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GILBERT AND ELIZABETH ISLANDS COMPANY.

Office of the Resident Commissioner,  
Ocean Island, 6th April, 1922

W.P.H.C.  
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RECEIVED  
21 MAY 1922

Sir,

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I have the honour to confirm my telegram to Your Excellency of the 31st ultimo, and to amplify my comments therein on the subject of Ordinance No. 5 of 1919.

2. I am convinced that if we are to ensure peaceful administration of the Gilbert Islands, we must have the Lands Commission. But our finances at the present time need the most careful nursing. Therefore while making every effort to guarantee the working efficiency of the Commission, we must observe a rigid economy in its organisation.

3. Mr. Grimble has satisfied me that the Ordinance under comment provides a machinery that is far too expensive, and at the same time largely inadequate for local requirements: it is wasteful in all directions.

4. Section 7 of the Ordinance (on which depend also sections 10, 11 and 17) necessitates a preliminary survey of the boundaries and situation of all lands claimed in the Group. There are, as far as we know to date, 4306 lands claimed in the Group; the number will

HIS EXCELLENCY

THE HIGH COMMISSIONER

FOR THE WESTERN PACIFIC,

SUVA, F. I. J. I.

probably

probably be found to exceed 5500 in reality.

If then Section 7 is to be enforced, we should need the services of four or five surveyors for a period of, say, three years, merely to pave the way for the Lands Commission. The cost of a survey on such a scale is estimated at about £4300, exclusive of instruments — a sum which we cannot possibly afford.

5. Mr. Grimble assures <sup>me</sup> that the registration of place-names, instead of boundaries, will be ample for the purposes of the Lands Commission. The Court will be dealing with disputes between natives, and not between Europeans and natives. So long as it achieves clarity for the native, therefore, it will be doing all it needs to do. The native knows his land by the place-name attached to it. In the huge majority of cases, this place-name is equivalent, in the native mind, to a very clear definition of boundaries, because for centuries the boundaries of the land to which the name applies have remained unchallenged.

Admittedly, if we dispense with a survey, we cannot give an absolute guarantee that boundary disputes will not arise in the future. But we can count upon it, that such disputes will be by no means frequent, and can be very easily dealt with as the current business of the local Land Courts of the future.

If, on the other hand, we are to provide once and for all against the contingency of further boundary disputes by holding a survey, we must logically bear in mind that such a survey cannot be confined only to lands at present in question. It must cover all lands in the Group, whether claimed or not, because they all have boundaries which may some day be challenged. This would

would entail the survey of 53,837 pieces of land, which is palpably impossible.

I submit that Section 7 should, for the above reasons, be repealed, and substituted by a ~~new~~ Section requiring the registration *only* of the names of lands claimed up and down the Group. If Section 7 goes, Sections 10, 11 and 17 will also require amendments, which are indicated in the enclosure to this letter.

6. The only cases in which boundaries come into real prominence are concrete boundary disputes. These do not amount to actual claims for land, they are simply quarrels about the position of a dividing line between two adjoining properties. The Court has to decide which of two already defined lines is the true boundary.

Here again, no survey is needed. The Court will merely have to see to the erection of appropriate marks, which will show for ever afterwards the limits within which the registered land-names apply. Future disputes, if or when they arise, can be dealt with in the same manner by island courts.

7. Section 19 of the Ordinance, again, will be the cause of much wasteful expenditure, if applied literally. We can be absolutely *sure* in advance that 95% of the land claims brought before the Court will be unsound in a legal sense. This, however, by no means relieves us of the need of hearing them; to the native they are *burning questions*, and to the administration they will be dangerous *stumbling blocks* until laid forever. Hear them we must, but to take a written record of cases known in advance to be unsound would

would be to squander the time and money of the Commission.

8. Mr. Grimble has submitted a scheme which, in my opinion, would provide against these difficulties in a satisfactory manner. He suggests that there would

be two Courts:-

- (a) A preliminary Court, for the sifting of sound from unsound claims;
- (b) A final Court, for the adjudication of the sound claims.

9. The preliminary Court should be of purely local constitution on each island. It should consist of the Lands Commissioner as Chairman, two Senior Native Government officials as Assessors, and native members representing each village of the island on which the preliminary Court is sitting. This Court will review every land claim whatsoever arising on its own island. It will have nothing to do with questions of ownership; it will merely hear claims so far as to decide whether they are sound or unsound. If they seem sound, the Court will register them for further hearing by the final Court; if unsound, they will be registered in a record of dismissed claims, and the reasons for their rejection will be shown. No other written records need be kept.

In effect, the proposed Court will be a Court for the registration of land claims. Only those claims permitted to be registered will be allowed to appear before the final Court.

10. The final Court will, of course, take all evidence in writing, because every case brought before it will be an essential case, and because upon its decisions will frequently depend changes of owner ship.

It has been proposed by Mr. Grimble that

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this body should not consist of village members, but of island members. That is to say, each unit of the Group, under this scheme, would elect one or two natives to represent it in the final Court. The body thus constituted would sit on each island in turn.

11. Section 4 of the Ordinance, which seems to read very vaguely, is probably intended to provide for such island representation as the above. I see by the office records that the idea has been mooted for a great many years.

Personally, however, I am of the opinion (with which Mr. Grimble agrees) that a system of island representation would involve us in a great deal of needless expense, without achieving any particular object. We should have to feed and at least partially clothe the representatives, who would be continually away from their homes, and we should have to pay their passages from island to island; these expenses would amount easily to £1000 a year. For such an outlay, we should get no work out of the assembly which could not be better done by a court of local representatives.

12. I submit that local assemblies, convened on the lines indicated in paragraph 9 above, would be not only thoroughly adequate to do the work of a final Court, but also far more capable of doing it than an assembly of strangers collected from other islands.

Each island has its own peculiar habits with regard to land; usages vary sometimes very widely indeed

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indeed, from atoll to atoll; and only local bodies are competent to deal faithfully with the varying local conditions.

We have got to consider native sentiment in this matter. Natives are conservative and jealous; they do not like the interference of strangers, especially in matters which touch them so shrewdly as land disputes.

13. I therefore ask that if Section 4 is to be interpreted as providing for island representation on the Lands Commission, it may be altered so as to provide for local representation both in preliminary and final Courts in the Group.

The saving effected by having native members, who are inhabitants of the islands on which the final Court is sitting, would be great. We should not have to ration such representatives, beyond the provision of fishermen and small quantities of kerosene and tobacco; we should have no inter-island passages to pay; and we could disband each Court immediately on completion of its duties.

14. As for Section 7 of the Ordinance, it would, in the opinion of every officer who knows the Gilbertese, be dangerous in the highest degree to insist that claimants should make out the boundaries of the land claimed by them. The natives simply would not understand it, even if it were done under Government auspices.

The feeling about land is already so bitter throughout the Group, that bloodshed would almost certainly follow upon any attempts of claimants even to approach the land they claimed.

I recommend the repeal of Section 9, with which would also go Section 22.

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15. I attach a summary of the <sup>reheals</sup> ~~report~~ and amend-  
ments which would have to be effected if the Lands  
Commission is to be organized on the plan suggested  
in this despatch.

I have the honour to be,

Sir,

Your most obedient servant,

*W. P. C. L.*

Resident C. A. [illegible]

ENCLOSURE.

Suggested Repeals and Amendments of Sections of  
Ordinance No. 5 of 1919.

The general object of the changes proposed is to establish Preliminary Courts and *Final Courts on the* lines indicated in paragraphs 8 - 13 *inclusive of* covering letter.

Section 4 of the Ordinance should be amended *so as to* indicate clearly that native members of both Courts shall be of local election on each island.

Section 19 should be amended so as to limit the *taking* of written evidence to the sittings of the *final* Court.

Section 7 should be amended in so far as it demands a description in writing of the boundaries and situation of lands claimed; it should provide *instead* for the record of the place-names of the land claimed.

Section 10; in the second line the words "marked out and defined as aforesaid" should be deleted. In the last line but one the word "boundaries" should be deleted and the word "place-names" substituted.

Section 11; in the second line the words "Marked out and defined as aforesaid" should be deleted. In the ninth and tenth lines, the words "shall record the boundaries of such lands and the names of the owners" should be deleted and replaced by the words "shall cause suitable marks to be erected along the boundaries of the land and record the names of the owners".

Section 17 should be repealed.

A Section should be inserted, empowering the Lands Commission



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ENCLOSURE (contd.)

Commission to establish on every island where  
it sits a Register of Native Lands in the form  
prescribed in Schedule A of the Ordinance.

(Model attached. For description see Mr.  
Grimble's report on Tarawa lands forwarded to  
the High Commissioner under cover of Mr. Eliot's  
despatch of the 21st February, 1917, No. 5.

Section 18 should follow after this new Section.

Sections 9 and 22 should be repealed.

