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Minutes of Public
Meeting 7 October
1940 and Council
Meetings 20 & 27
October 1940

7 October 1940 -
27 October 1940

Public meeting Oct. 7. 1940.

Mr. Maude in the chair. This gathering was called to read to the people the new laws which will be the laws of the island. It was moved and 2nd that the Regulations be the outstanding laws of Pitcairn Island.

Meeting dismissed.

Council meeting Oct. 20. 1940.

Present. D. A. Young Chief Mag. Fred Brown, Robert Warren, Warren Christian, member
b. M. It asks you to come here to night. George says to me two time about his boat, is the law reads, men & boy from 25 yrs to 60 yrs. have to man the boat. He thinks that he is over that age now, so he want to know whether the council will leave him still in charge of his boat. decide that he still be in charge of his boat.

Also regarding boats going to Oeno was decided that boats be given them when they are ready to go.

Meeting dismissed.

Council meeting Oct. 27. 1940.

Present. Mr. Maude in chair. D. A. Young Chief Magistrate member
Fred Brown, Robert Warren, Warren Christian.

Mr. Maude. Is there any rules we have to go through what I dont have here to place before the council tomorrow evening, if there any to know tomorrow evening.

I heard that different ones intend to go down to rope and saint Pauls to cut the images out and sell them. what I want to know is there any hope of stopping these others to be cut out. and I think the best thing to do is to keep the one already cut out in a safe place till we get word from the H. B.

Notice for the Public. No one is allowed to cut or damage any of the carvings in the rocks at Rope or Saint Pauls. anyone found so doing will be severely punish.

D. A. Young
Chief Mag.

215. H.E. Maude to WPHC regarding instructions for the guidance of the Local Court

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H.E. Maude to
WPHC regarding
instructions for the
guidance of the
Local Court

23 December 1940

WESTERN PACIFIC HIGH COMMISSION

23

Pitcairn Island,

23rd December, 1940.

RECEIVED
16 JAN 1941
WPHC

Sir,

I have the honour to forward a copy of the typewritten hints and instructions which I am leaving for the guidance of the local Court. All the subjects dealt with in the memorandum have been fully explained to the government on more than one occasion, but it appeared desirable to leave them with written directions regarding those points which they appeared to find difficult to grasp.

2. The standard of the local court is deplorably low. As can be expected in a community where discipline and restraint are conspicuous by their absence and little attempt is made to enforce the laws, the Chief Magistrate has a difficult task to maintain order in court. I had an opportunity of attending the court as a spectator during the hearing of a criminal case and, although I was afterwards assured that the proceedings had been unusually decorous owing to my presence, I was astonished at the manner in which the trial was conducted. In particular I was struck by the total absence of any orderly procedure such as one is accustomed to elsewhere; the accused, who sauntered in after the main witness

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23.12.40.
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The Secretary,
Western Pacific High Commission,
Suva, Fiji.

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a the main witness had given her evidence, was not asked
 b to plead; there was no prosecutor and no witnesses
 c appeared to have been summoned; the general public
 d gave their views freely both on the case and the way
 e in which the Magistrate was handling affairs; while the
 f accused insulted the Magistrate more than once. I have
 g been informed that when the public gets really excited
 h over a case the noise can be heard at a considerable
 distance while on at any rate one occasion the Chief
 Magistrate has been physically assaulted by the accused.

H.E. Maude to
 WPHC regarding
 instructions for the
 guidance of the
 Local Court

23 December 1940

3. I have done my best to rectify this unsatis-
 factory state of affairs by continually emphasizing,
 during my talks with the heads of the community, the
 necessity for preserving absolute order during court
 proceedings. Demonstrations have been held, in which
 the various stages of a trial have been explained and
 acted, while the furniture of the Court House has been
 rearranged to make it more possible to conduct proceed-
 ings along lines customary in other parts of the Empire.

4. The hints and instructions enclosed with this
 letter represent a further attempt to regularize court
 procedure. They have been carefully prepared after
 studying local legal problems and deviate from the
 normal practice of civilized courts whenever it seemed
 in the interests of justice to do so. It is hoped
 that their perusal before and during a trial will
 enable the Chief Magistrate for the year to conduct
 proceedings in a decent and orderly manner.

I have the honour to be,

Sir,

Your obedient servant,

H.E. Maude

High Commission Representative,
 Pitcairn Island.

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216. Hints and Instructions to the Chief Magistrate with regard to the procedure to be observed in hearing cases before the Island Court by H.E. Maude

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Hints and Instructions to the Chief Magistrate with regard to the procedure to be observed in hearing cases before the Island Court by H.E. Maude

23 December 1940

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Hints and Instructions to the Chief Magistrate with regard to the procedure to be observed in hearing cases before the Island Court.

A. General.

(See 21a in 2519/37)

(1) Jurisdiction of the Court. The limitations on the jurisdiction of the local Court are clearly shown in Regulation 15. Should any offence be committed in the island which is not within the jurisdiction of the Court the particulars should be sent immediately to Fiji, if possible by telegraph, in order that an official may be sent competent to deal with the case - see Regulation

(See 21a in 2519/37) 16.

(2) Preservation of Order in Court. It is essential that proper order should be maintained in Court throughout its sittings. No person should be allowed to interrupt the Court proceedings, or speak without the permission of the Chief Magistrate, and complete silence should prevail while a witness is giving his evidence. Regulation 54 gives the Chief Magistrate wide powers to assist him in maintaining order in Court and these powers should, whenever necessary, be used. If any person present in Court will not keep quiet he should be dealt with forthwith

(See 21a in 2519/37) under Regulation 54 (1) (c).

(See 21a in 2519/37)

(3) Members of the public attending sittings of the Court. Regulation 17 allows the public to attend sittings of the Court. This, of course, only means that they may attend subject to their good behaviour. Members of the general public attending Court must sit in respectful silence, and if they do not they should be removed instantly by a police constable or other officer of the Court.

Attention is again

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*Hints and
Instructions to the
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(Su 21a in 2519/37) Attention is again directed to Regulation 54, which enables the Chief Magistrate to punish any member of the public who does not behave in Court.

Should there be any difficulty in maintaining order during the hearing of any case the Court should be forthwith cleared of all members of the public and the case proceeded with in private.

Children should not be allowed in Court during the hearing of a sexual case, and women should also be excluded if the Chief Magistrate considers their presence to be undesirable. If the case is of a filthy nature all members of the public may be excluded and the proceedings conducted in private.

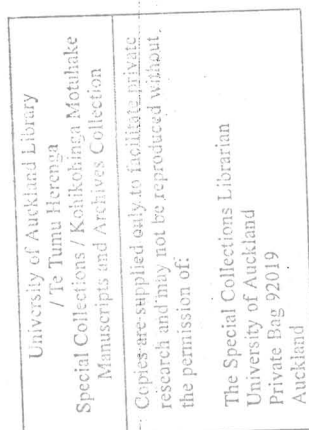
B. Laying Charges.

(4) If any member of the Island Government hears a report that an offence has been, or may have been, committed it is his duty to report the matter immediately to the Chief Magistrate. Should no private person lay any charge concerning the offence, the Chief Magistrate should decide, if necessary after consulting the Council, whether it is in the public interest that a charge should be laid by a member of the government. If the Chief Magistrate decides that the alleged offence should, in the public interest, be brought before the Island Court, he should instruct a police constable or other official to lay the charge and prosecute the case.

C. Criminal Procedure.

(5) The Hearing of a Criminal Case. The way in which a criminal case should be heard by the Island Court is laid down in Regulation 28. The following notes represent an expansion of that regulation.

(a) When the



(Su 21a in 2519/37)

Hints and Instructions to the Chief Magistrate with regard to the procedure to be observed in hearing cases before the Island Court by H.E. Maude

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(See 21a in 2519/37.)

(See 21a in 2519/37.)

- (a) When the Court is seated the Chief Magistrate should call for silence, and then proceed to hear the first case.
- (b) The first accused should be called in front of the Court and the charge should be read over to him by the Chief Magistrate, together with the regulation which he is said to have broken. The Chief Magistrate should then ask him whether he pleads "Guilty" or "Not Guilty" to the charge.
- (c) If the accused pleads "Guilty" the Chief Magistrate then decides on the punishment to be awarded him - Regulation 14 (3).
- (d) If the accused pleads "Not Guilty" the Court proceeds to hear the evidence of the prosecutor. After the prosecutor has given his evidence the accused may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.
- (e) The Court then hears the evidence of each of the witnesses brought by the prosecutor. After each witness has given his evidence the accused may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.
- (f) The Court then hears the evidence of the accused, if he wishes to give any evidence. It should be noted that the accused has three choices open to him - Regulation 28 (2). He may -
 1. Give evidence on oath (or affirmation);
 2. Make a statement not on oath (or affirmation);
 3. Keep silent.
 All witnesses, other than the accused, must give their evidence on oath (or affirmation).
- (g) Should the

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- (g) Should the accused decide to give evidence on oath (or affirmation), after he has finished the prosecutor may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given. If he only makes a statement not on oath (or affirmation), or keeps silent, the prosecutor is not entitled to ask him any question.
- (h) The Court then hears the evidence of each of the witnesses brought by the accused (if any). After each witness has given his evidence the prosecutor may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.
- (i) The Chief Magistrate may ask any questions at any stage of the trial, and may recall and question the prosecutor or any witnesses at any stage of the trial.
- (j) After hearing all the evidence both for the prosecution and for the defence, the Assessors (or if the case is being tried without Assessors, the Chief Magistrate) decides whether the accused is "Guilty" or "Not Guilty" of the charge made against him - Regulation 14 (2).
- (k) If the accused is held to be "Guilty" the Chief Magistrate then decides on the punishment to be awarded him - Regulation 14 (3). Care must be taken to see that the punishment is in strict accordance with the law.
- (l) If the accused is sentenced to a term of imprisonment a commitment warrant must be drawn up - Regulation 32.
- (m) All witnesses should give their evidence standing alone in front of the Court.
- (n) Notes of the evidence given in all trials should be taken down

(See 212 → 2519/37)

(See 212 → 2519/37)

Hints and Instructions to the Chief Magistrate with regard to the procedure to be observed in hearing cases before the Island Court by H.E. Maude

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be taken down by the Island Secretary - Regulation 28 (2).

D. Civil Procedure.

(-21a) - 2519/37

(6) The Hearing of a Civil Action. The way in which a civil action should be heard by the Island Court is laid down in Regulation 36. The following notes represent an expansion of that regulation.

(a) When the Court is seated the Chief Magistrate should call for "Silence in Court", and proceed to hear the first case.

(b) If the defendant in the first case admits the claim, the Court simply gives judgement by making such order by way of money or other compensation, or damages, as the nature of the case requires.

(c) Should the defendant not admit the claim the plaintiff, having been called in front of the Court, gives his evidence; after which the defendant may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.

(d) The Court then hears the evidence of each of the witnesses brought by the plaintiff (if any). After each witness has given his evidence the defendant may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.

(e) The Court then hears the evidence of the defendant, after which the plaintiff may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.

(f) The Court then

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- (f) The Court then hears the evidence of any witnesses brought by the defendant. After each witness has given his evidence the defendant may ask him, through the Chief Magistrate, any questions bearing on the evidence he has given.
- (g) The Chief Magistrate may ask any questions at any stage of the trial, and may recall and question the plaintiff or defendant, or any of their witnesses, at any stage of the trial.
- (h) After hearing all the evidence given by both parties and their witnesses, the Court gives judgement by making such order as the nature of the case requires.
- (i) All witnesses should give their evidence standing alone in front of the Court.
- (j) Notes of the evidence given in all civil actions should be taken down by the Island Secretary - Regulation 38.

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(21a) - 2519/37

E. Punishment of Children.

(7) Regulation 2 defines a child as being any person who is under the age of 14 years. Persons who are 14 years of age or over are treated in the same manner as adults.

Regulation 30 deals with the punishment of children. The following notes represent an expansion of that regulation.

- (a) If the offence is a small one and it is the child's first offence the Chief Magistrate will probably decide to dismiss the charge and discharge the offender with a caution as to his future behaviour - Regulation 30 (3).
- (b) If the Chief Magistrate does not think that a caution would be a sufficient correction he may order the offender, provided that

(21a) - 2519/37

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offender, provided that he is a male, to be privately whipped with not more than 12 strokes in his presence - Regulation 30 (3). The sentence should state the number of strokes to be given.

(c) Alternatively, the Chief Magistrate may impose a fine not exceeding 10/- to be enforced against the parent or guardian of the child - Regulation 30 (1), (2).

(21a - 2519/37)

(d) No child under the age of 14 years may be imprisoned.

(21a - 2519/37)

(8) Regulation 30 (4) only refers to whippings imposed by order of the Court. It does not mean that parents, guardians, or schoolmasters, are forbidden to whip children under their care when necessary.

F. Recognizances.

(21a - 2519/37)

(9) Regulations 42-44, dealing with Recognizances, are most useful provisions and should be of great service to the local government. The Court should not hesitate to bind people over whenever such a course appears desirable. When binding over it is not necessary to sentence the person in question for committing a crime, provided the Court is satisfied that his conduct towards the complainant has been sufficiently bad to justify requiring him to be of good behaviour towards the complainant in the immediate future.

(10) Among cases where it might be desirable to bind over may be mentioned ^{that of} a person who deliberately starts a serious quarrel which unless stopped is likely to lead to further trouble, or a gossip who persists in making nasty and malicious remarks about another person.

(11) When the Court orders a person to enter into a recognizance to be of good behaviour towards another Person they

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person they must decide -

- (a) the amount for which the person charged (called the principal) shall be bound (say about \$2 to \$5);
- (b) the length of time for which he is to be bound (usually about 6 months);
- (c) the number of people whom he should obtain to guarantee his good behaviour (called sureties) - it is usual to have two;
- (d) the amount for which each surety should be bound (say about half the amount for which the principal is bound).

At this stage Form 6 should be filled in - see Regulation 42 (1).

(12) The principal then has to find people who are willing to become his sureties. If he cannot find them he may be imprisoned forthwith for any period not exceeding 6 weeks - Regulation 43.

(13) If the principal succeeds in finding his sureties they must all sign Form 7. The result of this procedure is that if the behaviour of the person bound towards the complainant is good throughout the period for which he is bound the recognizance is finished and no further action can be taken under it against him or his sureties. If, however, he continues to give further trouble during the period for which he is bound both he and his sureties lose the amounts for which they are bound. These amounts are treated by the Court in the same manner as a fine - Regulation 44.

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(21a) - 2519 (37.)

(21a) - 2519 (37.)

(Signed). H.E. Maude.

Pitcairn Island,
23rd December, 1940.

A Deputy Commissioner for the
Western Pacific.

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