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NATIVE REGULATIONS, 1939.<sup>(1)</sup>

1. These regulations may be cited as the *Native Regulations, 1939*.<sup>(1)</sup>

2. All Regulations heretofore made under the Ordinance are hereby repealed.

PART I.

PRELIMINARY.

*What persons these regulations apply to.*

3. Magistrates can apply these regulations only to such persons as come within the definition of a "Native" that is contained in the *Native Regulation Ordinance, 1908-1930*.

4. Only a person that comes within this definition can be a complainant or a defendant in a Court governed by these regulations or can be compelled to give evidence in such a Court.

5. The word "district" in these regulations means the district of a "Court for Native Matters," unless the context shows that it does not.

6. The limits of a district shall be the limits that may from time to time be defined and established<sup>(2)</sup> as the limits of such district by the Lieutenant-Governor in Council.<sup>(3)</sup>

(1) The *Native Regulations, 1939* (made under the *Native Regulation Ordinance, 1908-1930*) comprise the original *Native Regulations, 1939*, as amended by the other regulations referred to in the following Table:—

REGULATIONS MADE BY THE LIEUTENANT-GOVERNOR IN COUNCIL.<sup>(a)</sup>

Description and number and year.	Date on which made by Lieut-Gov. in Council. <sup>(a)</sup>	Date on which published in Papua Govt. Gaz.	Date on which took effect.
<i>Native Regulations, 1939</i> (S.R. 1939, No. 20)	12.12.1939	22.12.1939	22.12.1939 (Papua Govt. Gaz. of 22.12.1939)
<i>Amending Regulation</i> (S.R. 1940, No. 2)	26.1.1940	1.2.1940	1.2.1940 (Papua Govt. Gaz. of 1.2.1940)
<i>Amending Regulations</i> (S.R. 1940, No. 3)	12.2.1940	6.3.1940	6.3.1940 (Papua Govt. Gaz. of 6.3.1940)
<i>Amending Regulation</i> (S.R. 1941, No. 2)	31.12.1940	5.2.1941	5.2.1941 (Papua Govt. Gaz. of 5.2.1941)
<i>Amending Regulation</i> (S.R. 1941, No. 5)	4.2.1941	7.2.1941	7.2.1941 (Papua Govt. Gaz. of 7.2.1941)

(a) Regulations made after the commencement of the *Papua Act 1940* on 18.9.1940 were made by the Administrator in Council.

(2) See the Table of Orders in Council printed on p. 3345, and the Order in Council printed immediately thereafter.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

*Magistrates for Native Matters.*

7. No person has power to hear or determine any matter under these regulations unless he has been appointed by the Lieutenant-Governor<sup>(3)</sup> a Magistrate for Native Matters, and the only power that a Magistrate for Native Matters possesses as a Magistrate for Native Matters is that which is conferred upon him by these regulations. But this does not affect powers specially conferred upon Magistrates for Native Matters as such by any Ordinance.

8. When any person has committed any act which is punishable as an offence under any of these regulations it is best that such person should be tried by a Court for Native Matters and punished under these regulations, and not under the general law of the Territory. But a Resident Magistrate may, if such offence is an aggravated one and is an offence under the general law of the Territory and such person has not already been tried for it, proceed and try such person under the general law of the Territory instead of under these regulations.

9. Whenever the word "Magistrate" or the word "Court" unaccompanied by any qualifying words occurs in any of these regulations, a Magistrate for Native Matters or a Court for Native Matters is to be understood respectively.

10. No Magistrate shall take part in any matter in which he is himself personally interested.

11. Every Magistrate shall have full power and authority to perform any of his duties as a Magistrate from the date and in virtue of his appointment as a Magistrate.

12. A Magistrate may be appointed a Magistrate for any number of districts or for only a portion of a district, or for a district with the qualification added that he shall only have power to try cases within a specified portion of such district.

13. Whenever any person is appointed a Magistrate the district or districts or the limited portion of a district within which he shall have the power to try cases shall be specified by the Lieutenant-Governor<sup>(3)</sup> in such person's appointment.

*Protection of Magistrates, etc.*

14. No civil action or proceedings shall lie against any Magistrate or against any person permanently or temporarily employed to carry out any of these regulations for anything done by him honestly and

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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in good faith and in the belief that in doing such thing he is lawfully acting under the powers conferred upon him by these regulations even though none of these regulations authorizes or justifies such a thing being done.

### *Acts done on Sunday, etc., valid.*

15. For all the purposes of any of these regulations all the days of the year shall be alike, and anything done on a Sunday, or a Good Friday, or a Christmas Day, or on any other days shall not by reason of its having been done on such day be deemed illegal, invalid or voidable. But it is not desirable that Courts should be held by Magistrates on a Sunday, a Good Friday or a Christmas Day.

### *Meaning of certain words, etc.*

16. In these regulations "Complainant" means any person that complains of another person, and "Defendant" any person complained of.

17. In these regulations words importing the masculine gender shall be deemed to include females, and the singular to include the plural and the plural the singular, unless the context shows that they do not.

18. "Month" in these regulations means a calendar month.

## COURTS FOR NATIVE MATTERS.

### *Sittings of Court.*

19. A Court may be held at any place within the district of such Court on any day and at any time.

### *No limit to number of Magistrates that can sit together.*

20. There shall be no limit to the number of Magistrates that may sit together and form one Court. The several Magistrates of a district may hold separate Courts either concurrently or at different times and either at the same place or at different places within such district.

### *Opinion of majority of Magistrates that of Court.*

21. If the opinion of the several Magistrates that form one Court differ, the opinion of the majority shall be the opinion of the Court. If the opinions are equally divided the matter before the Court shall lapse and nothing shall be done, but any person interested in the matter can bring it before a fresh Court.

*Proceedings before the trial.*

22. The following shall be the manner in which Magistrates shall proceed in all matters when a person complains to a Magistrate of another person:—

The first thing that the Magistrate shall do shall be to make himself thoroughly acquainted with all the particulars connected with the complaint. Next he shall consider whether the matter complained of is one that he has any power to deal with. If he thinks that he has power to deal with the matter he shall then fix a time and place at which he will try the matter. Then he shall inform the person complaining of such time and place and tell such person to come with his witnesses to such place at the time fixed. The Magistrate in fixing a time shall select such a time as will enable him to acquaint the person complained of of the complaint and as will enable such person to come with his witnesses to the place of trial at the time fixed. The next thing that the Magistrate shall do shall be to inform the person complained of of the nature of the complaint and of the time and place at which the complaint will be tried. He may do this himself, or he may do it through a messenger.

*Magistrate may himself institute prosecution.*

23. A Magistrate may of his own accord summon and try any person whom he has good grounds for suspecting to have committed an act which by any regulation is declared to be a forbidden act, notwithstanding that no complaint has been made by anyone against such person, except where in any regulation the contrary is expressed.

*Compelling attendance at trial.*

24. If in any matter any complainant who knows that his complaint will be tried at a fixed time or any defendant or witness that has been duly summoned to appear before a Court at a fixed time does not appear before the Court at such time the Court may, if it sees fit, have such person arrested and brought by force before it.

*Acts must have been committed within six months.*

25. If on the trial of any person for an act which by any regulation is declared to be a forbidden act the Court either during or at the close of the trial shall come to the conclusion that the alleged act took place more than six months before the day of trial the Court shall forthwith discharge such person and such person shall not be liable to be again tried by a "Court for Native Matters" for such alleged act.

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*Only a Magistrate can stop a subsisting prosecution.*

26. If a prosecution for a forbidden act has once been begun it shall not be allowed to be abandoned except with the sanction of a Magistrate.

*What acts a particular Magistrate can try.*

27.—(1.) A Magistrate shall only have power to try a person for a forbidden act when such act has been committed within the limits of the district, locality or place in which such Magistrate has power to try cases.

(2.) Where a person charged with having committed a forbidden act is not within the district in which such act was committed, such person may be summoned wherever he may be in the Territory to attend before a Court of such district as provided in Regulation 38.

*Trial where only one party attends.*

28. Instead of arresting a complainant or a defendant who neglects to attend at a trial, the Court may hear the case of the party that does appear and decide the matter finally in the absence of the party that does not appear. But it is better to arrest the absenting party and compel him to be present at the trial than to hold it in his absence.

*Proceedings at trial.*

29. On the day fixed for the trial of the complaint it shall be tried unless there be some good reason for putting off the trial to a future day. A Court may always put off to a future day the trial of any matter if it thinks that injustice will be done if the matter is tried on any prior or earlier day.

30. The proceedings at the trial shall be begun by one of the Magistrates forming the Court addressing the defendant in words suited to the matter before the Court after this manner:—

“Lohia says that five days ago you stole two bunches of bananas from his garden at Maivara. Do you admit that you did steal them or do you deny that you stole them?”

31. If the defendant admits that he did steal the bananas the Court may then and there sentence the defendant to be punished or may proceed and try the matter. If the defendant does not admit that he stole the bananas, or does not answer, the Court shall proceed to try the matter. Great care should be exercised by the Court in seeing that the defendant understands what he is accused of.

32. A defendant may go into the witness box and give evidence in his own case if he chooses, but he cannot be compelled to do so except in cases under Part III hereof. If he does so he must answer any question put to him. All the other persons in all matters must go into the witness box and give evidence if the Court orders them to do so.

33. The Court trying a matter shall first listen to all that the complainant or his witnesses have to say, and then to all that the defendant or his witnesses have to say. After a complainant has said all that he himself wishes to say, the defendant can ask the complainant questions touching the matter in hand, which questions the complainant must answer. The same rule applies to each witness of the complainant. After a defendant (who has given evidence in the witness box) has said all that he himself wishes as a witness to say the complainant can ask the defendant questions touching the matter in hand, which questions the defendant must answer. The same rule applies to each witness of the defendant.

34. Any of the Magistrates that form a Court may at any time put questions to the complainant or to the defendant (if he is in the witness box) or to any witness, which questions the person questioned must answer.

35. When all the evidence has been taken and heard the Court shall come to a decision and order accordingly.

36. If the Court decides that it is not satisfied that the defendant is guilty the defendant shall go free. A case in which the Court decides that it is not satisfied that a person is guilty must not be confounded with a case in which the Magistrates are equally divided in their opinions and in which consequently no decision of the Court is come to. A decision that a Court is not satisfied that a person is guilty is in law equivalent to a decision that the person is not guilty.

37. Magistrates when trying a matter should bear in mind that a defendant ought not to be called upon to show that he did not commit the offence with which he is charged or that the complainant has no claim against him unless and until evidence has been given on behalf of the complainant which evidence, if it is not refuted by the defendant, is sufficient to establish the charge or the complainant's claim.

*Summoning a defendant who is in another district.*

38. If a Magistrate wishes to summon a person as a defendant or as a witness and such person does not happen to be in the district of such Magistrate, such Magistrate shall request a Magistrate of the

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district in which the person whom it is desired to summon shall happen to be to summon such person for him.

39. A Magistrate that has been so requested to summon a person shall do so and shall do so in the same manner as he would summon a person in his own district.

### *Remand.*

40. Any person summoned under these regulations may be remanded in custody by a Magistrate for any period not exceeding seven days. The Magistrate remanding any such person shall make out a Remand Warrant under his hand in the form set out in the First Schedule.

## EVIDENCE.

### *Summoning witnesses.*

41. A Magistrate has power to summon any native as a witness. If a complainant or a defendant shall desire a Magistrate to summon any native as a witness the Magistrate shall do so. A witness shall be summoned in the same manner as a defendant is directed to be summoned. A witness not obeying summons<sup>(3A)</sup> may be arrested.

### *Witness to be affirmed.*

42. Before any person gives evidence a Magistrate shall immediately before such person gives evidence affirm such person by making such person repeat in the language of such person these words or words to the same effect:—

“I will only say what I myself know and all that I say shall be the truth, and I know that I am liable to be punished if I shall say that which is not the truth.”

43. Any person who, after he has been so affirmed, shall knowingly and wilfully in any Court say that which is not true shall be deemed to have given false evidence, and be liable to be punished accordingly.

### *What evidence Magistrates should try to get.*

44. Magistrates should in every instance endeavour to get the best evidence.

45. The best evidence of what any place or thing is like is the place or thing itself, that is to say, if a proper knowledge of such place or thing can be gained by a Magistrate looking at it himself he should endeavour to do so.

(3A) The words “not obeying summons” appeared in the regulations as published in Papua Govt. Gaz. *Semle*, “not obeying a summons” was intended.

46. When the evidence concerning a thing is the impression or idea that a person has formed about the thing, the best evidence is that of a person who got his impressions or ideas about the thing from the thing itself by using his own eyes or ears or his own senses.

*Hearsay evidence.*

47. Hearsay evidence should not be received or, if it is given, should have no weight attached to it. If a person says that he knows that something happened and the only reason why he knows it is because someone else told him so, that is hearsay evidence. If A only knows what B told him, B can probably give better and cannot give inferior evidence to that of A. So if B in his turn only knows what C told him, C is preferable to B. The current of information should be traced to its source and the evidence of the person that is the source of the information (that is to say the evidence of a person who saw or heard the thing about which evidence is wanted) obtained if possible.

*Confessions and admissions.*

48. But evidence of a confession or an admission made by a person must not be confounded with hearsay evidence. If A says that he knows that B did or said something and that the reason why he knows it is because B himself told him so this, if it be true, is good evidence as against B that B did or said the thing, because what a person writes or speaks is evidence against himself although it may not be evidence against anyone else. What a Magistrate in this instance requires to make sure of is that B did say what it is alleged that he said and that B said it voluntarily.

49. Although a voluntary confession or admission made by any person can be used against him, a Magistrate before he so uses it should make sure that such confession or admission was voluntary and was not extorted by force or violence or pain of any kind or by threats of force, of violence or pain nor was elicited by a promise that if such person confessed or admitted he would not be prosecuted at all or would be treated more leniently than if he did not make the confession or admission. Confessions or admissions obtained by such means as these have been obtained by unlawful and most reprehensible means and must not be used against the person that made them. The Magistrate should utterly ignore information obtained in this manner.

*Magistrates may discriminate between witnesses.*

50. Magistrates are always entitled to attach more importance to the evidence of one witness than to that of another, even though the evidence of each of them is, in its nature, "best evidence." For in-



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stance, two witnesses may each describe what each actually saw. The evidence of each is, in its nature, "best evidence." But one witness may be more intelligent or may appear to the Magistrate to be more worthy of credit or may have better eyesight or may have been much nearer to the object seen than the other.

### *Evidence to be given in defendant's presence.*

51. No evidence given before a Court or a Magistrate should be used against a person unless such person was present when the evidence was given and unless such evidence was given in a language or interpreted out aloud into a language that such person understood and unless such person was given the opportunity to cross-examine the witness that gave the evidence. But this does not apply to the case of a person who neglects to appear at a trial and in which the trial takes place in his absence as provided in Regulation 28.

## LANGUAGE AND INTERPRETATION.

### *Language to be spoken in Court, etc.*

52. For all the purposes of these regulations, except where it may be expressly enacted to the contrary, any words that require or have to be spoken on any occasion and by any person may be spoken in the English language or in the native language or dialect of any person that comes within the definition of a "native" that is contained in the *Native Regulation Ordinance, 1908-1930*. But before any spoken words can be used against or can affect any person, such words or the purport of such words, must first have been spoken to him or in his hearing in a language or dialect which he understands, but this does not apply to the case of a person who neglects to appear at a trial and in which the trial takes place in his absence as provided in Regulation 28.

### *Language of witnesses.*

53. Subject to the foregoing a witness may give his evidence in any language that he can speak even though such language may neither be English nor the language or dialect of a "native" as above defined.

### *Interpretation.*

54. A Court or a Magistrate may at any time and on any occasion order or direct that any words shall be interpreted from any language or dialect into any other language or dialect either immediately from the one language or dialect into the other language or dialect, or intermediately through the medium of other intervening languages or dialects.

55. A Court or a Magistrate may accept or reject any interpreter or any interpretation.

56. The Court or the Magistrate with whom the responsibility rests to ascertain whether a person did or did not understand or does or does not understand any language or dialect or any spoken words, shall be the sole judge of whether such person understood or understands such language, dialect or words.

57. If any person that shall be employed as an interpreter on any trial before a Court shall, in the opinion of such Court at such trial and in his capacity of interpreter, knowingly and wilfully misinterpret any words or the purport of any words such Court may sentence such person to be imprisoned for any period not exceeding Six months, provided that no such person shall be sentenced pursuant to this regulation until the nature of the offence has been fully explained to him, and apparently understood by him, and he has been given an opportunity to show cause why he should not be sentenced.

*Written language.*

58. When any words are written they must be written in English unless it is expressly enacted otherwise.

REGULATING IMPRISONMENT.

*Imprisonment where gaol not within convenient distance.*

59. If there shall be no gaol established by the Lieutenant-Governor<sup>(3)</sup> within a convenient distance of the spot at which any person is sentenced, such person may be imprisoned in any building which the Magistrate of the Court that fixes the place of imprisonment of such person shall deem expedient. But the practice of imprisoning persons sentenced to imprisonment in places that are not gaols is to be avoided as much as possible.

*Prison used by a district may be out of such district.*

60. A person sentenced to imprisonment by any Court may be imprisoned in any gaol whether such gaol is within or without the district of such Court.

*Punishment of children.*

61. If any person that is not over fourteen years of age shall be guilty of any act which by any regulation is declared to be a forbidden

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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act, such person shall not be punished with imprisonment. But the Court that convicts such person may have him whipped in the presence of such Court as a punishment for his offence.

The whipping may vary according to the age of the offender, but shall not be severe.

*Ascertaining age of defendant.*

62. If on the trial of a person for committing a forbidden act any doubt arises as to whether such person at the time that he committed the alleged act was or was not over fourteen years of age, the Court that is trying such person shall, on the best evidence that it can obtain as to the age of such person, decide the doubt and such decision shall be final and conclusive.

*Enforcing in another district a sentence of imprisonment.*

63. When a person has been sentenced to a term of imprisonment under any regulation but the Court that pronounced the sentence is unable to have such person taken into custody in pursuance of such sentence because such person is not within the district of such Court, such Court may empower any Magistrate of such district to request any Magistrate of any other district to imprison such person for the term of his sentence of imprisonment.

64. The Magistrate that has been so requested to imprison a person shall, if such person be within his district, have such person arrested and imprisoned for the period and in the manner specified in the request in precisely the same way as he could do if he had himself in his own district lawfully sentenced such person to a similar imprisonment.

*What sentences carry hard labour.*

65. Every sentence of imprisonment imposed under these regulations or under any other regulation made under the *Native Regulation Ordinance, 1908-1930*, may be with or without hard labour unless it is expressly enacted that the imprisonment shall be without hard labour.

*When a sentence begins.*

66. The term of a sentence of imprisonment imposed under any of these regulations shall begin to run as follows:—

- (a) If the person sentenced is bodily before the Court when the sentence is pronounced, the term of imprisonment shall begin to run immediately and the day upon which

the sentence is pronounced shall count as one of the days of the term of imprisonment.

- (b) If the person sentenced is not bodily before the Court when the sentence is pronounced the term of imprisonment shall begin to run from the day upon which such person is taken into custody in pursuance of such sentence, and the day upon which he is so taken into custody shall count as one of the days of the term of imprisonment.

*Person under more than one sentence.*

67. When a person that has been sentenced to a term of imprisonment is, before such existing term of imprisonment has come to an end, sentenced to another term or to other terms of imprisonment every term of imprisonment subsequent to the existing term of imprisonment shall, unless the Court that imposes any such subsequent sentence of imprisonment otherwise orders, begin to run from the time when all the terms of imprisonment previously imposed have come to an end.

*No Court fees shall be chargeable.*

68. No Court fees or Court expenses shall be chargeable in connection with any case tried under these regulations.

PART II.

ACTS DIRECTED OR FORBIDDEN WITH PENALTIES FOR BREACH.

*Non-appearance at Court, false evidence, interrupting Court, etc.*

69. Any native who—

- (a) wilfully refuses or neglects to appear before a Court or a Magistrate after he has been lawfully required to do so;  
or  
(b) wilfully interrupts or interferes with or disturbs the proceedings of any Court after he has been told by the Magistrate holding such Court not to do so; or  
(c) wilfully obstructs or tries to obstruct any Magistrate in the performance of his duties; or  
(d) refuses to give evidence or to answer any lawful questions before any Court after the Magistrate holding the Court has told him to give evidence or to answer the question;  
or  
(e) gives false evidence before any Court held under these regulations,

shall be liable on conviction to a fine not exceeding Two pounds or in

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default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(For what is false evidence *see* Regulation 43.)

*Escape from custody, assisting prisoner to escape, etc.*

70. Any native who—

- (a) whilst he is under legal arrest escapes or attempts to escape from custody; or
- (b) assists another person to escape from legal arrest or custody; or
- (c) while under sentence of imprisonment escapes or attempts to escape from gaol, confinement or custody; or
- (d) assists a prisoner to escape or in attempting to escape from gaol, confinement or custody; or
- (e) supplies any prisoner with anything without the permission of a Magistrate, Gaoler, Warder or Constable,

shall be liable on conviction to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

*Assaults, lying reports, threatening and obscene language.*

71. Any native who—

- (a) unlawfully lays hold of or strikes another person; or
- (b) spreads lying reports tending to give rise to trouble or ill-feeling amongst the people as a whole, or between individuals; or
- (c) uses threatening language or behaves in a threatening manner towards any person; or
- (d) uses obscene language in any village or place within the hearing of any other person,

shall be liable on conviction to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

*Making and possessing knuckle-dusters.*

72. Any native who—

- (a) makes any knuckle-duster; or
- (b) has in his possession any knuckle-duster,

shall be liable on conviction to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

*Being absent from quarters, making a noise, etc., after 9 o'clock p.m.*

73.—(1.) Any native engaged under the Ordinances for the time being relating to native labour who is away from the quarters assigned to him at any time after 9 p.m. and before daylight of the following morning without the written consent of his employer or other sufficient excuse shall be liable on conviction to a fine not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

A written consent of an employer shall not be valid as an excuse under this sub-regulation for a native to be away from his quarters after the hour of 11 p.m.

(2.) All noise, shouting, beating of drums and dancing shall cease in the towns and villages at 9 o'clock each night unless the Magistrate grants permission to the people to dance after that hour. Any native disobeying this regulation shall on conviction be liable to a fine not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

(3.) Regulations 73 (1.) and 73 (2.) shall be brought into force in such towns and villages or districts only as the Lieutenant-Governor<sup>(3)</sup> may from time to time by Order in Council<sup>(4)</sup> published in the *Gazette* direct.

*Unlawfully on premises.*

74.—(1.) Any native who, without lawful or reasonable excuse, is found on any premises other than those of his employer (if any) within the town of Port Moresby between the hours of 9 p.m. and 6 a.m. shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding One pound and in default of payment of such fine to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months. The term "premises" for the purposes of this regulation includes all lands, wharves, jetties, houses and buildings of any description, roads, streets and highways. The proof of such lawful

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(4) By Order in Council dated 26.1.1940 and published in *Papua Govt. Gaz.* of 1.2.1940, Regulation 73(1) was brought into force "Within towns of Port Moresby, Samarai, Buna, Daru and Bwagaioia", and Regulation 73(2) was brought into force "Throughout the Central Division and in the towns of Samarai, Buna, Daru and Bwagaioia". The boundaries of towns were specified as those defined for the purposes of the *Police Offences Ordinance, 1912-1939.*

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or reasonable excuse shall be upon the defendant in any such case, and the plea of being on such premises at the invitation of any native, male or female, shall not be considered a lawful or reasonable excuse.

(2.) The Lieutenant-Governor<sup>(3)</sup> may by Order in Council<sup>(5)</sup> published in the *Gazette* direct that this regulation shall be in force in such other towns or townships as he may think fit and thereupon the same shall apply therein.

### *Natives absent from their tribal village.*

75.—(1.) In this regulation the term—

“foreign native” means any native who not being under a Contract of Service under the Ordinances relating to Native Labour or in the employment of the Government or one of the Christian Missions is absent from his tribal district.

(2.) Any foreign native who does not give a good account of his means of support to the satisfaction of a Magistrate when called upon by him to do so may be ordered by the Magistrate to return to his own tribal village or district within such time as to the Magistrate may seem reasonable.

(3.) Any foreign native who refuses or neglects to obey such an order shall on conviction be liable to imprisonment for any period not exceeding Three months and the convicting Magistrate may order that the sentence be carried out in the prison of the district or division within which the tribal village or district of such foreign native is situated.

(4.) If any native who has returned to his tribal village or district under an order of a Magistrate returns as a foreign native to the town, village, place or district in respect of which the order was made within six months of the date of such order he shall on conviction be liable to imprisonment with hard labour for any period not exceeding Six months.

(5.) If any native who has served a sentence of imprisonment in the prison of the district or division within which his tribal village or district is situated for refusing or neglecting to obey the order of a Magistrate returns as a foreign native to the town, village, place or district in respect of which the order was made within six months from the completion of his term of imprisonment he shall on conviction be liable to imprisonment with hard labour for any period not exceeding Six months.

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(5) By Order in Council dated 26.1.1940 and published in *Papua Govt. Gaz. of 1.2.1940*, the Lieutenant-Governor directed that Regulation 74 should be in force “Within towns of Samarai, Buna, Daru, and Bwagaia”. “The boundaries of towns shall be those defined for the purposes of the *Police Offences Ordinance, 1912-1939.*”

(6.) This regulation shall be in force and take effect—

- (a) in the Town of Port Moresby and any place within a distance of five miles thereof;
- (b) in the Town of Samarai; and
- (c) in such other towns, villages, places or districts as the Lieutenant-Governor<sup>(3)</sup> may by Order in Council<sup>(6)</sup> published in the *Gazette* direct.

*Magistrate to report.*

76. A report giving particulars of every case dealt with under Regulation 75 shall be forwarded to the Government Secretary by the Magistrate who adjudicated on the case.

*Deserted wives and children.*

77.—(1.) In any case where a husband has deserted his wife; or a father has deserted his child, whether legitimate or illegitimate, upon the complaint of—

- (a) the wife or her next of kin; or
- (b) the child, the child's mother, the child's next of kin, or the mother's next of kin,

a Magistrate may order that the husband or father pay for the maintenance of the wife or the child such amount of money, or of food and money combined, at such intervals and for such a period as he may think just.

(2.) The penalty for disobedience of such order shall be a fine, recoverable summarily before any Magistrate, and not exceeding Two pounds or in the alternative imprisonment with hard labour for a period not exceeding Four months. Such fine or imprisonment shall not operate as a discharge of the order but the order shall remain in full force and effect.

(3.) The order may be revoked at any time by a Magistrate and shall cease to have effect, in the case of a wife, if she marries again either legally or according to the customs of the natives, and, in the case of a child, when the age of the child in the opinion of a Magistrate exceeds fourteen years.

(4.) In this regulation—

“Magistrate” means a Magistrate for Native Matters who is also a Resident or Assistant Resident Magistrate;

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(6) By Order in Council dated 26.1.1940 and published in *Papua Govt. Gaz.* of 1.2.1940, the Lieutenant-Governor directed that Regulation 75 should be in force in the “Central Division, Eastern Division and South-Eastern Division”.



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“wife” includes any woman that by the customs of the natives is regarded as or reputed to be the wife of a man;

“next of kin” includes the nearest adult male relative according to the customs of the natives;

“child” includes any child of either sex who in the opinion of the Magistrate is under fourteen years of age.

(5.) Any Magistrate from time to time may upon the application of any wife or husband, and upon notice given to all parties to be affected thereby, vary any order made for the maintenance of the wife or child.

### *Stealing.*

78.—(1.) Any native stealing the property of another native shall be liable on conviction to imprisonment for any period not exceeding Three months or to a fine not exceeding Thirty shillings and in default of payment of such fine to imprisonment for any period not exceeding Three months.

(2.) Whether a sentence or fine be imposed or not the Court may on conviction order the offender to make restitution of the stolen property or its value as assessed by the Court to the owner of such property.

(3.) The Court when it orders restitution of the value of such property shall decide whether such value shall be paid in the form of money or property and may direct such restitution to be made by instalments at specified periods.

(4.) Any native against whom an order for restitution has been made under this regulation disobeying such order may be imprisoned for any period not exceeding Three months or may be fined in any sum not exceeding Thirty shillings and in default of payment of such fine may be imprisoned for any period not exceeding Three months.

(5.) Any native finding property of any kind belonging to another native or any other person should inform the Village Constable or a Magistrate and should deliver to the Village Constable or the Magistrate the property so found and if the owner is discovered the property should be returned to him. If the owner cannot be found the Magistrate shall decide how the property is to be disposed of.

(6.) Any native finding property of any kind belonging to another native and converting it to his own use knowing at the time who the owner is or that the owner can be found may be charged under this regulation with stealing the property.

*Extortion.*

79.—(1.) Any native who pretends to be in the service of the Government, or any person who pretends that the Government has conferred some authority upon him, with the intention of causing trouble amongst the people or ill-using, threatening or robbing any person, shall on conviction be liable to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

(2.) Any Village Constable or any other native upon whom the Government has conferred authority who uses his authority wrongfully to get any property or benefit for himself or his friends shall on conviction be liable to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

(3.) The Court may also order him to return any property he has so wrongfully got or its value as fixed by the Court and if he does not obey such order he may be imprisoned for a further period not exceeding Two months.

*Sorcery.*

80.—(1.) Sorcery is only deceit, but the lies of the Sorcerer frighten many people and cause great trouble, therefore the Sorcerer must be punished.

(2.) Any native who—

- (a) practises or pretends to practise sorcery; or
- (b) threatens any person with sorcery whether practised by himself or any other person; or
- (c) procures or attempts to procure any other person to practise or pretend to practise or assist in sorcery; or
- (d) is found in possession of implements or “charms” used in sorcery; or accepts payment or presents in the shape of food or otherwise when the obvious intention of making such payments or presents is to propitiate a Sorcerer,

shall on conviction be liable to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

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*Illegal Cults.*

81.—(1.) The Lieutenant-Governor<sup>(3)</sup> may by Order in Council<sup>(7)</sup> published in the *Gazette* declare illegal any cult specified in such order. Any such order may be confined in its operation to any part of the Territory specified in the order and any cult declared illegal pursuant to this regulation is hereinafter in this regulation referred to as an illegal cult.

(2.) Any person who—

- (a) joins in or is concerned in either by pretence or otherwise or takes part in the celebration of any custom or practice of an illegal cult; or
- (b) directly or indirectly assists or encourages or facilitates the celebration of any custom or practice of an illegal cult; or
- (c) any person who prepares or possesses any charm or other object used or intended for use in connection with an illegal cult,

shall be guilty of an offence against these regulations and liable on conviction to imprisonment with hard labour for any period not exceeding Six months.

(3.) The Court may confiscate any charm or object used or reasonably suspected of having been used for the purposes of an illegal cult.

*Bribery.*

82. Any native who gives, or promises to give either directly or indirectly, any money or other valuable whatever to any Village Constable, native clerk, native interpreter or member of the Royal Papuan Constabulary, on account of anything already done, or omitted to be done, or afterwards to be done or omitted to be done, by any Village Constable, native clerk, native interpreter or member of the Royal Papuan Constabulary in the lawful discharge of his duties, shall on conviction be liable to a fine not exceeding Three pounds and in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(7) Particulars of Orders in Council made, pursuant to Regulation 81 declaring Illegal Cults are set out in the following Table:—

Date on which Order in Council made.	Date on which published in Papua Govt. Gaz.	Cults declared illegal.
26.1.1940	1.2.1940	"Gi-Embo and Asisi"
4.11.1941	3.12.1941	"The Cult practised and disseminated by the native girl Philo of Inawaia Village, Mekeo District"

*Gambling.*

83. Any native who plays cards for money or money's worth or who gambles in any other way and any native who assists in any such card playing or other form of gambling shall be liable on conviction—

- (a) if he has not been previously convicted of an offence of a like nature to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months or in the discretion of the Magistrate to imprisonment in the first instance for any period not exceeding Four months without the option of a fine; or
- (b) if he has been previously convicted of an offence of a like nature to a fine of not less than One pound and not exceeding Five pounds or in default of payment to imprisonment for any period not less than One month and not more than Six months, or in the discretion of the Magistrate to imprisonment in the first instance for any period not less than One month and not more than Six months without the option of a fine.

Cards being used for gambling may be seized by any Magistrate, member of the Royal Papuan Constabulary or Village Constable and upon conviction of an offence under this regulation the Magistrate may order them to be destroyed or otherwise dealt with at his discretion.

*Adultery and prostitution.*

84.—(1.) Any native who on complaint of the husband is proved guilty of committing adultery with the wife of such husband shall on conviction be liable to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

(2.) Any female who on complaint of her husband is found guilty of committing adultery with any man shall on conviction be liable to a fine not exceeding Thirty shillings or in default of payment to imprisonment for any period not exceeding Three months, or to imprisonment in the first instance for any period not exceeding Three months.

(3.) No Magistrate or Village Constable is to act under this regulation unless upon the complaint of the husband himself. The husband may make a complaint against his wife or against the adulterer or against both. In the absence of the husband the complaint may be laid by his nearest relative.

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(4.) Any woman that by the customs of the natives is the wife of a man shall for the purposes of these regulations be deemed to be the wife of such man.

(5.) Any native who does anything with the object of inducing or compelling any female to have sexual intercourse with a male person who is not her husband shall on conviction be liable to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(6.) Any native possessing authority over a female native that accepts any gift or benefit for allowing such female to have sexual intercourse with a male person who is not her husband shall on conviction be liable to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(7.) Any woman shall on conviction of being abandoned and dissolute be liable to a fine not exceeding Twenty shillings and in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

*Prostitution on penal districts.*

85.—(1.) No female native shall enter or be upon any penal district for the purpose of prostitution.

(2.) No native shall invite or bring any female native into any penal district for the purpose of prostitution.

(3.) No native shall have sexual intercourse with or knowingly shelter or conceal on any penal district any female native who enters or is upon or is invited or brought upon a penal district for the purpose of prostitution.

(4.) In this regulation the words "penal district" shall mean any penal district constituted as such by or proclaimed under the provisions of Section 20 of the *Prisons Ordinance, 1919-1930*.<sup>(8)</sup>

(5.) Any native who commits a breach of any of the provisions of this regulation shall on conviction be liable to a fine not exceeding Two pounds and in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

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(8) The *Prisons Ordinance, 1919-1930*, is repealed by the *Prisons Ordinance, 1938-1941*, but the latter Ordinance has not yet been proclaimed to commence. For penal districts, see Section 20 and Schedule B of the *Prisons Ordinance, 1919-1930*, and the proclamations made thereunder, printed below, title PRISONS.

(6.) This regulation shall be in force and take effect—

(a) in the Kikori penal district; and

(b) in such other penal districts as the Lieutenant-Governor<sup>(3)</sup> may by Order in Council<sup>(9)</sup> published in the *Gazette* direct.

*Abortion.*

86.—(1.) Any native who with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is liable on conviction to imprisonment for any period not exceeding Six months.

(2.) Any native woman who with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever or permits any such thing or means to be administered or used by her<sup>(9A)</sup>, is liable on conviction to imprisonment for any term not exceeding Six months.

(3.) Any native who unlawfully supplies to, or procures for, any native anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is liable on conviction to imprisonment for any period not exceeding Six months.

*Indecent assault.*

87. Any native who indecently assaults any other native shall be liable on conviction to imprisonment for any period not exceeding Six months.

*Gamada drinking.*

88. Gamada is bad and people who drink it become stupid and incapable and injure their health, therefore any person found drinking Gamada or having it in his possession shall on conviction be liable to a fine not exceeding Five shillings or in default of payment to imprisonment for any period not exceeding Fourteen days.

*Touting.*

89. Any native who shall for gain or reward, or in the course of any employment, persuade, or try to persuade, another native to spend

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(9) By Order in Council dated 26.1.1940 and published in *Papua Govt. Gaz.* of 1.2.1940, the Lieutenant-Governor directed that Regulation 85 should be in force "within all Penal Districts". For penal districts, see Section 20 and Schedule B of the *Prisons Ordinance, 1919-1930*, and the proclamations made thereunder printed below, title PRISONS.

(9A) The words "used by her" appeared in the regulations as published in *Papua Govt. Gaz. Semble*, "used on her" was intended.

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his wages with any other person, shall be liable on conviction to imprisonment for any period not exceeding Fourteen days.

*Arson.*

- 90.—(1.) Any native who wilfully and unlawfully sets fire to—
- (a) any native-owned building or structure whatever, whether completed or not;
  - (b) any native-owned cultivated garden;
  - (c) any native-owned tree, palm or shrub, whether indigenous or cultivated, the vegetable produce of which is used by the natives for food,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding Three pounds and in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

(2.) When a native is convicted of an offence as mentioned in the last preceding sub-regulation the Magistrate may discharge the offender without inflicting any punishment upon his making such compensation to the native aggrieved as may be approved by the Magistrate.

*Careless use of fire.*

- 91.—(1.) If any native—
- (a) through careless use of fire sets on fire any portion of the country that is not his own land, or any property that is not his own, whether the fire began on his own land or on his own property or elsewhere; or
  - (b) not having the right to set a piece of country on fire for hunting purposes sets fire to such country,

he shall on conviction be liable to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(2.) Any native who has the right to set fire to any piece of country for hunting purposes shall give to all persons whose property is likely to be imperilled by such fire at least forty-eight hours' notice before he sets it on fire. If he fails to do so, he shall on conviction be liable to a fine not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

(3.) Any Magistrate or Village Constable may order any person to remove or otherwise dispose of any inflammable materials which may be on any space adjoining a village, house, garden, plantation or other

improved plot of ground as a protection against fire. Any native disobeying such order shall on conviction be liable to a fine not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

*Acting for films.*

92. No native shall without first obtaining the permission of a Resident Magistrate, take any part in the representation of any scene or incident which is being photographed for the purpose of being or which when photographed is capable of being reproduced in moving pictures or in still pictures of dramatic character.

*Conduct of natives.*

93.—(1.) If any native in any street or public place—

- (a) uses any threatening, abusive, insulting, jeering or disrespectful language to any European; or
- (b) behaves in a threatening, abusive, insulting or disrespectful manner towards any European; or
- (c) begs for money, tobacco or other property from any European; or
- (d) wilfully or wantonly throws or discharges any stone or other missile to the damage or danger of any person; or
- (e) wilfully obstructs the passage of any vehicle, or without the permission of the driver thereof gets upon or holds on to any vehicle whether in motion or not,

he shall be guilty of an offence against this regulation.

(2.) If the offender is of the age or apparent age of fourteen years or over he is liable on conviction to imprisonment with or without hard labour for any period not exceeding Three months. If the offender is under or apparently under the age of fourteen years he is liable on conviction to be whipped with a strap. Such whipping shall not in any case exceed ten strokes and shall be administered in the presence of a Magistrate, a Patrol Officer, or European Constable. Such whipping may vary according to the age of the offender but shall not be severe.

94. If any parent or guardian of any native child under the age or apparent age of sixteen years permits such child to commit any offence against the last preceding regulation he shall be liable to a fine not exceeding Two pounds and in default of payment to imprisonment



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with or without hard labour for any period not exceeding Three months.

### *Loitering, etc., in towns.*

95. No native shall in the Town of Port Moresby—or in any other Town to which the Lieutenant-Governor<sup>(3)</sup> shall extend the provisions of this regulation by Order in Council<sup>(10)</sup> published in the *Gazette*—

- (a) loiter upon any footway to the inconvenience of passers by; or
- (b) wilfully obstruct or impede the passing of persons along any carriageway or footway.

A breach of this regulation shall render the offender liable on conviction to a penalty not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month or to imprisonment in the first instance for any period not exceeding One month.

### *Clothing and bedding.*

96. All natives except small children shall wear a loin cloth or other suitable covering in all towns proclaimed under the *Police Offences Ordinance, 1912-1938*,<sup>(11)</sup> and any native offending against this regulation shall on conviction be liable to a fine not exceeding Five shillings or in default of payment to imprisonment for any period not exceeding Fourteen days, or to imprisonment in the first instance for any period not exceeding Fourteen days.

97.—(1.) Clothes are good to wear if they are kept clean and if they are taken off when they are wet, and dried before they are put on again. Otherwise they are bad, for they cause sickness and death. Some natives know how to keep their clothes clean and do not wear them when they are wet, but many others are foolish and wear them when they are very dirty, and keep them on, and even sleep in them, when they are wet. To protect these foolish men and women it is necessary to make a law about the wearing of clothes.

(2.) No native shall wear any clothes in a dirty, insanitary or wet condition.

(3.) Any native charged with an offence under this regulation may show that under the circumstances he had a reasonable excuse and if he so shows to the satisfaction of the Magistrate he shall not be convicted of the offence.

Sub-reg. (2)  
sub. by S.R.  
1941, No. 2, r. 1.

Sub-reg. (3)  
sub. by S.R.  
1941, No. 2, r. 1.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

(10) By Order in Council dated 26.1.1940, and published in *Papua Govt. Gaz.* of 1.2.1940, the Lieutenant-Governor directed that Regulation 95 should extend "within the town of Samarai", the boundaries of the town to be as defined for the purposes of the *Police Offences Ordinance, 1912-1939*.

(11) Now the *Police Offences Ordinance, 1912-1939*. For the towns proclaimed thereunder, see the Table printed on p. 1464, and the proclamations printed immediately thereafter.

(4.) A native who disobeys this regulation shall on conviction be liable, for a first offence, to a fine not exceeding Ten shillings and in default of payment to imprisonment with hard labour for a term not exceeding One month; and, for a second or any subsequent offence, to a fine not exceeding One pound and in default of payment to imprisonment with hard labour for a term not exceeding Two months, or in the alternative to imprisonment in the first instance for a period not exceeding Two months.

(5.) In the case of a conviction, whether for a first or a second or subsequent offence, the clothes shall be destroyed.

(6.) "Clothes" do not include clothing made of native material.

(7.) This regulation does not apply to persons born outside the Territory of Papua.

98.—(1.) If any native shall have in his possession any article used or capable of being used for clothing or bedding and which in the opinion of a Magistrate is in such a condition as to be a source of danger to the health of such native or any other native such Magistrate may order the native in whose possession it is to burn such article.

(2.) If any native disobeys an order under this regulation he shall be liable to a penalty not exceeding One pound or in default of payment to imprisonment for any term not exceeding Two months, or to Two months imprisonment in the first instance.

(3.) No compensation shall be paid for any article so burned.

*Disposal of dead from Gemo Island Isolation Hospital.*

99. For the purpose of preventing the spread of contagious disease the disposal of the dead from Gemo Island Isolation Hospital shall be under the control and supervision of the Nurse in charge of such hospital.

Any native who directly or indirectly interferes or attempts to interfere with such control and supervision shall be liable on conviction to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

The provisions of this regulation may by Order in Council<sup>(12)</sup> published in the *Gazette* be extended to the disposal of dead from any other native hospital specified in such order whereupon the disposal of the dead from such hospital shall be under the control and supervision of the person specified in such order.

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(12) No Order in Council has been published in *Papua Govt. Gaz.*

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### *Burying in villages.*

100.—(1.) It shall not be lawful to bury bodies in the ground underneath occupied houses or in occupied villages or to keep any dead body in a state of decomposition in any occupied village and if any native disobeys this regulation he shall on conviction be liable to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(2.) The Chief or the Village Constable or the Magistrate will select a suitable site for the burial ground of each village and this regulation cannot be enforced until this is done. Every burial ground shall be marked out by ornamental trees and shrubs and it is the duty of the Village Constable to see that this is done, and if any person buries a body in an occupied village after a burial ground has been selected the Magistrate may order the body to be removed and taken to the burying ground.

(3.) The Magistrate may set apart separate portions of any site so selected as a burial ground for the burial of natives of the different religious denominations.

(4.) The Ministers of any religious denomination for which any portion of the burial ground has been specially set apart by the Magistrate shall have free access to such portion and may freely exercise their religious functions therein without disturbance by any native whomsoever.

(5.) Any native who at any time directly or indirectly interferes with the performance of any religious ceremony in the burial of the dead according to the usage of the religious denomination to which the deceased native belonged shall be liable on conviction to a fine not exceeding Four pounds or in default of payment of such fine to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

### *Improvement of villages and waterholes and keeping them clean.*

101. The practice of people abandoning their old homes in settled villages and scattering themselves in small groups over the face of the country is growing in the land. Experience proves that this isolated way of living tends to breed animosities, to increase superstitious fears and to debase those that follow it. On the other hand people persist in living in villages that are built on unhealthy sites even when it is easy for them to remove the village to a healthy site. It therefore becomes necessary for the Government to make the following laws about villages and dwellings:—

*Native Regulations, 1939.*

(1) When the Magistrate of a district reports to the Lieutenant-Governor<sup>(3)</sup> that any settlement of natives in any particular locality of his district is objectionable for any reason, which shall be fully stated in his report, it shall be lawful for the Lieutenant-Governor<sup>(3)</sup> to declare<sup>(13)</sup> that such settlement is a "Forbidden Settlement," and that it shall be within a time to be specified by him removed, abandoned or pulled down and that the natives of such settlement shall remove to such other place or places within their own district and on lands ordinarily occupied or used by them or to the use or occupation of which they are entitled by any native right or custom and that no other settlement shall be made by them in the district without his permission.

(2) In the case of any isolated dwelling houses not exceeding three houses in any one group the Magistrate may if he considers it necessary declare such houses to be a "Forbidden Settlement" and may direct the natives inhabiting them to remove to a regular village or villages within their district within a time to be specified by him. Every such order shall be reported to the Lieutenant-Governor.<sup>(3)</sup>

(3) Any native inhabiting except for purposes of temporary shelter any place which has been declared a "Forbidden Settlement" under this regulation or forming any isolated settlement after having been directed to remove to a village as aforesaid, shall be liable on conviction to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(4) It is good to improve the villages and keep them and their surroundings clean, and the Magistrate or Village Constable shall see that a sufficient space is cleared round each village of not less than fifty yards from the nearest house, and that no nuisance be committed or rubbish be deposited within that space, and if any native wilfully refuses or neglects to keep clean the part allotted to him by the Magistrate or Village Constable and it is found that the task is not too great he shall on conviction be liable to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(5) In the case of villages built partly or entirely over the water any additions thereto shall be built over the water so that the ground under the building be covered at high tide.

(6) If a Magistrate finds that a native's house requires repairing he may order the owner to repair it, and if the owner shall wilfully neglect or refuse after a reasonable time to do so, he shall on conviction

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(13) No declaration that a settlement is a "Forbidden Settlement" has been published in *Papua Govt. Gaz.*

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be liable to a fine not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

(7) A Magistrate may cause any deserted or abandoned house to be pulled down and destroyed.

(8) If, in the opinion of a Magistrate, any native's house (other than a house used as a temporary shelter only) is in an overcrowded condition by reason of the number of persons usually occupying it, the Magistrate may order the owner of the house to build additions thereto or to erect another house of sufficient size, in either case to remove such overcrowded condition.

(9) If, in the opinion of a Magistrate, any native's house (other than a house used as a temporary shelter only) is in an insanitary condition or in a state of disrepair and is incapable, in the Magistrate's opinion, of being made sanitary or of being repaired, as the case may be, the Magistrate may order the owner of the house to pull it down and to erect another house in its stead.

(10) A Magistrate may from time to time select a native house as a standard and type to be followed in the erection of new houses in a village. The house selected shall be one already erected in the village or in some neighbouring village. The standard and type selected for a village shall be made known to the people of the village, and thereafter all houses erected in the village or its vicinity shall be of the standard and type so selected.

(11) It is the duty of the Village Constable to take care of the springs and wells of drinking water in every village in his district, and to keep them and the paths leading to them clear of weeds and prevent the people from bathing, washing clothes in or in any way polluting the water in such wells. He shall, if the Magistrate directs him to do so, plant shade trees round the springs and wells. He shall also cause the people of the village to erect a strong fence round each spring or well in order to keep out pigs, dogs and other animals.

(12) The Magistrate may order a new well to be dug and old ones to be filled up or improved as he may see fit.

(13) Any native who wilfully refuses or neglects to obey the orders of the Magistrate or Village Constable with regard to this regulation shall on conviction be liable to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

### *Venereal Disease—duty to notify.*

102.—(1.) Any native having or believing that he or she has a venereal disease shall without delay notify the nearest Village Constable who shall take such native forthwith to the Magistrate.

(2.) Any native who suspects that any other native has a venereal disease shall without delay notify the nearest Village Constable who shall take the suspected native forthwith to the Magistrate.

(3.) No native shall refuse or neglect to accompany the Village Constable to the Magistrate as required by this regulation.

*Duty to abstain from sexual intercourse.*

103.—(1.) No native shall have sexual intercourse whilst he or she has or suspects that he or she has a venereal disease.

(2.) No native shall have sexual intercourse with any other native whom he or she suspects or believes to have a venereal disease.

*Persons qualified to examine for venereal disease.*

104.—(1.) A Government Medical Officer or a legally qualified Medical Practitioner approved in writing by the Chief Medical Officer may examine any native whatsoever to ascertain whether such native has a venereal disease.

(2.) A European Medical Assistant or Magistrate may examine any native to ascertain whether he or she has a venereal disease: Provided that when a native female is examined for venereal disease by a European Medical Assistant or a Magistrate the examination shall be in the presence of another native woman.

*Duty to submit to examination for venereal disease.*

105. A Government Medical Officer, a legally qualified Medical Practitioner approved in writing by the Chief Medical Officer, a European Medical Assistant or a Magistrate may order any native to submit to examination by a person qualified to examine him or her for venereal disease and such native shall thereupon submit accordingly.

*Duty to submit to treatment for venereal disease.*

106.—(1.) A Government Medical Officer, a legally qualified Medical Practitioner approved in writing by the Chief Medical Officer, a European Medical Assistant or a Magistrate may order any native after examination under these regulations to undergo treatment for venereal disease in a hospital and for that purpose to remain in custody in the hospital until discharged, and the native shall thereupon undergo treatment and remain in custody accordingly. The person in charge of the hospital may upon discharging from hospital a native who was admitted under this regulation order the native thereafter to attend for examination of his or her person at specified periods and such native shall thereupon attend accordingly.

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(2.) A “European Medical Assistant” for the purposes of the two preceding regulations and this regulation shall include a European Medical Assistant not employed in the Public Service who is authorized in writing by the Chief Medical Officer to exercise the powers conferred by these regulations.

*Penalties.*

107. Any native who neglects or refuses to comply with the provisions of Regulations 102, 103, 104, 105 or 106 of these regulations without reasonable excuse proof whereof shall lie upon him or her shall be guilty of an offence under these regulations and liable on conviction to a penalty of not exceeding Two pounds and in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

*Reduction of fly-borne diseases.*

108.—(1.) No native shall—

- (a) defecate or attempt to defecate in any place other than a latrine where a latrine is within a reasonable distance of such native and available for his use;
- (b) make use of a latrine in such a manner as to befoul it or cause the excrement to be voided in a manner obviously not intended by the design of the latrine.

(2.) Any native guilty of a breach of this regulation shall upon conviction before a Magistrate be liable to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

*Tuberculosis.*

109.—(1.) A Government Medical Officer may require any native to submit to examination for tuberculosis and such officer may if the native has or is suspected by him of having tuberculosis order him to Gemo Island or Gesila Island or Eboma Island there to be kept under medical observation for any period not exceeding Six months.

(2.) Every native being upon Gemo Island or Gesila Island or Eboma Island pursuant to an order under the preceding sub-regulation shall submit him or herself to such medical examination and treatment as the person in charge of the Gemo Island or Gesila Island or Eboma Island Hospital shall deem necessary.

Para. (a)  
am. by S.R.  
1940, No. 3, r. 2.

Sub-reg. (1)  
am. by S.R.  
1940, No. 3, r. 2.

Sub-reg. (2)  
am. by S.R.  
1940, No. 3, r. 2.

(3.) Any native who neglects or refuses to comply with any part of this regulation without reasonable excuse proof whereof shall lie upon him or her shall be guilty of an offence under these regulations and liable on conviction to a penalty not exceeding Two pounds and in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in first instance<sup>(13A)</sup> for any period not exceeding Four months.

(4.) This regulation shall be in force and take effect in the town of Port Moresby and in the town of Samarai and in any place within a distance of ten miles of such towns and in such other places as the Lieutenant-Governor<sup>(3)</sup> may by Order in Council<sup>(14)</sup> published in the *Gazette* direct.

Sub-reg. (4)  
am. by S.R.  
1940, No. 3, r. 3.

(5.) Notwithstanding the limitation of time contained in Sub-regulation (1.) of this regulation when a native at the expiration of such time is certified to the Chief Medical Officer by a Government Medical Officer as still suffering from the disease and a danger to the public by virtue thereof, the native may be further kept if the Administrator approves for treatment upon any of the said islands, but a Government Medical Officer shall at the expiration of every three months thereafter certify to the Chief Medical Officer the condition of the native and his opinion as to the future course of the disease.

Sub-reg. (5)  
ad. by S.R.  
1941, No. 5, r. 1.

*Infectious or contagious diseases in villages.*

110.—(1.) When there is sickness in a village a Magistrate or Village Constable may order the village people to remove sick persons to a place to be pointed out by him, and any of the village people who refuse or neglect to obey the order shall be liable on conviction to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(2.) The Village Constable shall see that sufficient food and shelter is provided for the persons so removed, and that such persons are properly attended to but, except for such purposes, no one shall have any communication with them except by permission of a Magistrate. Any person who disobeys this regulation shall be liable on conviction to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(3.) A Magistrate may for the purposes of preventing the spread of sickness forbid communication between any house or houses in a village and the rest of the village and any person who, knowing that the Magistrate has forbidden communication, disobeys his order shall

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(13A) The words "in first instance" appeared in the regulations as published in Papua *Govt. Gaz. Semble*, "in the first instance" was intended.

(14) No Order in Council extending Regulation 109 to other places has been published in Papua *Govt. Gaz.*



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on conviction be liable to a fine of One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(4.) No native shall come by sea from any place where there is dysentery and land at or enter Port Moresby.

(5.) To prevent the spread of any infectious disease, it shall be lawful for a Magistrate to issue an order forbidding communication between any village and—

- (a) any other village;
- (b) any township;
- (c) any canoe, boat or other vessel.

(6.) No native arriving by sea from any place shall land at Port Moresby if there is dysentery in Port Moresby, or at any place within five miles of Port Moresby.

(7.) Sub-regulations (4.) and (6.) of this regulation shall not apply to the case of a native who has business in Port Moresby which demands his presence there, provided he does not remain longer than in the opinion of a Magistrate is necessary to transact the business.

(8.) Provided the Magistrate may in his discretion grant permission in writing to any native to enter or leave any forbidden village, township, place or vessel subject to such instructions and precautions he may think fit to give or impose. Any native who disobeys an order made by a Magistrate under this regulation shall be guilty of an offence and shall on conviction be liable to imprisonment for any period not exceeding Two months.

(9.) The power conferred by this regulation shall not be exercised without the consent of the Government Medical Officer, if there be one present.

*Leprosy.*

111.—(1.) When any Government Medical Officer or any other person approved by the Chief Medical Officer determines that a native is or is apparently suffering from leprosy he shall certify under his hand, with such particulars as the Chief Medical Officer may require, that the native is a leper and may arrange for the leper to undergo voluntary and temporary isolation on such terms and conditions as he shall specify at a place in the area where the leper resides.

(2.) If a leper voluntarily and temporarily isolated as aforesaid neglects to observe the terms and conditions specified a Government Medical Officer may order him to be isolated compulsorily upon such terms and conditions as he may order and shall thereupon report all the circumstances to the Chief Medical Officer.

(3.) When any leper neglects to observe an order for his compulsory isolation he may be arrested and returned in custody to the place of his compulsory isolation.

*Innoculation against disease.*

112.—(1.) To prevent the spread of any infectious disease (whether or not the same shall actually exist in the Territory) the Lieutenant-Governor<sup>(3)</sup> may, by Order in Council,<sup>(15)</sup> direct that all natives living in the localities named in the order or engaged in any specified calling shall present themselves, their children and wards to such persons as are mentioned in the order and at such places and at such times as a Magistrate directs, and submit themselves, their children and wards to inoculation against such infectious disease.

(2.) The said natives shall obey such order, and in default may be forcibly inoculated and shall be liable to a fine not exceeding Ten pounds or to imprisonment with or without hard labour for any period not exceeding Six months.

*Saving of babies.*

113. If the mother of a child still at the breast dies it is the duty of the Village Constable to see whether there is anybody capable and willing to feed it and if there is not, to take the child to the nearest hospital when such a course is practicable.

*Reduction of mosquito-borne diseases.*

114.—(1.) Water shall not be allowed to lie in canoes near villages in such a way as to breed or be likely to breed mosquitoes.

(2.) A Magistrate, Village Constable, Government Medical Officer or a Medical Assistant may order the removal of any such water.

(3.) Any native who wilfully refuses or neglects to obey any order given in pursuance of this regulation shall on conviction before a Magistrate be liable to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

*Sickness in children.*

115.—(1.) If the child of any person is, or appears to a Magistrate or Village Constable to be, sick the Magistrate or Village Con-

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(15) No Orders in Council made pursuant to Regulation 112 have been published in *Papua Govt. Gaz.*

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stable may order the father or mother, or other person who by native custom has charge of the child, to take the child to the Government Medical Officer or other suitable person for examination and treatment and the Government Medical Officer or other suitable person may detain the child in the hospital for such a period as he may think fit.

(2.) If the father, mother or other person who by native custom has charge of the child, refuses or neglects to take the child to the Government Medical Officer or other suitable person, when ordered as aforesaid, the Magistrate or Constable may himself have the child taken to the Government Medical Officer or other suitable person and the father, mother or other person who has control over the child so refusing as aforesaid shall be liable on conviction to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(3.) This regulation shall be brought into force in such villages, districts or places only as the Lieutenant-Governor<sup>(3)</sup> may from time to time by Order in Council<sup>(16)</sup> published in the *Gazette* direct.

### *Pigs, dogs and goats.*

**116.**—(1.) A Magistrate may order all diseased dogs and pigs in any village to be destroyed; no compensation shall be paid to the owner.

(2.) The owner of any garden or other premises which is or are properly fenced in into which any pig or goat shall trespass shall notify the owner of the animal, and if the trespass is repeated it is lawful for him to kill the animal and then report the fact to the owner. If the animal is not removed by the owner before it becomes decomposed the person who killed it shall bury it.

(3.) Failure to report to the owner (if known) shall render the person killing the animal liable to a fine not exceeding Five shillings or in default of payment to imprisonment for any period not exceeding Fourteen days, or to imprisonment in the first instance for any period not exceeding Fourteen days.

(4.) If any person shall consume or give away the carcass of the animal he has killed he shall be deemed a thief and may be punished accordingly.

(5.) This regulation shall be brought into force in such districts only as the Lieutenant-Governor<sup>(3)</sup> may from time to time by Order in Council<sup>(17)</sup> published in the *Gazette* direct.

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(16) By Order in Council dated 26.1.1940, and published in *Papua Govt. Gaz.* of 1.2.1940, the Lieutenant-Governor brought Regulation 115 into force "within all villages, districts and places in the Territory."

(17) By Order in Council dated 26.1.1940, and published in *Papua Govt. Gaz.* of 1.2.1940, the Lieutenant-Governor brought Regulation 116 into force "throughout the Territory".

*Schools.*

117.—(1.) Every child that is over five years of age and is not over fourteen years of age must attend the school that is nearest to his home or some other school at least three days in each week when such school is open. The teacher of the school and the Magistrate shall from time to time fix which days of the week these three days are to be: Provided however that the teacher of the school or the Magistrate may excuse the attendance of any child for so long as in his opinion such attendance would interfere with the proper observance of a recognized native ceremony:

Provided further however that when a child attains the age of fourteen years at any time after the first half of a year such child shall attend the school for the remainder of that year.

(2.) If a child who under this regulation has to attend school does not except for some proper reason attend school, his father or the person who by native custom has most control over such child shall on conviction be liable to a fine of—

- (a) for a first offence Five shillings or in default of payment to imprisonment for any period not exceeding Fourteen days, or to imprisonment in the first instance for any period not exceeding Fourteen days;
- (b) for a second offence Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month;
- (c) for a third or subsequent offence One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(3.) A child that plays truant or who refuses or neglects to go to school when told to go by his father or by the Magistrate or Village Constable, or by the person who by native custom has or is supposed to have control over the child, commits a forbidden act and may be punished with whipping under Regulation 61.

(4.) No parent or other person shall be punished for non-attendance of a child at any school where English is not taught to the satisfaction of an Examiner of Assisted Primary Schools or other person appointed by the Lieutenant-Governor.<sup>(3)</sup>

(5.) This regulation shall only apply to such schools as may be determined by the Magistrate of the district after he has received the written consent of the European Missionary under whose charge such schools may be, and to which the child would be admitted free of charge and which schools are within one mile of the child's home.

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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(6.) A certificate under the hand of an Examiner of Assisted Primary Schools or other person appointed by the Lieutenant-Governor<sup>(3)</sup> shall for a period of twelve months from its date be deemed proof that English is taught in the school to which it refers in accordance with Sub-regulation (4.) of this regulation.

### *Roads.*

118.—(1.) It is good for the people that roads should be made and kept clean and the Magistrate will tell the people of each village what roads they are to make and keep clear of weeds.

(2.) Every road must, where the features of the country permit, be not less than one and a half fathoms in width. The Village Constable will show each man how much work he has to do on the roads. If any native does not do the work on the roads that he has been ordered to do by the Magistrate or Village Constable, he shall on conviction be liable to a fine not exceeding Five shillings or in default of payment to imprisonment for any term not exceeding Fourteen days, or to imprisonment in the first instance for any period not exceeding Fourteen days.

(3.) Each village shall make and keep clean the roads on its own lands only. If the people of a village make and keep clean a road on land not belonging to them the Government will pay them for the work they do.

(4.) A post mark to the boundary of the lands of each village should be erected at the side of the road.

(5.) When a road has been made it will be the duty of the Village Constable to see that it is kept in repair and free from weeds.

(6.) If any native thinks the task allotted to him by the Village Constable too great he may appeal to the Magistrate.

(7.) If any native shall wilfully do anything to a road which will interfere with or obstruct its use as a road he shall on conviction be liable to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(8.) A Magistrate may give any native permission to shut up or block a portion of a road, but no such permission shall be given unless the native who wishes to close up or block it has satisfactorily made a new piece of road in place of that portion he desires to shut up.

(9.) The Government may whenever considered necessary supply the village people with road-making tools.

*Bridges.*

119.—(1.) The people of each village shall make and keep in repair such bridges over streams and watercourses on land belonging to the village as a Magistrate may order.

(2.) If a stream or watercourse forms the boundary line between the land belonging to one village and the land belonging to another village, the natives of each village shall make and keep in repair such bridges thereover as a Magistrate may order.

(3.) A Magistrate may order the people of a village to make or repair a bridge over a stream or watercourse on land not belonging to them, or on land not forming the boundary line between the land of their village and the land belonging to another village, and the people receiving the order shall obey it, but in such a case the Government will pay them for the work they do.

(4.) The Village Constable shall show each man the work he has to do under any order of a Magistrate made under this regulation. A failure to perform the work without reasonable excuse shall be punishable under Regulation 130 of these regulations.

*Streams and watercourses.*

120.—(1.) If any native, except with the permission of a Magistrate, cuts down any standing timber that is within twenty yards of the line of high-water mark at neap tides of the sea, or of any water influenced by the tides or that is within twenty yards of any permanent stream or permanent sheet of water, he shall on conviction be liable to a fine not exceeding Ten shillings or in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

(2.) If any native puts into any water-channel or any stream anything which in the opinion of the Magistrate or Village Constable is likely to obstruct the flow of water in such channel, the Magistrate or Village Constable shall order him to remove such thing, and if he disobeys such order he shall on conviction be liable to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

*Coconuts and other useful trees and plants.*

121.—(1.) It is a good thing to plant coconuts and other useful fruits and trees, and all coconuts and trees planted under this regulation shall belong to the person that plants them and to his heirs, and every able-bodied man shall from time to time plant coconuts and

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other useful trees and plants. The Magistrate shall fix the number of trees or the area of land as the case may be that the able-bodied men of each district or village shall plant, and coconuts shall be properly planted at a distance not less than five fathoms from tree to tree.

(2.) All men will not have to plant the same number of coconuts and other useful trees, on the same area of land because some men have little land and some have much and some places are not good for planting trees.

(3.) It shall be the duty of the Village Constable to see that this regulation is obeyed in such villages as the Magistrate directs, and if he fails or neglects to do so he shall on conviction be liable to a fine not exceeding Two shillings and sixpence or in default of payment to imprisonment for any period not exceeding Seven days, or to imprisonment in the first instance for any period not exceeding Seven days.

(4.) The Magistrate shall also, where deemed desirable, order the people to plant and cultivate useful food trees along the village road so that they may all enjoy the shade and eat of the fruit.

(5.) The Government may provide<sup>(18)</sup> the people from time to time with young trees or seeds to plant, and the Magistrate will direct the people where to plant them.

(6.) If any native who has been ordered to plant and cultivate a certain number of trees or a certain area of land by the Magistrate wilfully neglects or refuses to do so he shall on conviction for a first offence be liable to a fine not exceeding Five shillings or in default of payment to imprisonment for any period not exceeding Six weeks, or to such imprisonment in the first instance; or, for a second or any subsequent offence to imprisonment in the first instance for any period not exceeding Three months.

(7.) If any native wilfully destroys or injures a cultivated tree he shall on conviction be liable to a fine not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(8.) Magistrates and Village Constables are hereby enjoined to help and encourage the people in every way possible in carrying out this regulation.

(9.) In this regulation the word "trees" shall be read so as to include plants and shrubs.

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(18) See Regulation 20 of the *Native Taxes (Funds) Regulations*, 1936, printed on p. 3439.

*Noxious weeds and plants.*

122.—(1.) A Magistrate may order the natives of any village to pull up by the roots and burn any noxious weeds or plants existing on land owned or claimed by natives belonging to the village.

(2.) The natives of the village shall thereupon at once commence to pull up by the roots and burn such weeds or plants, and complete the work within one month of such order or within such extended time as the Magistrate may allow, and shall keep the said land free from such noxious weeds and plants for a period of one year thereafter. The Village Constable will show each native what work he has to do in such pulling up and burning and in keeping the land free from such noxious weeds and plants. If any native does not do the work that he is told to do by the Magistrate or Village Constable he shall on conviction be liable to a fine not exceeding Five shillings or in default of payment to imprisonment for any period not exceeding One month.

(3.) If any native thinks that the task allotted to him by the Village Constable is too great he may appeal to the Magistrate.

(4.) The Lieutenant-Governor<sup>(3)</sup> may by Order in Council<sup>(19)</sup> published in the *Gazette* direct from time to time what weeds or plants shall be noxious weeds and plants within the meaning of this regulation.

(5.) It shall be the duty of Magistrates to instruct natives in the identification of noxious weeds and plants.

*Diseased coconut trees.*

123.—(1.) A coconut tree attacked by root disease cannot be saved and if the tree is not destroyed the disease spreads to healthy trees. All coconut trees, therefore, which are affected by root disease must be destroyed in order that healthy trees may be saved and much loss to the people avoided.

(2.) The native owner of a coconut tree affected by root disease shall, directly the disease appears, destroy the tree by cutting it down, digging out its roots and burning the roots, trunk and branches and shall sprinkle the hole out of which the tree was taken with lime and dig a trench four feet in diameter and three feet in depth around the hole and keep the hole and trench open for six months.

(3.) It shall be the duty of Magistrates to instruct natives in the identification of coconut trees affected by root disease. A description of a coconut tree so affected is as follows:—

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(19) By Order in Council dated 26.1.1940, and published in *Papua Govt. Gaz.* of 1.2.1940, the Lieutenant-Governor directed that "*Mimosa Sensitiva; Mimosa Rudica*" should be noxious weeds and plants within the meaning of Regulation 122.



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### DESCRIPTION REFERRED TO.

The lower leaves first change colour starting at the tips and gradually spreading over the leaf. Next the leaves dry and hang from the cabbage and remain a long time before they are eventually shed. A badly-attacked tree has its trunk enclosed by a number of leaves. The leaves hang down from the cabbage and close up around the trunk. After the dropping of the leaves trees bearing nuts shed most of them from very small nuts to large ones; the flowers do not set. The disease is caused by *fungi* and *bacterial* germs in the ground.

(4.) If a native owner of a coconut tree in the opinion of a Magistrate wilfully neglects to comply with this regulation he shall on conviction be liable to a penalty not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment for the like period in the first instance.

### *Rhinoceros Beetle destruction.*

124.—(1.) A coconut tree attacked by the Rhinoceros Beetle will be seriously injured, if not killed, unless the beetles are destroyed, and if they are not destroyed they will spread to healthy trees and injure them all.

(2.) It shall be the duty of Magistrates to instruct natives in the identification of the Rhinoceros Beetle. It is easily recognized, and gets its name from the horn on its head.

(3.) The native owner of a coconut tree shall search for and destroy Rhinoceros Beetles on or about his coconut tree, and if in the opinion of a Magistrate he wilfully neglects to do so, he shall on conviction be liable to a penalty not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment for the like period in the first instance.

### *Red Palm Beetle (Rhynchophorus Ferrugineus.)*

125.—(1.) A coconut tree attacked by the Red Palm Beetle will be seriously injured, if not killed, unless the beetles are destroyed, and if they are not destroyed they will spread to healthy trees and injure them all.

(2.) It shall be the duty of the Magistrates to instruct natives in the identification of the Red Palm Beetle.

(3.) The native owner of a coconut tree shall search for and destroy Red Palm Beetles on or about his coconut tree, and if in the opinion of a Magistrate he wilfully neglects to do so, he shall on conviction be liable to a penalty not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment for the like period in the first instance.

*Ships and boats.*

126.—(1.) In this regulation—

“Ship” means every description of vessel used in navigation and not being a boat as defined by this regulation owned and used by a native or natives.

“Boat” means any open and undecked vessel not exceeding one ton burden, not including a canoe of native manufacture owned and used by a native or natives.

“Gear” includes all spars, ropes, rigging, sails, blocks, anchors, chains, as well as everything not forming part of the hull of a ship or boat that is necessary for its proper and successful handling.

“Magistrate” means a Magistrate for Native Matters for the district in which the owner or owners of a ship or boat or gear resides.

(2.) All ships, boats and gear shall, to the extent hereunder set out, be subject to the control of a Magistrate.

(3.) On the 1st day of January and the 1st day of July in each and every year, where practicable all ships, boats and gear shall be brought by the owners or some of them to some convenient place appointed by the Magistrate for inspection by him.

(4.) At each inspection the Magistrate may select from amongst the owners of and for each ship or boat a suitable and sufficient crew, and from the crew choose and appoint one native to act as master of such ship or boat for the succeeding six months. The duties of the master and crew shall be as hereinafter stated.

(5.) The members of the crew shall obey the reasonable orders of the master in any matter affecting the ship or boat and gear thereof for which they have been selected.

(6.) Without reasonable cause being shown to the satisfaction of the Magistrate, no native shall refuse or neglect to act in any capacity for which he has been selected or chosen under the last preceding clause: Provided that no native shall be compelled to act in any capacity on a ship or boat for more than six months in each period of twelve months.

(7.) It shall be the duty of the master and crew of a ship or boat to keep such ship or boat and the gear thereof in good order and condition—reasonable wear and tear excepted.

(8.) The owners of a ship, boat and gear thereof, shall be responsible for the maintenance of such ship, boat and gear in good repair.

(9.) If, after an inspection of a ship, boat, or gear thereof, a Magistrate is of the opinion that anything requires to be done or

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obtained for the repair or maintenance of such ship, boat or gear, he may order the owners to make such repairs or provision for maintenance. It shall then become the duty of the owners of such ship, boat or gear to comply with such order.

(10.) If anything so ordered to be done by the Magistrate involves the expenditure of money and the owners of such ship, boat or gear are unable from want of money to obey his orders, they shall notify the Magistrate accordingly. Thereupon the Magistrate may devise some reasonable scheme by which the necessary money may be earned by the owners, and may require and instruct them to carry out the scheme so devised.

(11.) The owners of such ship, boat and gear shall obey the instructions of the Magistrate to carry out and do all things necessary in connection with the scheme devised by him for earning the money required for making such repairs or provision for the maintenance of such ship, boat and gear.

(12.) Any native who, without reasonable cause, wilfully neglects or refuses to perform any duty or obey any order imposed upon or given to him under this regulation, shall be guilty of a breach of this regulation, and shall be liable on conviction to a fine not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

### *Carriers.*

127.—(1.) The work that the Government do is for the good of all people of the land. Government work cannot be done without carriers. Many people, sometimes for no good reason, refuse to carry for the Government and thus hinder Government work. Now the people must, when required to do so, carry for the Government and the Government will pay them.

(2.) The Chief of a village or a Village Constable shall upon the request of any Magistrate or other European Government Officer in the service of the Territory select such men as may be required and are fit to carry for the Government.

(3.) The men selected for carrying shall be required to carry for any period not exceeding twenty-one days.

(4.) The period for carrying may be extended when necessary to thirty-one days but only in cases of great emergency.

(5.) No native will be required to carry during any one year for a longer period than thirty-one days in the aggregate, and not more than one-sixth of the able-bodied male adults of a village need be absent at any one time from such village to carry for the Government.

(6.) Any native who carries for the Government shall be paid at a rate not exceeding the rate from time to time fixed<sup>(20)</sup> by the Lieutenant-Governor.<sup>(3)</sup>

(7.) Any native employed by the Government under this regulation shall be provided with good and sufficient food or means of buying it.

(8.) Every officer of the Government employing any person under the provisions of this regulation shall furnish forthwith a full and complete report to the Magistrate of the district with regard to same.

(9.) Any native—

(a) who is liable to be selected to carry for the Government and who runs away, hides, or absents himself to avoid being selected for that purpose; or

(b) who after having been selected by the Chief or Village Constable to carry for the Government refuses or willfully neglects to do so,

shall on conviction be liable to a penalty not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Three months, or to such imprisonment in the first instance.

(10.) In this regulation the word “carry” includes the doing of work as crew of a boat or canoe and any work in connection with transport by land or water.

(11.) No native required to carry pursuant to this regulation shall be required to—

(a) carry a load in excess of 50 lb. gross weight; or

(b) carry at a greater distance than 100 miles from his home except in case of emergency; or

(c) carry longer than eight hours in one day except in case of emergency.

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Reg. 128  
rep. by S.R.  
1940, No. 2, r. 1.

*Orders by Medical Officers and Medical Assistants.*

129. A Government Medical Officer or a Medical Assistant may give any order which a Magistrate for any district may give under Regulations 97, 110 and 115 of these regulations and if any native disobeys an order so given by a Government Medical Officer or Medical Assistant he shall be liable on conviction before a Magistrate to the punishment he would have been liable to if the order had been given by a Magistrate.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(20) No rates of payment for carriers have been published in *Papua Govt. Gaz.*

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### *Disobeying lawful order.*

130.—(1.) If any native without reasonable excuse disobeys the order of any Magistrate authorized by these regulations such native shall, unless some other penalty is imposed by the regulation authorizing the order, be liable on conviction to a fine not exceeding Ten shillings and in default of payment to imprisonment for any period not exceeding One month, or to imprisonment in the first instance for any period not exceeding One month.

(2.) A report giving particulars of every case dealt with under this regulation shall be forwarded to the Government Secretary by the Magistrate who adjudicated on the case.

### *Fines in kind.*

131. In any case where a fine is imposed under these regulations the Magistrate may if he thinks that the circumstances of the case will be better met by so doing order the offender to pay such fine in kind or partly in kind. A note must be made on the record by the Magistrate of the particulars of such payment.

## PART III.

### CIVIL CLAIMS.

#### *What are civil claims.*

132. Subject to the next succeeding regulation any matter which is the subject of a claim by one person against another may be the subject of a claim under this part of these regulations. The following are examples:—

- (a) Any claim by one person against another that he is entitled to the ownership of property (not being land) or the possession of any property or any dispute about the ownership of property (not being land);
- (b) Any claim by one person that he is entitled to the exclusive right to the use of any land, water or reef;
- (c) Any claim by a person to the part or whole of the produce of any land or of anything growing thereon;
- (d) Any claim by a person against another for the recovery of money;
- (e) Any claim to compensation by one person against another for damage to property.

#### *What are not civil claims.*

133. The following are not to be made the subject of a civil claim under these regulations:—

*Native Regulations, 1939.*

- (1) A claim to the ownership of any land, water or reef;
- (2) A claim to the bride payment or any claim arising out of the payment thereof upon a marriage by native custom;
- (3) A forbidden act;
- (4) An act which is only punishable in the Central Court<sup>(3)</sup> in its criminal jurisdiction;
- (5) A matter which under any law of the Territory is forbidden to be the subject of litigation.

**134.** Except as hereinbefore mentioned a Magistrate may use his discretion as to taking notice of matters that are civil claims. The chief object the Magistrate should keep in view is to appease quarrels and disputes about property and rights, real or imaginary, and to prevent as much as possible the strong taking advantage of the weak.

*Claims in which land is concerned.*

**135.**—(1.) If the claim has anything to do with land or water or to anything affixed to land or to the general produce<sup>(21)</sup> of any particular land or water the Court shall confine itself to deciding that some person has the right to occupy or use land or water or owns any building on the land or in the water or that some person is entitled to the produce of some particular piece of land or water; but the Court must be careful never to decide that any person, family or community is or are the owner or owners of any land or water. The Court shall possess no power to decide who is the owner of any land or water.

(2.) A copy of the depositions in any case dealt with under this regulation is to be forwarded to the Government Secretary for the information of the Lieutenant-Governor.<sup>(3)</sup>

(3.) When it is possible to do so the Magistrate trying a claim in which any particular land or water or the produce thereof is concerned should, before he gives his decision, himself go and inspect such land or water.

*Decision of Court.*

**136.** The Court after trying a civil claim may decide—

- (a) that some person shall do something which it is his duty to do;
- (b) that some person who has been doing something which he ought not to have been doing shall stop doing it;
- (c) that some person is entitled to some particular property or to exercise some particular right;

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(21) The words "or to anything affixed to land or to the general produce" appeared in the regulations as published in *Papua Govt. Gaz. Semble*, "or anything affixed to land or the general produce" was intended.

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- (d) that one person must pay another what he owes him or pay him an equivalent to be fixed by the Court;
- (e) that one person must give another something by way of compensation, the something to be fixed by the Court.

*Enforcing decisions.*

137. The Court may enforce its decision or may punish any person that disobeys its decision by fining such person in a sum not exceeding Thirty shillings or in default of payment of imprisoning<sup>(22)</sup> any such person for any period not exceeding Three months, or by imprisoning such person in the first instance for any period not exceeding Three months.

*Enforcing decision in another district.*

138.—(1.) If a decision in a civil claim has been made by a Court of one district and in order to enforce such decision made by such Court such order may be enforced in any other district by a Magistrate of such other district if the order be of such a nature that it can be so enforced.

(2.) The proceedings to be taken to have an order enforced in another district and in enforcing such order in such other district shall be the same as nearly as circumstances will admit of as the proceedings under Regulations 63 and 64 to put in force in another district a sentence of imprisonment.

*Complainant may abandon claim.*

139.—(1.) A complainant in a civil claim may at any time abandon his claim, but if he does so it shall be his duty to inform the defendant and the Court that he has done so.

(2.) If a complainant once abandons a claim he cannot again bring it forward in any shape or form.

*Magistrates may act as mediators.*

140.—(1.) Any Magistrate shall be justified at any time in mediating between the parties to a civil claim at any stage the claim may have reached with a view to the amicable settlement of such matter.

(2.) A Court may postpone trying a civil claim if it thinks that by doing so an amicable settlement will be come to by the parties to the case.

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(22) The words "of imprisoning" appeared in the regulations as published in Papua Govt. Gaz. *Semle*, "by imprisoning" was intended.

*What claims a Magistrate may try.*

141.—(1.) The power of a Magistrate to summon for and to try a claim shall be dependent upon the nature of the claim.

(2.) If the claim be one concerning land or water or anything built on or fixed to land or anything growing on a particular piece of land or the produce of any particular piece of land or water only a Magistrate of the district in which such land or water is situate can summon for and try the claim; this he can do so long as he summonses the defendant whether the defendant is in such district or not.

(3.) If the claim be any other species of claim any Magistrate in whose district the defendant is residing at the time that the defendant is summoned to answer the claim can summon for and try the claim.

PART IV.

PROPERTY OF DECEASED NATIVES.

*Devolution of property.*

142. A native cannot dispose by will of any interest possessed by him in land when such interest is possessed by him simply because he is a native.

143. The general laws of the Territory relating to the Devolution and Administration of the Intestate Estates of Deceased Persons shall not apply to the intestate estates of deceased natives.

144. In the absence of a will the property of a deceased native shall descend to those persons who in accordance with native customs are entitled to it.

145. If, after the expiration of six years from the death of a native, any moneys remain to the credit of the estate of such native and no person has apparently a right to such moneys they shall be paid to the Treasurer of the Territory for the public use of the Territory.

*Administration of property.*

146. The Lieutenant-Governor<sup>(3)</sup> may appoint persons to be called Distributors to administer within specified districts under this regulation the effects of deceased natives who have died intestate.

147. A Distributor as such shall have no power to deal with land or anything growing on or affixed to land.

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*



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148. A Distributor shall have power to take possession of and administer any effects of a deceased native who has died intestate which are in his district at the time that such native dies but a Distributor need not exercise this power if he thinks that there is no necessity for him to do so.

149. When a Distributor administers effects he shall—

- (a) collect all the effects and if necessary for any purpose sell or barter some or all of them;
- (b) find out as well as he can the debts of the deceased and pay them out of the estate. If the debts exceed the value of the effects he will pay all the creditors as far as the effects will go and in proportion to the amount of their respective debts;
- (c) after he has paid all the debts that he knows of he will distribute any effects that are left over amongst those persons who under Regulation 144 are entitled to them.

150. If effects which are not moneys remain in the hands of a Distributor because there is no person apparently entitled to them he shall sell them for money or if they are not marketable he shall get directions from the Government Secretary as to what he is to do with them. The effects or the proceeds thereof will subject to regulation remain to the credit of the estate.

151.—(1.) If a Distributor is directed by the Government Secretary to do so he must deliver up to such person as the Government Secretary may name any effects of a deceased native that are under his control as a Distributor.

(2.) The provisions of this regulation are simply intended to ensure the safe custody of the effects and are not intended to confer upon the Government Secretary any power to administer such effects.

152. A Distributor shall not deduct anything out of any effects that he is administering by way of remuneration for his own services or those of any servant of the Government; but if the Distributor is obliged to employ the services of private persons he may pay them out of such effects for their services.

153.—(1.) Conflicting claims by natives to effects should not be decided by a Distributor as such. They should be decided as civil claims under Part III.

(2.) The Distributor may however if he is a Magistrate for Native Matters try the claim in his capacity of Magistrate notwithstanding that he is administering the effects which form the subject-matter of such claim.

*Distributors' Reports.*

154. As soon as possible after the 31st day of December and the 30th day of June in each year every Distributor shall send to the Government Secretary a half-yearly report upon the estates that he has been administering; such report may be in the following form:

Report of Distributor for the \_\_\_\_\_ District No. \_\_\_\_\_ for  
the half-year ended the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Name of Deceased.	Effects Collected.	Effects Sold and Prices Realized.	Debts Paid and to Whom.	Expenses Paid and to Whom.	Balance of Effects and what done with them.

PART V.

VILLAGE CONSTABLES.

155.—(1.) The Village Constables shall be appointed by the Government Secretary and may be dismissed by him for any offence or misconduct.

(2.) The Village Constable shall deal justly and kindly with the people and shall always obey the lawful orders of the Government Secretary and the Magistrates. He shall not oppress the people. Any person or persons having reason to complain of any misconduct or wrongdoing on the part of a Village Constable may report him to the Magistrate, stating the subject-matter of the complaint and it shall not be lawful for the Village Constable to prevent or hinder in any way whatever any person from going to the Magistrate to make a lawful complaint against such Village Constable.

(3.) No Village Constable shall arrest any person unless he truly believes that such person has committed an offence against the law.

(4.) If he arrests a person he must take him without delay to the nearest Magistrate for trial.

(5.) If a Village Constable accepts a present or bribe to release a person he has arrested he shall on conviction be liable to a fine not exceeding Three pounds or in default of payment to imprisonment for any period not exceeding Six months, or to imprisonment in the first instance for any period not exceeding Six months.

(6.) The Lieutenant-Governor<sup>(3)</sup> will decide from time to time the amount of pay each Village Constable shall receive; each Village

(3) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

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Constable will also be supplied with such uniforms and equipment as are necessary.

(7.) If a Village Constable gives away or otherwise disposes of any part of his uniform or other Government property entrusted to his care he shall on conviction be liable to a penalty not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(8.) If any person is found in possession of any part of a Village Constable's uniform or any clothing closely resembling a Village Constable's uniform or representing himself to be a Village Constable he shall on conviction be liable to a penalty not exceeding Two pounds or in default of payment to imprisonment for any period not exceeding Four months, or to imprisonment in the first instance for any period not exceeding Four months.

(9.) If a Village Constable arrests any person for any offence he may call upon any other Village Constable or any native to assist him in taking such person before a Magistrate and if necessary for that purpose to supply canoes and act as crew thereof. Remuneration for such assistance shall be subsequently made by the Magistrate at the rate for the time being fixed in the case of carriers under Regulation 127 (6.) (7.). For the use of a canoe payment shall be similarly made at a rate not exceeding a rate fixed by the Lieutenant-Governor.<sup>(3)</sup> If any Village Constable or any native refuses or neglects without justifiable excuse to comply with the requirements of the arresting Village Constable when so called upon he shall on conviction be liable to a penalty not exceeding Thirty shillings and in default of payment to imprisonment for any period not exceeding Three months, or to imprisonment in the first instance for any period not exceeding Three months.

(10.) Village Constables are empowered to arrest offenders inside or outside the limits of their own districts.

(11.) Any Village Constable wilfully disobeying a lawful order of the Government Secretary or a Magistrate or his superior officer, or wilfully neglecting to carry out any of the duties imposed upon him under these regulations, or under any other regulations hereafter made under the *Native Regulation Ordinance*, 1908-1930, shall on conviction be liable to a penalty not exceeding One pound or in default of payment to imprisonment for any period not exceeding Two months, or to imprisonment in the first instance for any period not exceeding Two months.

(12.) The powers and authorities conferred upon Village Constables by these or any further regulations made under the *Native*

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

*Regulation Ordinance, 1908-1930*, are also conferred upon native members of the Royal Papuan Constabulary.

## PART VI.

### STORAGE OF NATIVES' GOODS.

156.—(1.) On request by a native any Resident Magistrate in charge of a Native Labour Office on a permanent Government Station may if he considers it to be in the interests of the native accept goods belonging to such native for storage purposes on the condition that the Government shall not be held responsible for any loss or deterioration of such goods during the period of the said storage.

(2.) No charge shall be made for storage of such goods against the native.

(3.) Upon acceptance the said Resident Magistrate shall have the goods properly marked for identification purposes with the name, the village, the district and the division of the native owner and the date of such acceptance for storage and shall forthwith cause such particulars to be recorded in a register kept for that purpose.

(4.) Any goods belonging to a native that have been stored at a native labour office in pursuance of this regulation if unclaimed before the expiration of a period of three years from the date of their original acceptance for storage may, if the said Resident Magistrate is unable to locate the owner after reasonable search, be sold by public auction by the said Resident Magistrate; any of such goods remaining unsold after such public auction as aforesaid may be disposed of as the said Resident Magistrate thinks fit.

(5.) The proceeds of any such sale of the goods as aforesaid less expenses of such realization shall be paid into the Trust Fund and at the expiration of a period of six years from the date of such payment, provided it is not during that period claimed by the owner, shall be paid into the Infirm and Destitute Natives Fund to be applied by the Trustees of the said Destitute Natives Fund to the relief of infirm and destitute natives.

(6.) A Resident Magistrate undertaking the sale of any goods as aforesaid shall report the same to the Government Secretary giving the name, village, district and division of the owner of the goods sold, the name of the purchaser and the price received in respect of each article sold as aforesaid.

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### FIRST SCHEDULE.

#### REMAND WARRANT.

(*Native Regulations, 1939, Regulation 40.*)

To the Principal Police Officer at \_\_\_\_\_ in the Territory of Papua and to all other Police Officers in the said Territory, and to the Gaoler

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at \_\_\_\_\_ in the said Territory.

Whereas \_\_\_\_\_ was this day charged before me for that he did \_\_\_\_\_ contrary to the provisions of Regulation \_\_\_\_\_ of the *Native Regulations*, 1939, and it appears to me necessary to remand the said \_\_\_\_\_ . These are therefore to command you the said Police Officers, in His Majesty's name, forthwith to convey the said \_\_\_\_\_ to the Gaol at \_\_\_\_\_ in the said Territory and there deliver him to the Keeper thereof together with this warrant, and I command you the said Keeper to receive the said \_\_\_\_\_ into your custody in the said Gaol and there safely keep him until the \_\_\_\_\_ day of \_\_\_\_\_ \* or such earlier day as may be lawfully ordered in that behalf when I hereby order you to have him at \_\_\_\_\_ in the said Territory at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon before such Magistrate for Native Matters as may then be there, further to answer the said charge.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 .

*Magistrate for Native Matters.*

\* Not being a period exceeding seven days.