

MEMORANDUM ON THE RETURN TO THEIR CONQUERED OWNERS OF
CERTAIN LANDS ON TARAWAVISLAND AFTER THE WARS CALLED "NEA",
AND ON CERTAIN QUESTIONS ARISING THEREFROM.

Though difficult to understand, the restoration to their original owners of the lands conquered in the Nea-Baretangaina wars might have proved a successful measure if it had been consistently carried out. But in such a matter the variation between the order given by a white officer and its execution by a native intermediary would tend to be great, especially where little supervision was possible. The primitive machinery at the disposal of Mr. Swain rendered it impossible to exclude the personal bias which even the best of natives entertains in land matters.

Conversations with many old men of Tarawa show clearly that though in some cases the original owners were enabled to re-enter into possession of their lands in other cases they were not.

The lands which did not reach the hands of their original owners were -

- (a) Those which the conquerors, by means of bribery or domestic influence were able to retain
- and (b) those which were secured by third parties.

Very naturally this unequal restoration of the captured lands was followed by endless quarrels and constant changes of ownership, of which the white official remained ignorant.

It was out of such chaos that Mr. Telfer-Campbell

Campbell was obliged to make order. Theoretically Mr. Campbell's register was based upon the conditions reigning immediately after the restoration of the Nea lands by Mr. Swain. But as such restoration was at the most only partially effected, and as even the restored lands continued to pass from hand to hand as parties were able to bribe native officials, it cannot be said that in actual practise the Register had any such foundation.

But once more, had that Register, however compiled, been upheld to the present day there would have been no great land trouble on Tarawa. Consistency and the sanction of time are the ingredients of permanency in such matters.

Change of Registers

It has already been shown in correspondence relating to the question that Mr. Campbell's Register was not allowed to stand. Mr. Coggeswell's revision of the original book was possibly founded on an honest but misguided desire to record more exactly the conditions sought by Mr. Swain: or, on the other hand, it may have been undertaken because Mr. Coggeswell considered the restoration of the Nea lands a mistake and wished to make a return to the conditions existing before such restoration was ordered.

I have heard both hypotheses from Natives. Whichever be the true one, the result is the same - a grave unrest among the people of Tarawa. Referring with respect to Mr. Murdoch's opinion in his memorandum attached to Mr. Eliot's letter No. 239 of the 24th October last, that the Tarawa natives have made a "Maie", or game, of preferring land claims, I would venture to add that it is the continual changes made by white officials in the past which have encouraged or necessitated this attitude among the natives.

Whatever basis of settlement be now adopted by the proposed Commission, and however just the rulings of that body, a great deal of preliminary dissatisfaction will have to be

faced , because there will necessarily be a losing side in each case, and no native willingly surrenders land, however unjustly acquired. It may, however, be safely said that the just satisfaction caused by a final settlement will greatly preponderate, and it may be added that until such a settlement is arrived at the contented inhabitants of Tarawa will not be numerous.

Difficulties in the way of a uniform policy.

It is clear that the problems arising at Tarawa are of a special nature, and quite distinct from those offered by any other Island in the Group. Will it therefore be possible to deal with it on a uniform basis with other Islands? Uniformity of treatment is certainly a desirable thing, in that it absolutely precludes invidious gossip. Suppose, for example, that a native has claims to land on the two Islands of Abaisang and Tarawa, as often happens. On Abaisang he is successful, on Tarawa he fails: he will naturally compare the circumstances under which he was in one case the gainer and in another the loser. And he will be disposed, on finding that the two systems do not agree, to believe that the Government is deliberately "nana-uoua", i.e., two-hearted, prone to influence.

This is the argument for similarity of policy, and it is a strong one. But on the other hand, the most important article of a consistent policy would be THE INVIOABILITY OF ORIGINAL RECORDS. How will it be possible to apply this to Tarawa, whose original register has been stultified and superannuated by over 10 years of desuetude?

How also could the principle be entertained on the Islands of Butaritari and Nikunau, whose original registers have disappeared?

It may be said that on all Islands where European officials have in the past resided for any length of time (except in Mr. Murdoch's District of Abemama), the original registers have suffered complications which render them all

but

(3w²/₁₇)

but valueless as evidence of ownership. I have ventured upon this statement in view of the opening sentence of paragraph 5 of Mr. Eliot's letter confidential of the 24th October last. On the less frequented Islands and also on the Islands which have been for so many years under the charge of Mr. Murdoch matters will be easier of settlement, because the registers, though insufficient on the lines pointed out in my original report on land matters, are not distorted.

Rights of conquest.

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Referring to paragraph 4 of Mr. Eliot's confidential letter above alluded to, it would be a matter of enormous difficulty to return at this date lands acquired by conquest 25 years ago, in the manner attempted by Mr. Swain on Tarawa. If Mr. Swain, after an interval of only a short period so signally failed, one could not hope for success after the lapse of a quarter of a century.

A decision of the question whether rights of conquest should now be upheld depends largely upon the circumstances attending the wars by which such rights were acquired. To establish this would be to unravel the individual history of each Island during the period of its last war. In addition to this it would seem equitable to recognise the differences in system prevailing in the Northern and Southern Gilberts.

Since the day, nine generations ago, when the conquerors from Bera overran the Islands from Onetoa to Marakei, the descendants of their champion Kaitu and their soothsayer Uakeia have held chieftainship on all the conquered places save Neneuti, Tabiteuea and Onetoa. The three last reverted to, while the Southern Gilberts retained, their old democracies. That is to say, while the eight northern Islands recognised the principles of right by conquest and of feudalism, the eight southern Islands did not. To the date of the hoisting of the flag this dual attitude had taken at least 150 years to evolve: it was therefore well established in the heart of the people.

At the time of the Proclamation of the Protectorate public sentiment in the North thus sanctified what was against
North thus was

against all usage in the South. A member of a victorious faction was able with a show of good right in Abaiang to keep his share of conquered land, and to reduce the former owner, if left alive, to slavery: whereas on a southern island such as Nikunau concerted raids on neighbouring territories had long ceased to exist: there was no such thing as slavery: and it was a great disgrace for a warrior to be so unskilled as to kill his opponent in a fight.

In considering the circumstances, therefore, under which old rights of conquest should be upheld or annulled, it would seem necessary to have regard to the opinion existing among the people at the time of conquest. While it might be consistent to uphold such rights in the North, it would not be so in the South.

Again, it would be necessary to establish the dates at which lands were conquered, since it would be obviously unfair to treat lands conquered and held for 25 years in the same manner as those conquered a few months before the coming of the Flag.

To open up this question would cause, I believe, insurmountable difficulties at this date, and I would respectfully suggest that all rights of conquest acquired before the Flag should be ratified (a) because the discussion of such questions throughout the Group would revive memories of old feuds and old bitternesses: (b) because it is impossible to conceive that justice could be done after such lapse of time: (c) and because Tarawa stands alone, and the question of the returned lands arises not on its own merits but in connection with the question of Registers.

The question of Aranuka and Kuria lands is impossible to discuss in writing at the present time as I am unwilling to commit to writing any remarks on so difficult a subject without the aid of witnesses and notes.

A.G.