice as fixed by Mr Simons in 1904, has been reverted to. As stated in the Secretary of State's notes, there is no reason why the Chief Magistrate should know any more about law than the assessors; in actual fact, the present Chief Magistrate appears to know less.

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 State's notes. There appeared to be no advantage in reverting to Mr Neill's clause 15, which was not based, except as regards paragraph (6), on any codification of existing practice.

Regulation 16. This regulation is the same as Mr Neill's original clause 16, which was based on Mr Simons's code: it was considered advisable to ^{re-}insert ~~again~~ ^{it} the new regulations to avoid

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 Court 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.

Regulation 21. This regulation is substantially the same as clauses 6-8 of the draft Order in Council. Owing to the infrequency of communication between Pitcairn Island and Fiji and the pressing necessity for increasing the authority of the local Court, which would be seriously weakened were an offender to remain at large pending the review 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.

Criminal Proceedings.

Criminal Proceedings - (Former clauses 18-40). The procedure governing the conduct of criminal proceedings has been shortened and simplified, in accordance with the Secretary of State's directions that the final code should be both intelligible to the islanders and in conformity with their own wishes and customs. In particular the necessity for introducing an elaborate system of summonses and warrants appeared

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. On the unanimous 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 (1) (b) -, 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 practice can be seen from Regulation 1 of Mr Simons's 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".

Former 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, former clause 30 has been reworded.

Regulation 29. Former 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 39; had it only been inserted in that clause, however, the concession would have applied solely to persons imprisoned for neglecting to pay a fine.

Regulation 30 (2).

Regulation 30 (2). See the Secretary of State's observations on former 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 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 the Committee were of the opinion that such a practice, besides being unseemly, would probably lead to disputes and should not be encouraged.

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 be released owing to a technical defect in his warrant of commitment.

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 on the island,

The rate at which persons may work off their fines by labour on the public roads has been increased from 2/6 per day to 5/-. Mr Simons's codification of Island custom states that "Persons unable to pay cash fines or penalties may be

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 risen since 1904, it seemed best to defer to the strong recommendation of the Advisory Committee that no change should be made in 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 worked 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 governing 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.

Former Clause 43. Like clause 18, this restriction on commencing a 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 lie had been done to him and return only to find that his right to take legal action was debarred 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 six months 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 if complainants and plaintiffs were expected to pay fees, however small, it is probable that the existing 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.

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 as active 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-nine 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 Inquiry; 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 Mr Simons's 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).

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.

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

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 on 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, since the competition to man the public boats is intense and on the public bell sounding every man, woman, and child in the community races 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 punished by missing the visiting ship.

Regulation 53 (1). See the Secretary of State's observations on former clause 65. Mr Neill'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 dogs used actually to be considerably more drastic (vide "Laws for Dogs" in the 1850 code, 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 fixed 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 State's 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

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, 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 outwardly the strictest moral principles, it is likely that many actions, 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 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 21), 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 practicable, at any rate as regards carnal knowledge, which is, furthermore, not regarded locally as a very 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

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 Pitcairn 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 licence fee, which was fixed at -/6 a year as long ago as 1904, has been increased to 1/-. 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 licence 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 poorly developed, and it is surprising that more accidents do not occur.

Regulation 72. While Mr Neill's clause 78 reproduces
previous legislation

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 four breeding she-goats. After several hours of heated discussion it was decided that the privilege should expire after 10 years absence from the island.

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

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

Regulation 77. See the final paragraph of the Secretary of State's notes. 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 carcasses 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 powder and shot

powder and shot expended in killing the bird". Even at that date, however, one reads 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.

Regulation 81 (2). The substance of clause 86 (2) of Mr Neill's draft has been inserted here - see the Secretary of State's notes on former clause 91. The clause reproduces the old-established custom as codified by Mr Simons in 1904 (see Law 20 of Mr Simons's code).

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

Regulation 85. The words "horses" and "pigs, dogs, cats" have been deleted - see the Secretary of State's 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 proper 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.

Regulation 87. The custom of sending written notice

when too ill to attend public work, mentioned in the Secretary of State's note on clause 95, has been already incorporated in the new code - see Regulation 51 (2).

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 never-failing source of amusement to shout 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, this pleasantry often costs the community several hours of work, and as a consequence legislation similar to Regulation 90 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, whenever it was considered desirable, among the rules passed by the Island Council under Regulation 6 (j) and (l). They were taken by Mr Neill from 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 likelihood of a government officer abusing his authority was so remote that the clause was 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

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 inspecting land marks.

Pitcairn Island,

7th October, 1940.

We, the undersigned resident native born inhabitants of Pitcairn Island over 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 declare that it is our desire that they shall take the place of all laws, regulations, and rules hitherto in force on the island, subject to any changes that may be considered desirable by His Excellency the High Commissioner for the Western Pacific.

David A. Young Chief Magistrate.

Council.

James Warren, Assessor.

Freddie Brown, Assessor.

Andrew G. Young, Island Secretary.

Internal Committee.

Warren G. Huston, Chairman.

Burnett Huston, Member.

Aubrey Young, Member.

<u>Fred M. Christian</u>	<u>Amy Christian</u>	<u>Agnes Christian</u>
<u>Hilda G. Young</u>	<u>Ada M. Christian</u>	<u>Virginia Warren</u>
<u>Rosa Houston</u>	<u>Edith Christian</u>	<u>Marian Young</u>
<u>Hyacinth Clark</u>	<u>Flora Christian</u>	<u>Millie Lippin</u>

Everson Christian	Fanie Christian	Albert Christian
Lena Clark	Irene Christian	Bifford Clark
Ben Christian	Lashie Christian	Christie Warren
Thornton Christian	Laura Christian	Chas. Young
Wilburn Christian	Oliver Clark	Edward Warren
Alta Christian	Elmer Warren	Elwyn Warren
Elwyn Warren	Tommy Warren	Laney Christian
Edna Brown	Bro. Sandy Warren	Edna Christian
Dora Warren	Robert Young	Sullivan Young
Mabel Warren	Chenneth	Fred Young
Levie Warren	Albert Young	Marion Christian
Isabel	Walter Young	Molly Young
H. H. Young	Virgil Christian	Eleazar Warren
Lila Young	Book Coffin	Marjorie Young
Theo Young	Wilk. Young	Bernice Christian
Jessie Clark	Jacob Warren	Bifford Warren
George Gossen	Samuel Young	Monta Warren
Minnie Warren	Vernon Young	Lily Warren
Wallace Warren	Gavin Christian	Martha Warren
Lucy Christian	Elwyn Christian	Samuel Pass
Allen Christian	Archie Young	Burley Warren
Stella Young	Henry Young	Norris Young
Ethel Christian	John Christian	Jane Christian

..... E. b. hickman

..... Carl Christian

..... Anderson, Ingrid

..... Helen Peterson

..... Jim Christian

..... Mary Coffin

..... Eric Young

..... Rena Christian

..... Wendell Christian

..... Leathem Young

..... Norma Christian

..... Vera Christian

..... Myrtle Utarreu

..... Arnold Christian

..... M. L. Dyett

..... Curtis Christian

CROWN
STANDARD
AGENTS

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 laws then in force on Pitcairn Island (i.e. the code prepared by Mr B.F. Simons 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 Simons, formed a rough but effective code well adapted to the needs of the local community, they were not couched in correct legal phraseology; in view of this Mr Neill re-worded nearly 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 implied is that the substantial principle of the regulation appears to have been taken from the code, while the wording has in almost every instance been altered to conform with legal usage.

Abbreviations used in quoting sources.

- (1) P.I.C. - 1850 - The original code of the island, as drawn up between 1838, when Captain Russell Elliot of H.M.S. "Fly" arranged for the election of the first Chief Magistrate, and 1850, when the code was first published by Mr W. Brodie.
- (2) P.I.C. - 1893 - The code drawn up in 1893 at the instance of Captain Rookes of H.M.S. "Champion".
- (3) P.I.C. - 1904 - The code drawn up in 1904 by Mr B.F. Simons, British Consul at Tahiti.

(4) P.I. Const. - 1904

- (4) P.I. Const. - 1904 - The Island Constitution established in 1904 by Mr B.F. Simons.
- (5) Simons: Instructions - 1904 - The "Instructions in regard to the Yearly Election of Government Officials", drawn up by Mr B.F. Simons in 1904.
- (6) I.C. Reg. - 1904 - The Regulations made by the Internal Committee of Pitcairn Island in 1904.
- (7) Neill, sec. - - The draft "King's Regulation to provide for the government of Pitcairn Island" drawn up by Mr J.S. Neill in 1937. See Colonial No. 155, 1938, pp. 29-51.
- (8) Murray, p. - - Murray, Rev. T.B. - "Pitcairn: The Island, the People, and the Pastor". London, 1909. The original island code (1850) is there quoted in extenso.
- (9) All other page references are to: Shapiro, H.L. - "The Heritage of the Bounty". London, 1936. Appendix A contains an exact reproduction of the 1893 and 1904 codes, as well as the 1904 Constitution, Instructions, and Internal Committee's Regulations.

<u>No.</u>	<u>of</u>	<u>Source</u>
<u>Regulation</u>		
1		(Short Title).
2		(Interpretation).
3		P.I. Const. - 1904. Pp.302-304.
4 (1), (3)		" " " . P.302.
4 (2), (4)-(7)		Local customary procedure.
5		P.I. Const.-1904. Pp.302, 304.
6 (1)		" " " . Pp.302, 303.
6 (2)		New provision. Cf. Neill, sec.6 (2).
6 (3)		P.I.C.-1904. Law 12. P.306.
6 (4), (5)		Local customary procedure.
7		P.I. Const.-1904. Pp.302, 303.
8 (1)		" " " . P.302.
8 (2)		New provision. Cf. Neill, sec.4 (4).
8 (3)		P.I. Const.-1904. Pp.303, 304.
9		Simons: Instructions - 1904. P.309 - (a).
10		" " " . P.309 - (a).
11		Simons: Instrs.-1904. Pp.309 - (b), (c).

<u>No. of Regulation</u>	<u>Source</u>
12 (1), (3)	Simons: Instrs.-1904. P.310 - (c).
12 (2)	New provision, Cf. Neill, sec. 12 (2).
13 (1), (3), (4)	Simons: Instrs.-1904. P.310 - (d)-(g). Amended.
13 (2)	Neill, sec.13 (3).
14	P.I.Const.-1904. P.304.
15	Draft Pitcairn O.I.C., sec.4.
16	P.I.Const.-1904. P.304.
17	" " " . P.304.
18 (1)	P.I.C.-1893. P.295.
18 (2)	Neill, sec.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 Pitcairn O.I.C., secs.6-8. Amended.
22	Fiji Native Courts Code 1927, secs.6,7.
23	Vaughan Lewis: Instrs.-1909. P.311.
24	P.I.C.-1904. Law 24. Pp.309,310.
25	Fiji Native Courts Code 1927, sec.18.
26	" " " " " , sec.19.
27	" " " " " , sec.20.
28	" " " " " , sec.21.
29	" " " " " , sec.23; and
	local custom.
30	Fiji Native Courts Code 1927, 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: Instrs.-1909. P.311.
34	Fiji Native Courts Code 1927, sec.30.
35	P.I.C.-1904. Law 18.

<u>No. of Regulation</u>	<u>Source</u>
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 & Fire Inquiry Ord. 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)	Neill, sec.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)	" " . Law 11. P.306.
55	" " . Laws 10 & 14. Pp.306,307; and Fiji Native Courts Code 1927, sec.56 (1).
56	Neill, sec.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	Fiji Native Courts Code 1927, sec.67.
61	New provision; but cf. P.I.C.-1904. Law 2. P.305.

<u>No. of Regulation</u>	<u>Source</u>
62	P.I.C.-1893. Law 5. P.297; and P.I.C.-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	I.C. Reg.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. Pp.316,317.
77	P.I.C.-1893. Law 18. P.299.
78	I.C. Reg.11 (b) - 1904. P.317.
79	I.C. Reg.12 - 1904. P.317.
80	I.C. Reg.5 (a) - 1904. P.316.
81	P.I.C.-1904. Law 20. P.308.
82	Neill, sec.86 (4).
83	P.I.C.-1904. Law 15. P.307.
84	" " . Law 25. Pp.309,311.
85	Neill, sec.90.
86	New provision.
87	I.C. Reg.1 - 1904. P.315; and P.I.C.-1893. Law 27. P.301.
88	I.C. Reg.2 (a) - 1904. P.315.
89	I.C. Reg.2 (c) & (d) - 1904. P.315.
90	New provision.

<u>No. of Regulation</u>	<u>Source</u>
90	New provision.
91 (1), (2)	I.C. Reg. 5 (a) & (b) - 1904. Pp. 313, 314.
91 (3)	I.C. Reg. 2 - 1904. P. 313.
91 (4)	P.I.C. - 1904. Law 16. P. 307.
92	P.I. School Rules.
93	P.I.C. - 1850. "Law respecting Landmarks". Murray, p. 220.
94	Fiji Native Courts Code 1927, sec. 84.

Schedule
Forms

1 - 7 Fiji Native Courts Code Forms 1 - 14.

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WESTERN PACIFIC HIGH COMMISSION

Pitcairn Island,

4th January, 1941.

Sir,

I have the honour to recommend that the Pitcairn Island Government Regulations, 1940, as amended, together with the Island Rules forwarded under cover of my letter of the 5th December, should be printed, preferably in booklet form, and copies sent to the island for distribution to the adult members of the community. This recommendation is made at the request of the Island Council, as it is felt that were the people able to become familiar with the provisions of the various laws the task of enforcing them would be made much easier.

2. Hitherto there has been only one copy of the Pitcairn legal code in the island and, though it is customary to read it to the islanders at a General Assembly held at the beginning of each year, the details are soon forgotten. The low standard of law enforcement prevailing is no doubt partly attributable to this fact.

3. As there are approximately 125 residents in Pitcairn Island over the age of 15 years, I would suggest that 200 copies of the regulations and rules should be printed and 150 copies sent to the island for distribution to them. I do not recommend that any charge should be made for these

The Secretary,

Western Pacific High Commission,

Suva, Fiji.

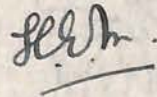
made for these booklets, as among a community so accustomed to have everything given to them free there are few indeed who would be prepared to purchase a copy, however low the price; the object of the printing would thus be defeated.

4. With regard to the School and Prison Rules, it is not considered necessary that they should be bound and distributed with the Regulations and main Island Rules. I recommend, however, that they should be printed in the Gazette in due course, and a dozen copies of the issue sent to the Chief Magistrate so that they can be referred to by members of the School Committee and other interested persons.

I have the honour to be,

Sir,

Your obedient servant,



High Commission Representative,

Pitcairn Island.

MEMORANDUM.

From:- The High Commission Representative, To:- The Chief Magistrate,
Pitcairn Island. Pitcairn Island.

1st December, 1940.

The Pitcairn Island Government Regulations, 1940.

A copy of the Pitcairn Island Government Regulations, 1940, is enclosed herewith. As from today these Regulations should take the place of all previous laws and regulations in force in the island.

2. Certain small alterations have been made in these regulations since they were assented to on the 7th October and these alterations, together with any other alterations made by His Excellency the High Commissioner, will be incorporated in the final regulations which will be printed in Fiji and sent to the island. In the meantime the regulations as here enclosed should be used in all your official and Court work.

3. When not being used the file should be kept by the Island Secretary in the island archives, but it should be made quite clear to the members of the general public that they are at liberty to consult and read the laws at any time by arrangement with the Secretary.

(Signed). H.E. Maude.

Pitcairn Island,

3rd April, 1941.

Sir,

Enclosure I.

With reference to the final paragraph of my letter of the 1st December, I have the honour to forward herewith copies of nine additional Regulations made by the Island Council after the framing of the Pitcairn Island Government Regulations, 1940, together with five minor amendments to that code. The new Regulations were read and approved by a General Assembly of the people of the island held on the 8th January, 1941, a certificate to that effect, signed by the Chief Magistrate, being annexed. I recommend that, with the amendments, they should be incorporated in the new code before it is finally printed.

2. Although provisions similar to Regulations 1 and 5 are contained in the Pacific Order in Council, 1893, it was considered desirable to include them in the Pitcairn Island local code as well, thus enabling the Island Court to deal with infringements. A perusal of the entries in the "Pitcairn Island Civil Recorder" shows how carelessly births and deaths have been recorded during recent years, and it is hoped that

The Secretary,

Western Pacific High Commission,

Suva.

that the new Regulation will at any rate serve to emphasize the importance of maintaining accurate records and thus lead to an improvement.

3. Section (1) of Regulation 2 provides for age limits under which no one is to be permitted to marry. This is the first time that any attempt has been made to lay down the marriage age, the Council being of the opinion that it was time to check the growing custom of marrying off girls, at the age of 14 or 15, while still mentally, if not physically, immature.

4. Regulations 3 and 4 provide punishments for Perjury and Escape from Prison, both these offences having been omitted, probably through an oversight, from the new code. The wording of the Regulations has been taken from Clauses 50 and 48 of the draft Gilbert and Ellice Islands Native Governments Ordinance 1940.

5. Regulation 6 has been framed, at the request of the Council, to deal with the Island Secretary's recurrent problem of how to obtain the data required for the preparation of his half-yearly returns. Special difficulty is experienced in obtaining particulars of each family's imports and exports during the preceding six months and it used to take a month or more before some families could be persuaded to send in a return.

6. Regulation 7 was passed on the suggestion of

His

His Excellency the High Commissioner, in order to provide the necessary machinery for dealing with cases of vandalism similar to the one which took place recently (vide His Excellency's telegram No. 8 of the 6th November to the High Commission Representative, Pitcairn Island). Few islanders, unfortunately, have any regard for the scientifically priceless rock carvings found at Rope and St. Paul's, and had prompt action not been taken by the local Government every one would have been ruthlessly hacked out of the cliff face for sale to collectors in the United States.

7. Although there are two schools of thought in the island, the majority of the people consider that the use of explosives when fishing has a tendency to frighten fish away from the vicinity more or less permanently; this view is, of course, prevalent all over the South Seas. Dynamiting is, in any case, a most wasteful method of fishing and, in defence to the strong feeling in the island, the local Government were of the unanimous opinion that it should be prohibited by law.

8. In common with the use of intoxicants, tea and coffee drinking, dancing, and playing, the practice of tobacco smoking has been frowned upon by local public opinion ever since the islanders joined the Seventh-day Adventist Church nearly 50 years ago. Nevertheless, with the general modernization of the islander's mode of life all these customs are gaining

ground, and Regulation 9 is a belated attempt to prohibit by law what can no longer be prevented in any other way. Tobacco smokers are still in a minority, few people daring to smoke openly, and there is little doubt that if a referendum were made to the community a majority would vote in favour of the total prohibition of tobacco smoking in the island, irrespective of age.

9. With regard to the amendments, the first two are made necessary owing to the Island Secretary being no longer an elected official, amendment (3) is merely a slight change in title in order to conform to existing local practice, amendment (4) enables old residents such as Roy Clark to take office (Roy Clark was formerly an Assessor), while amendment (5) removes a penal section from Part V. of the new code, where it was out of place.

10. A table is enclosed suggesting suitable positions in the code for inserting the new Regulations. Once their places have been decided upon, it will be possible to amend the section dealing with the "Arrangement of Regulations", as well as the Index.

I have the honour to be,

Sir,

Your obedient servant,

J. L. M.

High Commission Representative,
Pitcairn Island.

Enclosure II.

Further regulations made by the Island Council since the 1st December, 1940, to be added to those contained in the Pitcairn Island Government Regulations, 1940.

I hereby certify that the nine following Regulations, which are additional to those contained in the Pitcairn Island Government Regulations, 1940, together with the five amendments to that code, have been unanimously approved by the Island Council of Pitcairn. I also certify that they have been read to and unanimously approved by the people of the island at a General Assembly held on the 8th January, 1941.

Pitcairn Island,

A. H. Young, Chief Magistrate.

8th January, 1941.

Registration of Births and Deaths.

1. - (1) The parents of any child born in the Island shall notify the birth to the Island Secretary within ten days.

(2) The occupier of any house in the island where a death occurs shall notify the death to the Island Secretary within ten days.

Marriages.

2. - (1) No male person shall be permitted to marry until he shall have reached the age of seventeen years nor a female until she shall have reached the age of fifteen years.

(2) All marriages shall be performed by the Registrar of Marriages appointed under the Pacific Islands Civil Marriages

Islands Civil Marriages Order in Council, 1907, or by a Minister of Religion registered in accordance with the provisions of the Pacific Order in Council, 1893, as amended by the Pacific Order in Council, 1907.

perjury.

3. Any person who being a witness in a case tried by the Island Court makes a statement in evidence which he knows to be untrue or does not believe to be true with the intention of misleading the Island Court in its judgement of the case shall be liable to a fine not exceeding five pounds or to be imprisoned for any period not exceeding two months.

escape from prison.

4. Any prisoner who shall escape from the island prison or from the custody of a police constable, warder or wardress shall be liable to be imprisoned for any period not exceeding one half of the original term of imprisonment.

failure to register Births or Deaths.

5. The parents of any child born in the island or the occupier of any house in the island where a death occurs who fails to notify such birth or death to the Island Secretary within ten days shall be liable to a fine not exceeding one pound.

failure to furnish particulars required for half-yearly returns.

6. Any person who on being required by the Island Secretary to furnish any particulars needed by him for the purpose of preparing the half-yearly returns neglects or refuses so to do within fourteen days shall be liable to a fine not exceeding ten shillings.

injuring rock carvings.

7. Any person removing, defacing, or otherwise mutilating or injuring any of the prehistoric rock carvings at

rock carvings at Rope or St Paul's shall be liable to a fine not exceeding ten pounds or to imprisonment for any period not exceeding three months.

Using explosives
for catching fish.

8. Any person using dynamite or other explosive for the purpose of catching fish shall be liable to a fine not exceeding three pounds.

Smoking tobacco.

9. Any person under the age of twenty-one years who shall smoke tobacco in any form whatsoever shall be liable to a fine not exceeding one pound.

Amendments to the Pitcairn Island Government
Regulations, 1940.

- (1) Regulation 3 (1). Delete "An Island Secretary".
- (2) Regulation 8 (3). Insert "who shall be appointed by the High Commissioner" between "The Island Secretary" and "shall be the Clerk", in the first line.
- (3) Regulation 8 (3). Substitute "Government Treasurer" for "Island Treasurer".
- (4) Regulation 10. Add the proviso "unless he shall have resided in the island for not less than twenty-one years" after the words "as Chief Magistrate or Assessor".
- (5) Regulation 50. Section (3) to be removed and placed, as a separate regulation, after Regulation 65, the suggested

65, the suggested title being "Neglect of Illegitimate Child".

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Enclosure II.

List of suggested positions in the new code
for the insertion of the nine additional
Regulations contained in Enclosure I.

- (1) New Regulations 1 and 2 to follow Regulation 49.
- (2) New Regulations 3 and 4 to follow Regulation 54.
- (3) New Regulations 5 and 6 to follow Regulation 91.
- (4) New Regulation 7 to follow Regulation 67.
- (5) New Regulation 8 to follow Regulation 80.
- (6) New Regulation 9 to follow Regulation 83.

Note: Regulation 50 (3) should be placed, as a
separate regulation, after Regulation 65.

Pitcairn Island,

5th April, 1941.

Sir,

I have the honour to suggest the desirability of amending Regulation 81 of the Pitcairn Island Government Regulations, 1940, before the code is finally approved by His Excellency and published in the Gazette. The Regulation in question deals with the import and supply of intoxicating liquor, and appears to be invidious in its present form in so far as it makes an unnecessary and undesirable discrimination between native born inhabitants of the island and other residents and visitors.

2. Apart from the occasional Government official or Mission worker, people who come to Pitcairn do so to suit their own purposes and there seems to be no good reason why they should not, except in exceptional circumstances, be expected to obey the same laws as the islanders with whom they have chosen to reside. Numbers of locally born islanders are married to New Zealanders and others, and there is little hope of really enforcing a law which permits, for example, a wife to import all the liquor she can get but prohibits her from offering a glass to her husband.

3. A re-draft of Regulation 81, in a form which
seems

The Secretary,

Western Pacific High Commission,
Suva.

seems to me to retain all the good points of the existing legislation without its defects, is submitted herewith for your consideration. In preparing it I have taken into account the fact that certain elderly and respectable islanders, with alleged weak hearts and the like, are accustomed to obtain a moderate amount of liquor from passing ships "to rub in their hair", as the local expression has it, and that licences for this purpose might well continue to be issued by the Chief Magistrate as long as the abuse of the privilege does not become too flagrant. It is also realized that Government officers and others who visit the island on duty and not to suit their own convenience have a right to import, for their own personal use, such liquor as they are accustomed to drink elsewhere; in these exceptional cases, however, it is considered that the necessary permit, not being for medicinal purposes, should be obtainable only from the High Commissioner himself.

I have the honour to be,

Sir,

Your obedient servant,

J. L. M.

High Commission Representative,
Pitcairn Island.

Enclosure.

Suggested Re-draft of Regulation 81 of the
Pitcairn Island Government Regulations,
1940.

Importing
intoxicating
liquor.

81.-(1) Any person who imports intoxicating liquor, except for his own personal use with the written consent of the High Commissioner, or for religious or medicinal purposes with the written consent of the Chief Magistrate, shall be liable to a fine not exceeding ten pounds and the liquor aforesaid shall be confiscated and disposed of in such manner as the Court deems fit.

Selling or
supplying
intoxicating
liquor.

(2) Any person who sells or supplies intoxicating liquor, otherwise than in accordance with section one of this Regulation to a person holding the written consent of the High Commissioner or Chief Magistrate, shall be liable to a fine not exceeding ten pounds.



Suva, Fiji,

20th October, 1941.

Dear Maude,

With reference to Armstrong's telegram No. 215 of the 18th October, I enclose a final proof of the Pitcairn Island Government Regulations, 1940. You will observe that the amendments suggested in your letters of the 3rd and 5th April have been incorporated in the enclosed Regulations. In case you have not copies of those letters to refer to, the amendments are briefly as follows:-

New Regulations regarding registration of births and deaths, marriages, perjury, escape from prison, failure to register births or deaths, failure to furnish particulars required for half-yearly returns, injuring rock carvings, using explosives for catching fish, smoking tobacco, and importing, and selling or supplying intoxicating liquor. These have been inserted in the original Regulations at the places suggested by you. The following Regulations have been amended (the numbers refer to those in the enclosed Regulations) - 3 (1), 8 (3), 10, 52 (3) (now deleted); the amendments have been made in accordance with your letters abovementioned.

2. His Excellency would like you to peruse the enclosed Regulations and telegraph whether you consider they should be enacted forthwith or whether further amendments are required. My own view is that, if you approve them, they should be printed at once, but not

H.E. Maude, Esquire, M.B.E.,
Nukualofa,
Tonga.

bound,



bound, and that we should immediately proceed with the printing of the numerous rules made under these Regulations, and then have the whole lot bound in one volume. This may mean a slight delay in despatching the legislation to Pitcairn Island, but I think it will be more satisfactory if the bound volumes contain all the legislation.

3. One point further; on the first page of the Regulations it is proposed to add the following:-

"I approve.

H.C. LUKE,

High Commissioner for the
Western Pacific.

Suva, Fiji,

.....1941."

G. G. G. G.
R. MacDonald
- ←

Telegram.

From:- H.E. Maude, Esq., at Auckland, New Zealand,

To:- The Assistant Secretary, Western Pacific High Commission, Suva, Fiji.

11th November, 1941.

11th November - Your letter 20th October - Pitcairn
Regulations. No main amendments but list of corrections
and minor alterations sent by mail. Consider important
that Rules should be bound with Regulations.

Maude.

-

15, Blomfield Spa,

Takapuna,

Auckland, N.Z.

12th November, 1941.

Dear Macdonald,

With reference to your letter of the 20th October, forwarding a final proof of the Pitcairn Island Government Regulations, 1940, I sent a telegram to you yesterday stating that no further major amendments appeared necessary. I have been carefully through the proof and enclose a list of minor amendments and corrections.

2. I would suggest that the "Arrangement of Regulations" should precede page 1 instead of coming at the end, where I originally placed it. This procedure seems more usual in modern legislation and would be simpler for the Pitcairners to understand.

3. I strongly support your suggestion that the Rules should be bound with the Regulations. The advantages of having one law book instead of two for such a simple community are very considerable and the extra delay in the receipt of the Regulations at Pitcairn is of no consequence, as they already have typewritten copies of both the Regulations and the Rules for reference when necessary.

Yours sincerely,

J.E.M.

P.D. Macdonald Esquire, B.A.,
Western Pacific High Commission,
Suva, Fiji.

Enclosure.

Fitcairn Island Government Regulations, 1940.

Amendments and Corrections.

1. Regulation 4 (4) - Substitute "meeting" for "meetings".
2. " 6 (1) (d) - Omit first "of".
3. " 9 - Substitute "in the island" for "on the island". Cf. Reg. 10
4. " 17 - Add to end of final sentence:- "in so far as the seating accommodation permits".
5. " 27 - In the final sentence should it be "appears" or "appear"?
6. " 70 - In the first line for "custody of the child" substitute "custody of an illegitimate child".
7. " 86 - In the second line "five pounds and to imprisonment" should read "five pounds or to imprisonment".
8. " 88 (2) - Insert "Magistrate" after "High Commissioner or Chief".
9. Page 17 - "Firearms, Discharging in a careless manner" should read "Firearms - Discharging in a careless manner".
10. " 17 - "Fires, Inquiries in cause of" should read "into cause of".
11. " 18 - "Titles, Short" should read "Title, Short".
12. " 19 - "27. Appearance of adjourned hearing" should read "at adjourned hearing".

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