

S.S. ~~no. 205~~
no. 205

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Office of the H.C. for the W.P.
Suva, Fiji
25th May, 1917.

A. J. Clayton 19/5/17

for info

23.5.17

Sir,
I have to forward the following letter from
the Res. Com. of the G. & B. I. S. ^{transmitting} reports ^{for 1915-16} ~~concerning~~ ^{the} islands included in the Tarawa District. ~~These~~
~~have been compiled by the District Officer~~
~~in his report on the~~
~~land question relating to land questions in~~
the District ~~that has previously been prepared~~ should
be of value when the Lands Commission,
to which reference has been made in the cover.
From S.S. no. 204. 17.6.15 ^(1515/15) ^{to} which reference has been made in the cover.
From S.S. no. 201. 9.8.15 ^(1482/15) noted in the margin, is eventually appointed.
3. I enclose a copy of my letter to Mr.

To S.S. no. 204. 17.6.15 (1515/15) to which reference has been made in the cover.
From S.S. no. 201. 9.8.15 (1482/15) noted in the margin, is eventually appointed.

Enclosure

no. 201. 9.8.15

Dist. ~~_____~~

J. A.

(Signed): BICKHAM ESCOTT.
H.C.

GILBERT AND BELLISLE ISLANDS COLONY
Resident Commissioner's Office

Ocean Island, 21st February, 1917.

Recd 20/4/17

H.O.F.P.
No. 57

Sir,
Referring to Mr Workman's letter No. 1 of 1917
dated 1st ultimo I have the honour to forward herewith
the

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HIS EXCELLENCY
THE HIGH COMMISSIONER
FOR THE WESTERN PACIFIC
SUVA FIJI.

the 1915-16 Reports for the Tarawa Abaiang and Marakie Islands compiled by the District Officer.

2. Mr Gribble has added an appendix in place of 'General remarks' which is of considerable local interest and which should be of value to the Lands Commission which is to sit in each Island as soon as the new Government vessel is acquired. I am sending a copy of Mr Gribble's report for the favour of Mr Murdoch's remarks especially as regards land customs in the Central and Southern Gilberts. I have also asked Messrs Murdoch and Gribble to be good enough to confer together, and to let me have sample sheets for the printing of the new Land Registers and of any further books of record which will have to be printed in anticipation of the sittings of the Lands Commission.

3. I would draw Your Excellency's attention to the able and thorough manner in which Mr Gribble has approached this most difficult of all native problems in this Colony.

I have the honour to be,

Sir,

Your most obedient servant

E. C. ELLIOT.
Resident Commissioner.

Resident Commissioner.

No. 3 of 1917.

GILBERT & ELLICE ISLANDS COLONY.

Betio, Tarawa, 30 January,
1917

Sir,

I have the honour to submit herewith Annual Reports for the Islands of Marakei, Abaiang, and Tarawa for the period 1st July, 1915, to 30th June, 1916. No particulars have yet arrived from the Island of Muiana. Attached to the statistics, and in place of "General Remarks by the District Officer", I add an appendix dealing with matters concerning all the Islands under my charge, and which may be regarded as complementary to Mr. Smith Newson's appendix of 1914-15. In a separate letter I propose to deal with some aspects of the Native Government of this District, which is in need of reorganisation.

2. It is fitting to express in this place my obligation to H.M.P. Sewani, who, on my arrival, although not in my department, was at all times willing to place at my disposal his great knowledge of the Native character and his still greater influence over the people.

3. A covering remark, applicable to all Reports on the Tarawa District, is that Tarawa is suffering acutely from discontinuity of policy. Each Officer in charge must naturally import his own methods of attacking the work to be done in the District - he may, in fact require several months himself to settle upon his own policy - and the Native Governments do not attain their full

working

H. B. M's Resident Commissioner,

OCEAN ISLANDS.

full working efficiency until they have achieved a grasp of the newcomer's attitude. It is highly desirable that the residence of Officers should be more permanent than has been the case for the past three years.

4. Another absolute necessity for this District is that the Officer in charge should have a good knowledge of the Gilbert language. I can emphatically vouch for the impossibility of learning everything that it is necessary for a District Officer to know from the average Gilbert interpreter. A Gilbert Native remains before all things a Gilbert Native, therefore secretive, and will conceal anything which his prejudices prompt him to conceal. His attitude towards the District Officer is as a rule merely that of a gramophone - he records what he is instructed to record. It is by constant visitation of villages and conversation with the people that the heart of the District is learned.

5. I have not yet had time to prepare and bind copies of this Report for transmission to His Excellency the High Commissioner, but will post them in the next mail direct to Fiji in order that no further time may be lost.

I have the honour to be,

Sir,

Your obedient servant

(Sd) *W. G. ...*

District Officer.

DISTRICT ANNUAL REPORT WITH APPENDIX

From 1st July, 1915, to 30th June, 1916.

~~CONFIDENTIAL~~

ISLAND OF TARAWA.

	Men	Women	Boys	Girls	Absentees	T O T A L.
Population	751	818	378	306 306	164	2,417.
Births		92				
Deaths		26				
Marriages		27				
Number of charges, Native Magistrate's Court					625	
Number of Convictions					563	
Total Prisoners for the year: Male					127	
Female					70	
Amount of Fines levied					£72- 9- 0.	
Number of Trading Licenses					7	
Number of Firearms Registrations					2	
Number of Dog Registrations					91	
Rainfall for the year					19.41 inches.	
Number treated in Hospital						
Number of out patients						
Number of Missions and Denominations					2 (Protestant: Boston R. Catholic: Society of the Sacred Heart).	
Changes of Native Officials:-					Four Kaubure, 6 Island Police.	
Charges against Native Officials and result of enquiries:-						
					{ Policeman, Karotu, Adultery (aggravated). Imprisoned: 1 year.	
					{ " , Tutu, Spreading false reports. " : 3 months.	
					{ Scribe, Indecent behaviour in publicSuspended :	
					{ Chief of Police, Adultery (first offence) Imprisoned: 6 weeks.	
Nature of Public Works completed:-					(a) Village eating houses;	
					(b) Male and Female Gaols, N.G. Station; (c) House thatches.	
and in hand:-					(a) Wells, (b) Eating houses, (c) Cook houses, (d) Can-	
	oes				oes for Hospital and Village work, (e) Replanting waste	
					lands.	

DISTRICT ANNUAL REPORT.

From 1st July, 1915, to 30th June, 1916.

ISLAND OF M A R A K E I.

	Men	Women	Boys	Girls	Absentees	T O T A L
Population	399	441	273	278	11	1,391
Births	54					
Deaths	34					
Marriages	14					
Number of Charges Native Magistrate's Court						282
Number of Convictions						96
Total Prisoners for the year						58 Males 38 Female.
Amount of Fines levied						£52- 2- 0.
Number of Trading Licenses						3
Number of Firearms Registrations						2
Number of Dog Registrations						14
Rainfall for the year						21.79 inches.
Number treated in Hospital						275
Number of out-patients						7
Number of Missions and Denominations						2 (Protestant: Bosto R. Catholic: Soci- ety of the Sac- red Heart).

Changes of Native Officials:- 4 Kaubure, 5 Policemen.

Charges against Native Officials and result of enquiries:-

2 Kaubure. Neglect of duties. Dismissed.
Policeman. AdulteryImprisoned: 6 months.
" . Out after curfew..Dismissed.

Nature of Public Works completed:- (a) Repairs to dwelling houses,
(b) Clearing to 5 fathoms beside all roads, (c) Fence of
Hospital.

and in hand:- (a) New Native Government Station, (b) Eating houses,
(c) Cook houses.

APPENDIX to Annual Report on Tarawa District, 1915-1916.

~~CONTENTS~~

- I. Betio Station.
- II. Native Affairs.
- III. The Land Question.

~~CONTENTS~~

I. BETIO STATION.

It is regrettable that my predecessor, Mr. Smith Rewse, had not the opportunity to make his own annual report on the work of improvement carried out on Betio Station during his residence. I hope it may not appear impertinent in either sense of the word to express my admiration of the results achieved both in building and in organisation. I should never have been able to carry on in the duties of both Clerk and Police Officer in addition to those of District Officer had not the Station been in almost perfect running order and the Native Officials methodically drilled in their respective spheres.

On arrival I was able to compare the new Police Barracks with my memory of the old, and to appreciate the change. The new lines consist of a model village within an enclosure, which flanks the much enlarged Parade Ground. It is laid out in orderly and sanitary fashion, in rows, each row consisting of houses of uniform type, suitable to the rank of the inmate. Each house has cook-house and eating-house, built to scale. Bath-houses, wells, latrines unmarried barracks, and unmarried mess are arranged with an eye to sightliness and accessibility.

Any additions or completions made since Mr. Smith Rewse's departure have been effected with strict regard to that Officer's plan.

Other works completed on the Station, since my arrival

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arrival are a cement slip and landing steps by the boat harbour, and a derrick capable of lifting heavy material from boats, which was constructed from spare gear of the s.s. "Tokelau". The end of the containing wall of the Boat harbour has been reconstructed in reinforced concrete, calculated to withstand Westerly gales. A further 50 feet have been added to the dressed stone sea-wall of the Station, nearly completing it. Work has proceeded satisfactorily on the reclamation of land before the Police Lines started by Mr. Smith Hewse, who, in the period under review, enclosed the area to be reclaimed in a sea-wall of undressed stone, which finishes off the Station at the Western end.

In June the foundations were laid of a 25,000 gallon cistern, in readiness for work in the period 1916-17.

One of the two new houses for Tarawa was taken in hand at the beginning of June, and, by the end of that month was well under way.

The cutter "Flotsam", found derelict in 1914, has now been fitted and rigged, enabling the District Officer to make monthly visits to the Island of Abaiang, 30 miles distant. This cutter has saved many pounds on the Hospital and Police Transport votes, in the traffic of patients and prisoners to and from Abaiang.

The remaining more important works done during the period 1915-16 were the completion of the white ward in Betic Central Hospital; the further extension of the stone jetty towards deep water; and the improvement of wells on the Station; the renovation of all native latrines, and the improvement of the female prisoners' working quarters.

II. NATIVE AFFAIRS.

II. NATIVE AFFAIRS.

The villages of *Tarawa* and of the other three Islands of the District are on the whole untidy. They have not been subjected to such systematic building methods as those in the Southern Islands of the Group. *Betic* has been taken in hand, and when completed will serve as a model for the imitation of all Native Governments, although each Island will ~~SHHHH~~ call for adaptations of the original to meet local peculiarities. As far as possible the villages will be replicas of those in the Southern Gilberts.

Abaiang being now subject to monthly visits of the District Officer is awakening from the enervated attitude towards all work which seems to be the characteristic of its population. The Native Government of this Island is distinctly feeble. The Magistrate, although hereditary King, is a person of little character and small influence, the real power being held by his cousin germain, *Ten Tonana* (also called *Kuribaba*), who is a native of singular intelligence and one of the few natives of *Abaiang* with a distinct personality. The Magistrate and King, *Te Maia* (whose name is hereditary, and analogous to the Roman "Caesar"), has in a high degree the defect of most weaklings - lack of discretion. His Court work, his administration and his choice of *Kaubure* are feeble in the extreme. The Chief *Kaubure*, *Tieti*, being old, will soon retire. It would be an efficient bolster to the Government if *Ten Tonana* were chosen as his successor.

Marakei is without doubt the premier Island of the District from the point of view of appearances. This is perhaps due to the great natural beauty of the Island, together with its small size and greater fertility. The strong hold and wisely wielded influence of both Missions among the people have also played a helpful part.

Kaiama, owing to lack of communication, has not been visited during the year, but is, by report of Natives and Missionaries arriving thence, in great need of supervision.

Difficulty having been encountered at Tarawa in the transport of patients from distant villages to the Central Hospital at Betio, the Native Government very heartily embraced a proposal that each village should subscribe to build its own canoe for Hospital work. The scheme involved an average expenditure per adult head of $2/4$, or 28lbs of copra, which was no hardship even to the smallest landowner. The people then approached me with a proposal to obtain a second canoe, for fishing, for each village by public subscription.

It is hardly possible to overrate the importance of encouraging the native to use his own canoe. Besides being a source of hardiness and health, it is a source of livelihood. The lagoon of Tarawa teems with fish, which the inhabitants neglect more as the years pass. The Islanders, in the authentic spirit of "carpe diem", argue that copra, which means money, is easy to get, while fishing involves effort and earns no silver. Eventually they have become, as a class, inept fishermen, and as vulnerable to colds upon the water as habitual landmen. These are the characteristics of the rising generation on Tarawa. It lays up for itself the certainty of hardship in times of drought when coconuts fail, and pandanus withers, and every man must willy nilly fish for life.

This condition in a community whose home is but a wisp of land between sea and sea is an unnatural thing. The results are (a) Semi starvation during droughts;

(b) Colds, influenza, pneumonia, phthisis - when the soft and unpractised are driven by want to undergo protracted exposure in search of food.

It is desirable to stimulate the training by easy stages of the rising generation in all matters pertaining to sailing and

and fishing. It is satisfactory to note that the otherwise incompetent people of Abaiang show a marked superiority to the other Islanders in marine matters. This is perhaps due to the fact that their lagoon is less forbidding than those of Maiana and of Tarawa. The latter in particular is of a dangerous and wicked habit, which makes it the more imperative that Tarawans should not lose the habit of seamanship.

Benevolent War Funds.

From the 1st July, 1915 to the 30th June, 1916, the sum of £1,137 - 9 - 10 has been subscribed to war funds by Natives, Missions, Traders, and Officials. Of this over £1,000 was given by the Natives, in the form of copra. Before one denation of copra was sold the natives would prepare a second instalment. There are further and larger sums to be reported, which were collected in copra in the year under review but not sold until the beginning of the period 1916-17. The figures on record speak for themselves: remarks by the District Officer would be superfluous.

Missions.

It is a great pleasure to report on the wise and good manner in which Missions of both denominations exert their influence among the natives. Native Officials are often lacking in tact, and on outlying Islands can cause much friction between Government and Missions through sheer stupidity. In view of the great difficulties with which the Missions have to contend in their everyday endeavour, it is not surprising that small additional worries caused by indiscreet Native Officials should sometimes overtax the patience of individual Missionaries. This leads to occasional quarrels, in which right (in the great majority of cases) is on the side

of the Mission at the beginning. The Mission would begin to find itself in the wrong only when driven by sheer irritation to the indiscretion of interfering with the Native Government. This is certainly to be deprecated, but it is not impossible of understanding, by any Officer who has had experience of the Native vis inertia. No case of such nature has arisen in the District within the year, although some members of the Tarawa Native Government, now being closely watched, have given cause of justifiable resentment to the Catholic Mission. The Missions on Tarawa deserve commendation for the moderation of their demeanour, and for the good will they have shown in observing the formalities of Government during periods of difficulty.

It will be necessary to complete the arrangements started by Mr. Smith Rewse on Tarawa, for the standardisation on all islands of the number of adult inmates yearly excused Communal Work for entry into Mission fences.

III. LAND.

Throughout the District this is a thorny question. Land is the entity of the Gilbert Native's existence. How deep the love of it is seated may be illustrated in the remark made to me by an aged Tarawan landowner who refused to make provision for his son. "The land", he said, "was my father's and my grandfather's, who won it in wars and kept it through other wars. I made my son. I cannot make land. I will keep all my land". This case is typical. To regard it as extraordinary is to run the risk of misunderstanding the pressing need of the readjustment of the present land situation.

For a consideration of the actual state of affairs it is necessary to begin with the subject of Land Registers.

Registers

REGISTERS.

Each Island at present possesses its own Register, which remains in the safe of the Native Government. These Registers were first compiled about sixteen years ago, with two ends in view: first, they were intended as proof of final settlement of ownership, and secondly as a basis for the assessment of the land (copra) tax. The question which now requires an answer is - "Are the registers, as they stand, reliable proofs of ownership?" If it is taken as conceded (and it must be so) that they were in the first place correct, the answer to this question is certainly in the negative. The Registers have, in fact, suffered alteration.

Alteration of Registers.

Such is the pertinacity of the Native regarding land that no machinery of the law has up to this day convinced him that a cause, once settled, is lost. It must be borne in mind that Island Officials are also Natives. Even the Registers failed to convince them of finality. Thus it happened that Native Magistrates, now long deceased, continued to entertain appeals; to adjudicate afresh; to reverse the very rulings on which the Registers were founded; to erase the entries, and to substitute them by new.

The majority of these things were done ten years ago and more. With the Service so thinly manned by white officials and still in an embryonic stage, it was, if I may say so, a marvellous achievement to produce a register at all. Small wonder indeed, that the Native Governments were able to alter the land books from time to time unknown to resident white officers. As for the Native Magistrates themselves, they were acting well within the limits of the Gilbert, though not the English, code, and possibly failed entirely to understand the finality of the Registers. Whatever their motives, their action was, however, responsible for much of the present confusion.

The first class of land claims, therefore, to investigate are those laid by those whose names were ousted from the Land Registers in an unlawful manner between ten and fifteen years ago.

Ara
To Katoka Ara.

Another class of claim emanates from the practice (very desirable if logically followed out) of "te katoka ara" or "registration of ownership". On decease of the owner all next of kin and parties otherwise interested appear before the next Bowi to submit their claim. The estate is then divided according to Gilbert usage of succession after proof of claim, and the names of the new owners are duly inscribed against the land allotted them. The important matter in such a process is of course, that all interested parties should be either present or represented. And this is precisely the point which the Native Governments have continually disregarded. There are cases in which it is claimed that the cousin or nephew of the deceased has had his name registered, to the exclusion of children or brothers, by virtue of having won the race to the Court.

Disputes arising out of such conditions are of two sorts - the old and the recent. In cases which happen to be within the memory of the existing Bowi it is possible to reopen matters with all interested parties present. But in the older disputes it not infrequently happens that many of the witnesses or parties originally interested are dead, and for fear of causing yet a fresh injustice, the Court must order a mere inscription of the complaint in the Land Claims Book, for settlement by the projected Lands Commission.

Concerning this Commission some few remarks will be offered later.

Boundaries.

The third class of land claims relates to boundaries,

and

and in this category may be included disputes connected with land which has grown by accretions to foreshore.

Boundaries are as a rule marked by stones of no great size; they may also be indicated by marks so ephemeral as small holes in the ground. In spite of the fact that they are otherwise an honest race there are few Gilbert Natives too scrupulous to move a boundary stone if the chance offers. Petty cases are not difficult of settlement, but there are many disputes awaiting adjudication in which the difference in position of the respective boundaries claimed is great. The area to be lost or gained by a change of boundary sometimes amounts to an acre - an area large enough to support a household if well tended.

In these cases the Register is no guide to the Court. The Register contains merely the names of the various pieces of land opposite the owner's name. The work of the Court is to decide precisely the boundaries within which such land-names apply.

Thus the settlement of such disputes depends upon the most meticulous sifting of the evidence gained from the cloud of witnesses conjured up by the disputants. And this evidence is of such a nature as only a native Court could for a moment entertain or understand. It is of no importance to a Native whether he be on the side of truth or of cupidity in a land dispute. He is as willing as a German mercenary to serve either party. He is harrowingly untruthful at all times.

Accretions.

Under the heading "Boundaries" fall cases of foreshore accretions. The rival theories on which settlements have been based are two:- (1) Some claim that the length of the sea frontage of adjacent landowners decides the length of the "riki" or "grown land" (vide Diagram A);

Diagram A

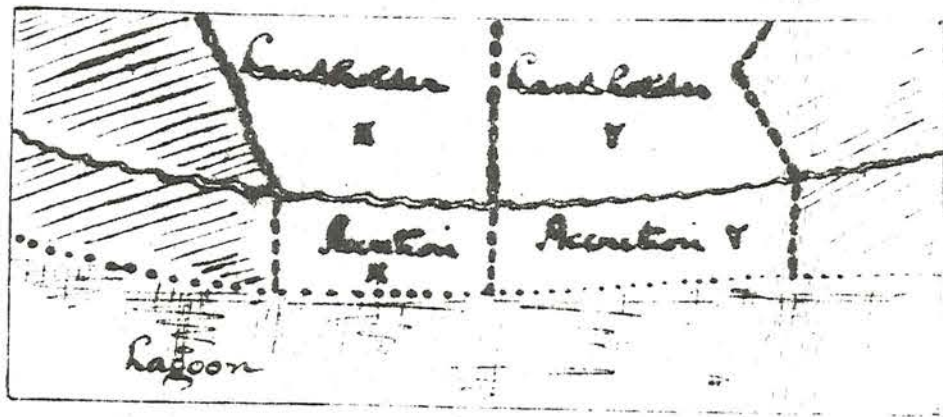


Diagram B

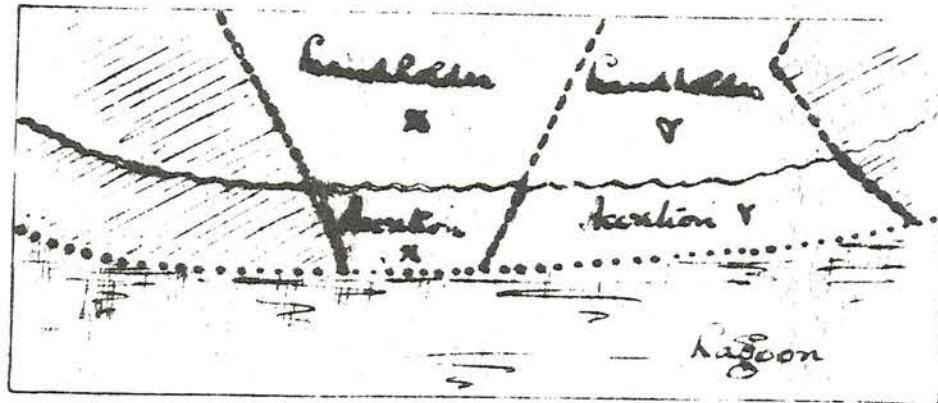


Diagram C

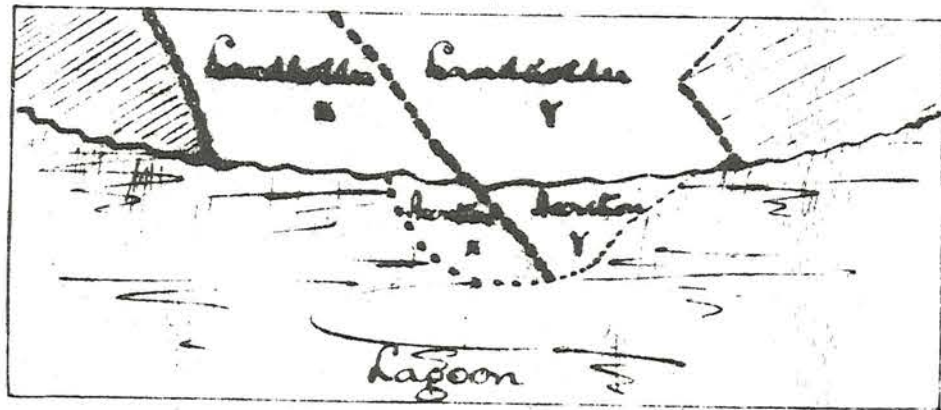


Diagram D



Diagram E

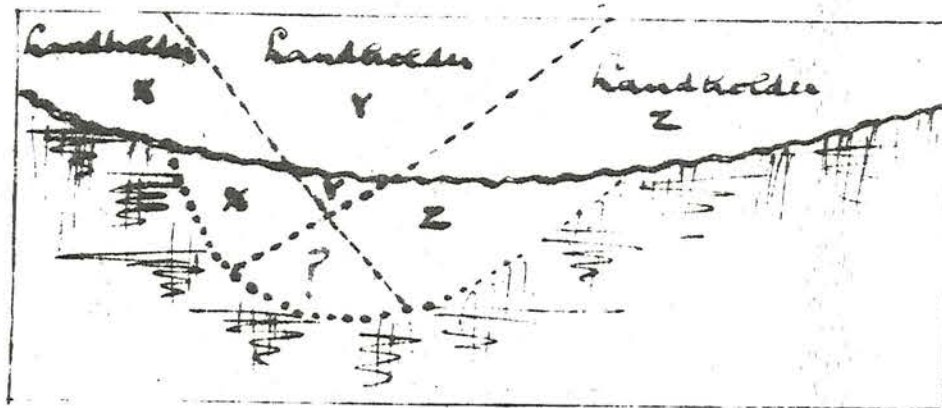


Diagram A

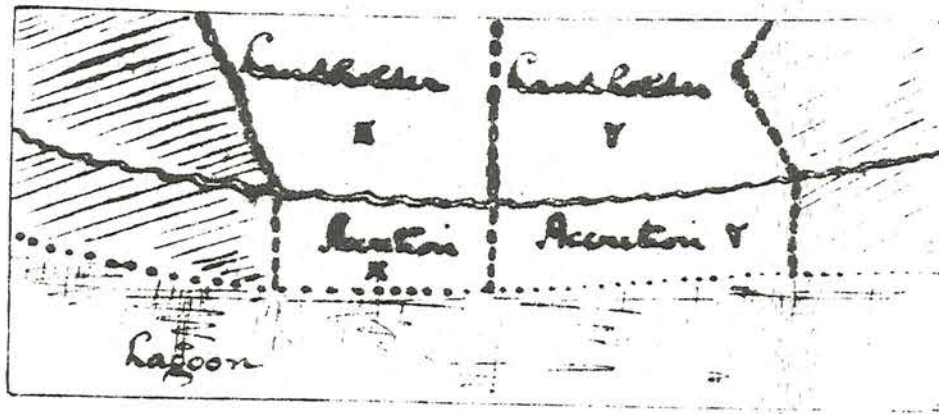


Diagram B

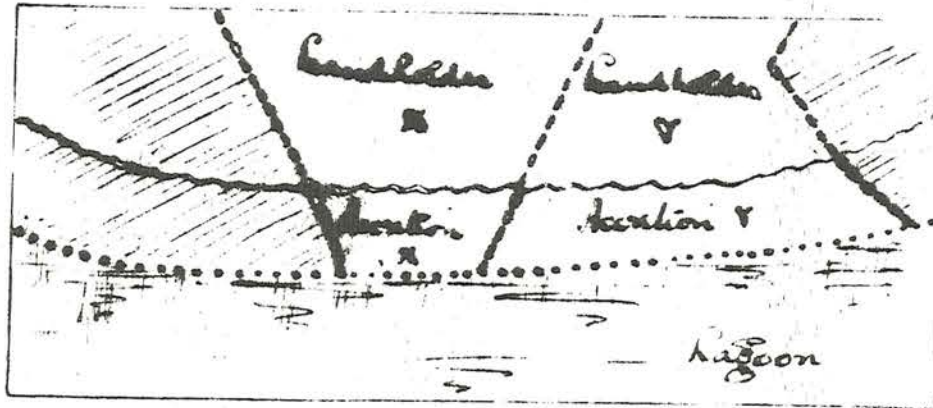


Diagram C

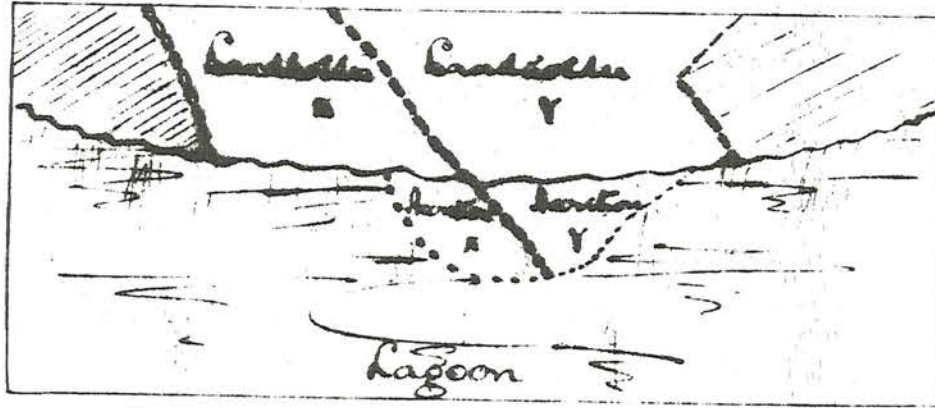


Diagram D

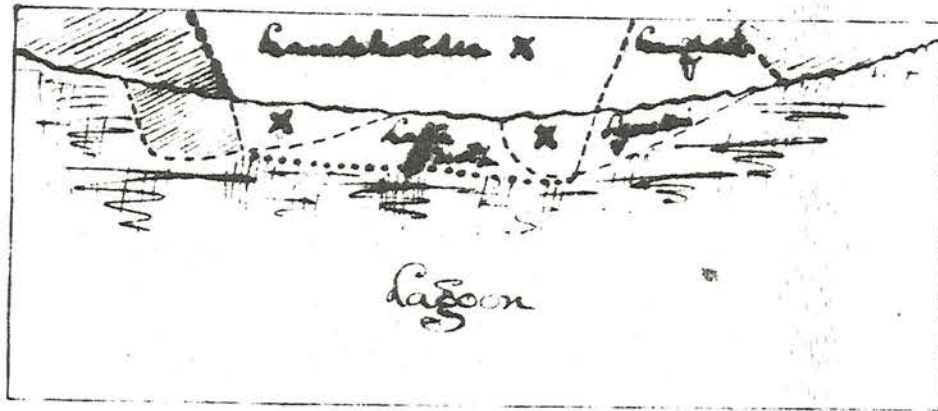
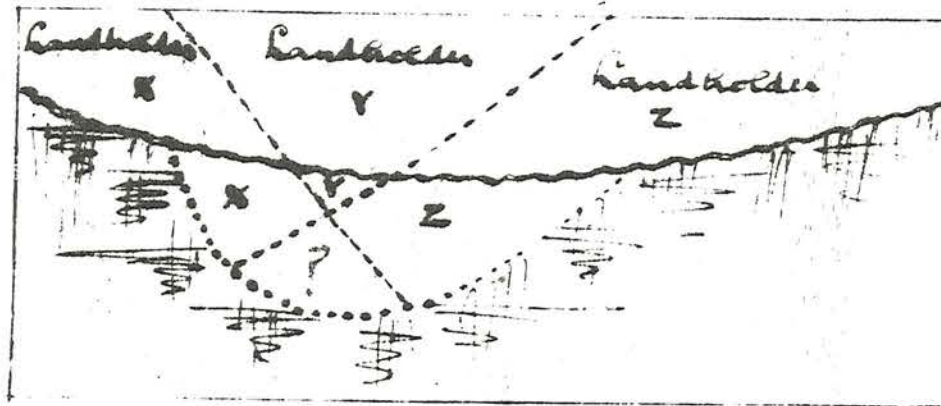


Diagram E



(ii) The second school states that the sea frontage is unimportant and that the old boundary lines should be produced in their original direction across the new land to water-mark (Diagram ^B B).

In cases where land has grown all along the sea frontage of two adjoining properties argument (i) has achieved a rough and ready justice satisfactory to all.

New land, however, has not as a rule grown with such symmetry. In general, the "riki" under dispute is a localised piece, at a point where adjoining properties meet (Diagram C). Under such circumstances argument (ii) is alone able to solve the direction of the new boundary line.

Let it be supposed that isolated accretions occur at the each end of a certain holding (Diagram D). Boundaries would have to be drawn according to argument (ii). At a later date the land between the two accretions gradually fills up. The result would be a strip of accretion along the whole sea-front with boundaries drawn as shown already in Diagram B. This would seem to show that argument (ii) is the more consistent of the two.

Diagram ^E E would however illustrate a case in which it would not solve all possible difficulties. But such a case is hardly likely to appear, as a "riki" is not as a rule so extensive as to raise the point.

There is this striking difference between accretion claims and other forms of land dispute already dealt with:- that while the latter are based upon alleged infraction of a recognised Gilbert usage, the former arise from the violation of no fixed law at all. There is no law on the subject, there are merely two rival opinions, either of which may be adopted by a Magistrate - according to his lights or, more probably, his interest.

Babal Fita.

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Babai Pits.

Claims concerning Babai Pits are perhaps more numerous than any others. This is a class of disputes which will afford infinite difficulty to the Lands Commission, since there has never been a register recording ownership of pits. It very frequently happens that the pit of A is situated in the very centre of B's land. Such a condition owes its origin to the days when B's ancestors made the progenitors of A the caretakers of their land. In the time of the kingly families the caretakers were more or less the villeins of the landowners, but by degrees acquired the right to amass a sort of "peculium" through their personal industry. A Babai Pit, for example, dug by a caretaker on the land of the overlord, began to be recognised as the peculiar property of the digger, who could pass it on to his son even though the latter were not caretaker of that piece of land.

Thus many (and possibly the majority) of the Babai Pits are owned by Natives who have no rights in the land surrounding them. It follows as a matter of course that the usual type of quarrel has arisen out of the alleged surreptitious enlargement of the pits at a date when the ownership of the land and the pit had become sharply divided. The absence of registers and the wildness of evidence have been referred to. Clear information as to the original size of the pits is difficult to obtain.

^M
Te ka.

Another class of real estate of which no register has been made is "te ka" or "fish wall". There are several unsettled disputes under this head still awaiting decision by the Lands Commission. The fish walls are circular enclosures built of rough stones on the reef, in which fish are trapped by the falling tide. Certain conditions of tide, current and bottom are indispensable to the efficacy of the traps, and favourable sites are comparatively rare. Such sites have probably been known and used for centuries, and were at first the appurtenances of kingly families.

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families. During the past 20 years, since the coming of the Flag, some of the "ma" have changed hands with almost each new magistrate. As there has been no register there has been even less chance than usual of finality. All that can be done at present is to guarantee undisturbed possession to the actual holder until the final decision of the Lands Commission.

SPECIAL TITLES.

In addition to the usual process (inheritance) by which land changes hands in these Islands, there are several methods of alienation which need consideration, inasmuch as they have affected the existing lands registers in the past, or appear to demand special treatment in the future.

(1) To aba n tibu ("Land of the adopted").

This is land given by the adoptive parent to the adopted child, with remainder to the heirs of his or her body, or, failing issue of the adopted child, with contingent remainder to the family of the giver.

If the adopted child have issue, the land passes finally to such in fee simple.

This is very clear Gilbert usage and should be quite simple in operation, but

(a) Such gifts are seldom registered. The land therefore remains in the register in the name of the giver. Thus, although the adoptive child may have enjoyed full possession during the life of the giver, he loses the land after the latter's decease, for lack of proof that the actual gift was ever made. The heirs of his body may suffer in the same way.

(b) On the other hand the family of the giver may be the sufferers through faulty registration:- The adoptive parent registers the name of the adopted son against a certain piece of land, but no note is made of the nature of the

the gift. He dies. Later, the adopted dies, without issue. Rightly, the land should return to the family of the giver; but as the adopted son's name is registered without remark under a date when the owner was known to be alive, the land remains in the family of the adopted.

In a highly organised community of Europeans the law adheres rigidly to documentary evidence in such matters; but it is difficult to apply such rules of literary exactitude to the adjudication of Gilbert land claims, in view of the following considerations:-

- i. The Native does not yet understand the functions of the Register;
- ii. Certain Magistrates in the past appear to have discouraged exactitude;
- iii. The Registers are consequently now no longer reliable.

Te Ba n Uri
2. Te Ba n Uri (The leaf of the uri-tree)

This type of conveyance is the converse of the above. It is a gift of land by the true parents to the adopter of their child. The object of the gift is to repay the adopter for his trouble in bringing up the child: hence its singular name, as the lissen leaf of the Uri is used by Natives in the infant's toilet much as a flannel is used by Europeans.

Such a gift is absolute, being subject to no reversion and no special remainder. Nevertheless, omission to register the gift in the name of the beneficiary has given rise to claims at the decease of the adopted child. The child's family has claimed that the land was only given on condition that the child lived, and have won back the land - thus defeating the intention of the original giver.

3. Te Mangko (The feeding bowl).

On marriage of a daughter her father usually gives a piece of land to her father-in-law. The young wife is supposedly fed from such land: hence its name. Among Natives the

the gift is also considered a due reward to the father who gives his son in marriage. The land passes in fee simple to the father-in-law. It may also be given to the mother-in-law if her husband be deceased. The Gilbert usage is quite clear as to the person to whom it passes under any given circumstances and need not be examined in this report. All difficulties arise, as usual, from failure to register such gifts. If the name of the new owner is not registered, the family of the giver would not be true Gilbert if it failed to claim that the land had only been "lent" during the life of the girl. As land lending is of frequent occurrence among the Natives such a claim would never seem utterly preposterous.

B'ai

4. Te B'ai n aine (the woman's price)

This is payment of land made by a seducer to an aggrieved husband, in lieu of mortal combat. Transactions of this nature were forbidden at the hoisting of the Flag, but are alleged to have continued even after the compilation of the Registers. Change of ownership was recorded in the registers, but no note added concerning the nature of the transfer. Claims are founded upon illegality of registration. Descendants of those seducers who were inveigled into paying a land-penalty now claim that the transaction should be considered void, and the land returned to the family of the giver.

5. Te Menebe (blood payment)

Restitution in the form of land made by a murderer to the family of the victim. This practise ceased at the hoisting of the flag and does not affect the Registers, but it is connected with some boundary disputes. A typical case is as follows:- A and B are adjoining landowners. A claims that a member of his family was killed by B's ancestor. As restitution, the murderer agreed to the enlargement of the

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the boundaries of A's land so that a portion of his own should be contained therein. Afterwards, by courage or cunning, he destroyed the new boundary and reverted to the old. B does not deny the murder nor the restitution. He claims that A's boundary, as it now stands, is actually the enlarged boundary conceded by his ancestor.

As before noted, the Register gives only land names not areas nor boundary marks.

The Court must therefore decide by verbal evidence (a) what was the original boundary of A's land and (b) what was the area conceded by B's ancestor.

CLASSIFICATION OF CAUSES.

The foregoing summary of possible causes of dispute is based upon a series of more than 300 actual cases, which I have personally discussed in an unofficial manner with all classes of the people. Every example given is a concrete case, which has been, or will be, brought before the Court at some time. For comparative purposes, after the views of one party had been heard, the contestant was visited and his tale elicited. Cases have been discussed in the course of friendly conversation: it is not a matter of difficulty to lead a Native to speak of his, or another person's, land.

The sincerity of all claims thus discussed naturally cannot be vouched for: but it is a matter of absolute certainty that at least one, and in most cases a great many more than one, of the types cited will come before the Lands Commission. It has therefore been considered useful to bring them under notice.

It is now possible to classify the causes which have given rise to the various types of land dispute of which a short account has been given above:-

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Classification of Causes (continued).

- (1) Surreptitious alteration of the new land Registers by stupid or biased Magistrates;
- (2) Defective alteration of the Registers in pursuance of a not illegal object (Registration after death of landowner in absence of interested parties; failure to note nature of gift, as in "Land of the adopted");
- (3) Failure to alter Registers (as in cases of gifts under special titles);
- (4) Absence of Registers (Babai Pits, fish walls);
- (5) Incompleteness of Registers (Boundary cases);
- (6) Uncertainty of the Gilbert land usage (as in the case of accretions to foreshore).

WORK OF THE LANDS COMMISSION.

The first work of the Lands Commission will be the adjudication of claims. The additional functions to be performed may be fairly surmised from the above classification and are, widely speaking:-

- i. Revision of the old Registers, where they have become defective through circumstances subsequent to their compilation;
- ii. Directing the transcription of the old Records into new books which comprehend all types of real estate, and cover all methods of conveyance;
- iii. Incorporating into the new records all the types of real estate hitherto unregistered;
- iv. Taking measures for the general publication among all classes of a set method of procedure to be followed when land changes hands, with a scale of penalties attached;
- v. Examining all cases in which the Gilbert land usage is ambiguous, and definitely fixing the same;
- vi. Establishing a universal method of marking boundaries

Dealing with the above subjects in the order of their enumeration:-

i. Revision of the old Registers.

It cannot but be taken for granted that the old Registers were in the first place correct. To entertain any claim by which an original entry therein might be altered

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would therefore be inconsistent. It would not only stultify the immense labour of the compilers; it would also encourage such a reopening of ancient disputes as would overwhelm the Commission and reawaken perilous memories of war and blood-fend among the Islanders. All original entries in the Registers should therefore be considered as absolute proof of the valid title of the person registered. But it may happen that the person originally registered is dead, and his successors have held his lands without troubling to alter the records. Such cases must be brought up to date, and any claims resulting from the laxity of procedure heard.

But in general the necessary revision will apply only to entries made at a date subsequent to the compilation of the Registers. As already pointed out, such entries have been either illegal alteration of the records, by biased magistrates, after the reopening of settled disputes; or they have been voidable by reason of defective adjudication.

After settling all claims, much care will have to be exercised in ascertaining that every piece of land stands registered in the name of the actual owner. A great deal of the preliminary work of seeing that the registers are as far as possible up to date before the sitting of the Lands Commission can be performed by the District Officer.

ii. Transcription into more suitable Registers.

The defects of the present registers are three; -

- (1) They never show the nature of the title by which land is held;
- (2) They do not include all types of real estate;
- (3) They offer no clue as to the size of the lands named.

This last defect, in view of the impossibility of surveying each piece of land, would be difficult to remedy save

save in approximate fashion. It will be dealt with later, under "vii. Boundaries".

Defects i and ii could be rectified by the adoption of a new Register in the form of the specimen folio herewith submitted. Each landowner would have a folio. The folio is divided vertically in the middle. The left hand division shows owner's name and lands received; the right hand division shows details of the disposal of lands, either before or after death of the owner.

From the full folio one might see at a glance all necessary particulars concerning any given piece of land. When a plot is to be alienated, the owner appears before the Court and notifies it of disposal. Details are entered on the "Conveyance" side of the owner's folio, and attested by signatures of the District Officer and two Native Officials. The details of this conveyance are then copied into the "Receipts" side of the beneficiary's folio, and cross references are made. The signatures guarantee the transaction. The transcription of the entry to the beneficiary's folio affords a duplication of registry which is useful for comparative purposes.

Such a Register would meet the necessities of all forms of real estate. It would certainly require time to compile, but something of this nature is sorely needed, and the labour of compilation would be amply repaid by the saving of time which its clarity would afterwards effect in Court work. In all cases where an owner has held by virtue of an original entry in the old Register it would be necessary merely to note that fact in the new Register, and thus the work of transcription would be vastly lightened.

In the specimen page submitted I have attempted to suppose entries which illustrate every type of case.

Name of Owner.	Names of Lands.	Received from	By what Title	Remarks	Conveyed to	Under what Title	Remarks	Signatures of District Officer, Magistrate and Chief Kaubure	Date
Ten TABA-TAKE	1. Te Waka	Father: Tem Bore	Gift	No conditions	Daughter-in-law: Tem Bebo.	Te mangre	Gift on marriage of daughter. No conditions.	1. 2. 3.	
	2. Te Arini-dial	From old Register page 41.	—	—	Son: Te Keraiti	Partition of estate after death.	Now held unconditionally by Te Keraiti.		
	3. Te Abani-matang	Adoptive father: Ten Ria.	Te aban tibu	If no issue land returns to family of Ten Ria.	Son: Te Keraiti	Partition of estate after death.	Now held unconditionally by Te Keraiti		
	4. Triabaps	Mother: Nel Ate.	Partition of mother's estate after death	No condition	Adopted daughter: Nel Kane	Te aban tibu	If no issue of Nel Kane, land returns to family of Ten Taratake.		
	5. Fish wall Tekeaoi	Judgment of Commission.	—	—	Son: Te Keraiti	Partition of estate after death.	No conditions		
	6. Half-share Babai Pit on land Te Ba.	Father: Tem Bore.	Partition of estate of father after death.	Half-share held by brother, Ten Teauru, folio 6.	Cousin: Nel Tama	Gift	No conditions		

Folio No

Folio No

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iii. Incorporation of fresh material.

Cases connected with types of real property, such as Babai Pits, which have never been registered would be better reserved for adjudication in a separate class. Details would be recorded on judgment given and preserved for drafting into the body of the new Register. As there have been no records of ownership in these cases, a time limit will have to be fixed. The difficulties of time limits in such proceedings will be great if time is to be measured by European standards. But every Native understands measurement of time by Wars. The last war on each Island took place, as a rule, just before the coming of the Flag. The Native would understand perfectly if it were stated that no claims would be heard which had their origin before the last war.

iv. Procedure.

At present the Native is ignorant of the necessity of strict procedure in land transactions. It should not be difficult to teach him otherwise. The stir caused by the Lands Commission will be its own advertisement, and any pronouncement made in Court will be the subject of Island discussion. It would do a great deal of good if a series of simple rules to be observed by all were published in each Island by the Commission. The Native should be informed:-

- (a) Of the use of the Register and its absolute finality;
- (b) Of the nullity of any future conveyance unless registered;
- (c) Of the liability to punishment of any man who retains land in defiance of the Register.

Penalties under (c) should be ^{es} prescribed, and also heavy punishments against Native Officials who tamper with records. It should be laid down that the signature of the District Officer is absolutely necessary for the ratification of a conveyance. In this way, and this only, can unfailing justice

justice be relied on.

The most useful method of advertising the necessity and ensuring the practise of strict procedure would be to charge a small fee of, say, one shilling or even sixpence, for every ratification of conveyance. The Native will realise much more clearly the formal and binding nature of the transaction if money passes hands, even though the amount be insignificant. His receipt would also be good evidence in case of accident to the Register.

v. Fixing the Law.

Only in rare cases is the Gilbert land usage ambiguous. If left to itself it works with surprising clearness, and is only obscured by the superposition of European conceptions. As the land usages of the Islanders has been guaranteed to them for ever, it is desirable that they should be defended from all outside influences. Any adulterations should be classified and condemned by the Commission. Where the Native custom is indeed of itself ambiguous, it should be definitely fixed for the future.

Under the head "ambiguity of law" might be especially considered the rights and obligations of hereditary caretakers. On an Island such as Abaiang, where the royal line is still a factor of importance, there is a large class of hereditary caretakers, who are in many cases old men, and whose fathers and grandfathers before them had charge of the same plot of land. Save for their share in the produce of the land they have tended they are landless. By general consent it is conceded that an overlord should remember the long service of his caretakers. But there is no definite usage protecting even the most faithful retainer. A caretaker is liable, after forty years, to be ejected at the caprice of the landowner. Such an occurrence is by no means unusual at Abaiang. The Gilbert Native is utterly without charity to

to his own kind. It would be a task not unworthy of the Lands Commission to consider a scheme by which a retainer might at least earn the right of remaining on the land under protection of the Court after working it for a certain number of years.

vi. Boundaries.

As there are over 2,000 pieces of land in the Tarawa District alone, it would appear to be impossible to institute a boundary survey. But the Commission could lay down hard and fast rules for the marking of all disputed boundaries. Stones of adequate size might be prescribed as marks and a scale of penalties for the infraction of boundaries might be drawn up. There is at present far too little attention given in the Native Courts to the criminal aspect of boundary disputes, and ^{overmany} ~~overmany~~ Natives escape punishment after deliberate falsification of a neighbour's marks.

THE DISTRICT OFFICER'S FUNCTIONS in the LAND COURTS.

At present, in land cases, as in all other affairs which come before the Native Courts, the District Officer merely assists at proceedings. He is present in an advisory, not a judicial, capacity. In land matters particularly he abstains from all appearance of making decisions, since it would be dangerous to intermeddle with the Gilbert notions of heredity. The District Officer's chief responsibility is to see that the Native law has a fair application. There may be islands in the Gilbert Group where the Native Officials are free from bias in land matters, but there is certainly not such an island in the Tarawa District. Generally speaking if the Native Magistrate and Chief Kaubure are strong and just men, all parties to a case have an equal chance. But the strong are seldom the most just; and the just minded are possibly

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possibly weaklings. Speaking of the Tarawa District, it would be safe to say that the presence of a District Officer at all meetings of the Bowi when land is under discussion is indispensable if unswerving justice is to be maintained. The Lands Commission will simplify matters by finally dealing with all burning cases of dispute. If its work is done thoroughly the future functions of the Land Court will be confined to the mere formal registration of current conveyances and the occasional adjudication of boundary disputes. But even under such conditions the District Officer should be present.

Before the sitting of the Lands Commission the District Officer can do much sifting work. Every Island now has a Land Claims Book, in which are inscribed the names of those who wish to bring matter of dispute under the adjudication of the Commission. The procedure adopted in the Tarawa District in all cases of land claims now submitted to the various Native Governments is as follows:-

To give a hearing to every claim and to decide whether

- (a) It should be dismissed as frivolous;
- (b) Or heard and settled immediately;
- (c) Or registered for hearing by the Commission.

No claim is allowed to be entered in the Claims Book without permission of the Bowi. Refusal of the Bowi is subject to appeal to the District Officer in Court, while he is on visit to the Island. Notice is repeatedly given that no claims will be heard by the Commission save those entered in the Claims Book.

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The above pretends to be nothing more than a very condensed statement of the land-case in the Tarawa District. The usages of the Southern Gilberts and of Butaritari are, it is probable, in many respects different to those in vogue

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vogue in the Islands under my charge. The Islands of Marakei, Abaiang, Tarawa, and Maiana fall into a natural class alone, since their histories are closely interwoven, through marriage and conquest. I can vouch for the literal accuracy of every fact recorded above, and of every statement of the conditions noted: the conclusions are necessarily a matter of opinion.

I should be sorry if it were gathered from this report that the Gilbert Native was an unreliable person in all his dealings. He is not so. In general he is lovable, intelligent and truthful. But land is his passion, and in his dealings therewith he is a changed being, whose chief characteristics are amazing untruthfulness and supreme cupidity.

Land matters in this District are in a chaotic state; the Lands Commission is sorely needed.

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