

BANABANS

In the House of Commons on February 2nd, Miss Joan Lestor asked the Secretary of State for Foreign and Commonwealth Affairs, if he would pay a visit to Ocean Island.

Mr Evan Luard: My right honourable friend has no plans to do so at present.

Miss Lestor: Is my honourable friend aware that, since the judge in the recent court cases concerning Ocean Island and the Banaban people said that it was up to the British Government to put right a very great wrong that had taken place in relation to Ocean Island, there has been growing concern in the House and in the country about the responsibility of the British Government? Will he please say what is likely to happen?

Mr Luard: We are aware of the remarks made by the judge in the case to which my honourable friend has referred. We are also conscious of the expressions of sympathy that have been expressed in the House and elsewhere for the Banabans. Our main concern is to reach a settlement that is fair to all those involved, including the Banabans and the Gilbertese. It is for that reason, as was announced a few days ago, that we have sent to the area Mr Richard Posnett, once the Governor of Belize, to have discussions with all parties and to make recommendations for a solution.

Mr Kershaw: Has not the case for the Banabans been very much overstated? Is not this a further attempt to get more cash that they do not wish to share with the rest of the territory? Did they not vote overwhelmingly to stay at Rabi? Is it not now our task, together with Australia and New Zealand, to work out a sensible policy and to make further attempts to settle them properly on Rabi, which they have not yet tried themselves?

Mr Luard: As for the desire of the Banabans themselves to live on Rabi, it is the case that they voted by an overwhelming majority to go to Rabi in the first place to stay there. It is not contested that the majority of them want to stay there. That does not remove the problem of who should get the benefit of the revenues from phosphates on Ocean Island. It is a difficult problem. Should it go entirely to the 2,000 or 3,000 people who once lived on Ocean Island, or whose ancestors did, or should the benefits be spread among a larger number of the people in the territory as a whole with which Ocean Island has been associated for a long time?



D | Mr Alexander W Lyon: Does not this whole horrifying story give meaning to the phrase "colonial exploitation"? Has not this story offended many decent people of all political persuasions throughout the country as well as those who use the phrase frequently? Does it need an ex-colonial Governor to go there now after the whole matter has been thrashed out in court for several years and all the facts are known to everyone who is interested in the matter? Is it not about time that the British Government did something to recompense these people who have been exploited over many years?

D | Mr Luard: Obviously we must be concerned with what happened at different times in the past, but the most important factors now are the views of those most intimately concerned, which include the Banabans themselves, both those on Rabi and those on Ocean Island, and the Governments of Gilbert Islands, Fiji, Australia and New Zealand. It is important that we should know exactly what their views are, and it is for that reason that Mr Richard Posnett has been sent out for discussions.

E | Sir Bernard Braine: As the Secretary of State is not to go to Ocean Island, where he would have seen for himself the Banaban homeland ravaged almost entirely for the benefit of Britain, Australia and New Zealand, will the honourable gentleman make the position clearer in respect of two matters? First, what answer has been given to the Fijian Government's helpful request that if Britain will detach Ocean Island from the Gilberts Fiji will accept responsibility for it? Secondly, if Her Majesty's Government are prepared to make that concession, what parallel arrangements are being made to ensure that the Gilbert Islands, when they move into independence, have a viable economy and adequate aid to face a confident future?

E | Mr Luard: It is true that I have not yet had the opportunity of going to Ocean Island. However, the honourable gentleman will know that my honourable friend the Minister of State went out to Ocean Island less than a year ago and saw the position on the spot for himself. It is true that the Fijian Government have made a suggestion of the sort that the honourable gentleman described. I can say that no constitutional arrangement is excluded. Anything, including that, will be discussed and considered. I entirely agree with the honourable gentleman's last point. If we were finally to decide in favour of a solution of that sort, it would make it necessary to consider what would be owed to the Gilbert Islanders, who had expected to continue to benefit from association with Ocean Island. We would make whatever arrangements we felt necessary in that situation.



Mr Lee: Has there ever been an instance of a high court judge castigating successive Governments in the way that Sir Reginald Megarry has done?

Mr Luard: I do not think it is the case that the judge made continual accusations and charges in respect of the behaviour of successive British Governments. He made one highly-publicised remark about what he felt was the responsibility of the British Government. In general - he did this several times in his judgment - he went out of his way to express appreciation of the concern and care that British officials had shown for the welfare of the country over many years.

I agree that we must have concern for our reputation. We are concerned to try to bring about a settlement that is fair to all those concerned, a settlement that would take account of our responsibility for the Banabans and what has happened in the past.

Mr Tapsell: Is the honourable gentleman aware that there will be a general welcome in the House for the assurance he has given us this afternoon that, in seeking a fair solution to the Banabans' claims, the well-being and interests of the 55,000 Gilbertese will be fully safeguarded?

Mr Luard: I am grateful to the honourable gentleman for his remarks. The population of the Gilbert Islands is about 55,000 and there are between 2,000 and 3,000 Banabans. We have to consider whether, now that Ocean Island is in receipt of large revenues from the phosphates, it is right and fair that the benefit should go exclusively to 2,000 or 3,000 people or should be shared more widely among a larger number of people.

Mr Spearing: Will he assure the House that Mr Posnett will look at other matters in the Pacific dependencies where things may have to be readjusted? Is he aware that there are honourable members here who will see that right is done throughout the whole of the Pacific before Britain withdraws here colonial responsibilities from that area?

Mr Luard: On the second part of my honourable friend's question, clearly Mr Posnett will not go throughout all British possessions in the Pacific and make recommendations for the whole area. He is concerned with a specific problem, which is not merely financial. It is a financial and constitutional problem. The two things are closely interrelated. Mr Posnett will visit all those who have a legitimate interest in the subject and will make recommendations on both points. The Government will have to make a decision on the basis of his recommendations.

4 February 1977



NOTE

1. The Barabans on Rabi Island now number some 2,500, living in four villages.
2. They have received A\$7.5 million in phosphate revenues over the last three years.
3. They will receive an estimated further A\$10 million before mining ends.
4. This will be in addition to the A\$10 million ex gratia payment now offered.
5. Damages to be paid by the British Phosphate Commission will represent a further addition to these sums.



# Press Release

Issued by the British High Commission  
G.P.O. Box 1355, Suva, Fiji

STATEMENT BY THE RT HON DR DAVID OWEN MP  
SECRETARY OF STATE FOR FOREIGN & COMMONWEALTH  
AFFAIRS, IN THE HOUSE OF COMMONS ON 27 MAY 1977

## OCEAN ISLAND AND THE BANABANS

On January 24 the House was told of the Government's intention to seek a settlement of the problems connected with Ocean Island and in particular the future of the Banaban community. To assist in achieving a solution Mr Richard Posnett, the former Governor of Belize, was asked to visit the area. I am most grateful to Mr Posnett for his valuable report on this long-standing and difficult problem. Copies of the report are now available in the Vote Office.

The Banaban concern is two-fold: constitutional and financial. On the former, the Banaban leaders have pressed for the detachment of Ocean Island from the Gilbert Islands, originally as an independent State, more recently as part of Fiji. We all recognise their deeply held views on this matter. Equally, the Government and people of the Gilbert Islands feel strongly that the island should continue to be part of the Gilbert Islands as it has effectively been for most of this century: indeed from 1908 until the Second World War the seat of Government of the territory was on Ocean Island. Moreover, the island is some 1400 miles from Fiji as compared with 240 miles from the Gilberts. There is only a small Banaban group (less than 100) now living on Ocean Island and after phosphate mining ceases it would not be possible for the island to support more than a very small community. There are also strong legal, constitutional and historical objections to make territorial changes.

There can be no perfect solution, but given good will there can be an agreed compromise. My Right Honourable and Noble Friend has been having discussions with Gilbertese Ministers this week about additional guarantees and safeguards which could be provided to the Banabans and assure them of a special autonomous position for Ocean Island within the Gilberts. The basis for such a relationship exists in the many close links of language, religion, culture and marriage between the Banabans and other islands of the Gilberts. My Right Honourable Friend, the Prime Minister, and I shall naturally also wish to discuss the constitutional issue with the Prime Minister of Fiji when he comes here for the Commonwealth Heads of Government /meeting



meeting, not least because the vast majority of the Banaban community has long been settled on Rabi Island which is part of Fiji. I wish to assure the House that no final decisions about the future status of Ocean Island will be made before the pre-Independence Constitutional Conference for the Gilbert Islands. The Banabans will, of course, be asked to this Conference and will be free to put forward their views. I shall keep the House informed of progress on this issue.

On the financial issues, the Banabans claim that Ocean Island phosphate was exploited on terms greatly to their disadvantage and they engaged in prolonged actions in the courts on those grounds. The Vice-Chancellor in his judgment found for the Crown but expressed considerable sympathy with the Banabans and felt that they had not always been treated as well as they should have been. I think everyone in this House is very conscious of the great hardship and privation they suffered during the Second World War and wishes to see the whole issue settled honourably.

We have been concerned for some time for the future of the Banabans after mining ends. We have therefore had consultations with the Governments of Australia and New Zealand, our partners on the board of British Phosphate Commissioners, about how we can best help the Banaban community, who number some 2,500, secure their economic future on Rabi when phosphate revenues cease in 1979 or 1980. The three Governments are prepared to make available, on an ex gratia basis, and without admitting any liability, a sum of 10 million Australian dollars. The money would be used to establish a fund which will be preserved for the benefit of the Banaban community as a whole, the annual income being paid to the Rabi Council of Leaders for development and community purposes. The money would come from funds which are held by the British Phosphate Commissioners on behalf of the partner Governments, the United Kingdom, Australia and New Zealand, and which would in the normal course of events have accrued to the respective exchequers. The payment would be final and would be made on condition that, in the outstanding legal actions, no appeal would be made in the case against the Crown and the early resolution of the cases against the British Phosphate Commission would be sought, and that no further claims would be made arising out of past events. The damages to be paid by the Phosphate Commissioners - damages which the Vice-Chancellor said should be neither merely nominal nor very large - are of course unconnected with, and would therefore be additional to, the ex gratia payment.

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In the meantime arrangements for the final phase of mining operations on Ocean Island, which are likely to terminate in 1979 or 1980, will clearly be of considerable importance to both the Banabans and the Gilberts Government. We will be in touch with the Gilbert Islands Government about the best way of keeping the Banabans informed and involved at every stage and their interests adequately protected.

We regard the existing division of the phosphate revenues between the Gilbert Islands Government and the Banaban landholders as reasonable, and do not envisage any alternation.

Other islands in the area have contributed in human terms to the Ocean Island phosphate industry, and the Government realise the need for help to those islands also when the industry comes to an end. We are giving further consideration to how this help might be given.

The Government have tried to meet the general concern expressed in both Houses of Parliament and elsewhere that the eventual solution should be fair to all parties. My Right Hon. and Noble Friend in particular has shown a sympathy and understanding for the interests of all concerned in the region which have played a large part in securing this arrangement. The problems are difficult and legitimate interests conflict. But it is our hope that solutions may now be reached on the basis of compromise and cooperation between all the parties concerned.

British High Commission

28 May 1977



Supplementary Questions and Answers  
on Ocean Island and the Banabans  
in the House of Commons on 27 May

Mr John Davies: May I thank the Foreign Secretary for his statement and say that the House appreciates the fact that he has come forward at this time to make it, for many Members of the House are, as he knows, deeply anxious about the situation of the Banabans and their relationship with the Gilbert Islands and with phosphate production on Ocean Island?

The House will accept - and I hope that the Foreign Secretary, too, will accept - that we appreciate his endeavour to be even-handed in this matter. May I ask him, first, having regard to the fact that he states that his Right Hon. and Noble Friend has been having discussions with Gilbertese Ministers this week, whether equivalent discussion has taken place with representatives of the Banaban community in relation to the proposals he is making?

Secondly, I wonder whether the Foreign Secretary could elucidate somewhat further the figures he has given to the House. It is important, within the context of the 10 million Australian dollars he proposes as a compensatory fund, to know what are the total funds in the hands of the British Phosphate Commissioners at this time and how much more in the way of funds is likely to accrue to the Commissioners between now and the cessation of extraction? It is only in the light of the knowledge of those total figures that the reality and the satisfactory size of the 10 million Australian dollars can possibly be appreciated.

May we also thank the Foreign Secretary for his undertaking to keep the House informed in these matters? Many of us would greatly wish to know how the further discussions to which his statement refers proceed, particularly in the light of the acceptability of the compromise formula proposed by him in relation to the financial compensation to the Banaban community.

Dr Owen: It is an extremely difficult judgment to make and it is difficult to remain even-handed in this complex issue. Consultations with the Banabans will take place. We are always available for further consultations. As I made clear in my statement, there will be a Constitutional Conference.

The sum of money is to secure the economic future of the islands. It is not compensation. We estimate that the 10 million Australian dollars, invested now, would accumulate to 12 million dollars by the end of 1979 when the phosphates



run out. This sum would give the benefits of unearned income of about 350 dollars per capita. This would be in addition to any earned income and any revenue produced by investing a further part of the 10 million dollars the Banabans are also likely to receive by way of phosphate revenue from 1 July 1976 until the end of mining.

I hope that that gives the basis of the statistics. The total fund currently stands at about 23 million dollars, out of this the 10 million dollars would be taken. As I said, against that would have to be set whatever was for the replanting. We are giving further consideration to what can be done.

Mr Thorpe: May we welcome the fact that this is at least some recognition of the claims of the Banabans, who unsuccessfully petitioned the House nearly 50 years ago? Having expressed that welcome, may we assume that it will be the Right Hon Gentleman's resolve that this will be the last time that a small dependent people will have to pursue the British Government in the courts before their moral claims are met?

May I ask the Right Hon Gentleman two further questions? First, will he tell us a little more about the 10 million dollars, which is a sum considerably less than that which was claimed? Is that to produce an infrastructure, to provide an adequate income? Are capital cash grants to be paid out? How is it to be done? Why should not the figure be paid out rather than have a fund set up?

Secondly, will the Right Hon Gentleman accept that since the Vice-Chancellor has said that the British Government are in breach of a higher trust, we shall want to read very carefully the details of the fund when it is set up?

Dr Owen: I do not think that any one looking back on history would claim that at all times all the right decisions have been made. We had to keep the matter in balance against a record of very difficult decision making.

When the Vice-Chancellor delivered his five and a half day judgment - it was a very long judgment - he paid tribute to some of the decisions which had been taken. It is a question of balance. The exact way that the money will be used is obviously for consultation with the Banabans. We hope that a trust fund will be established and that we shall be able to safeguard the money to ensure that it will be used for the benefit of the Banaban community in future and not in any way squandered. This is for further discussions.

/Mr Spearing



Mr Spearing: Does my Right Hon Friend agree that the sum of 10 million Australian dollars appears rather low, as he told me on 24 February last that the Banabans had about 4 million Australian dollars in a single year - 1975?

Does my Rt Hon Friend agree that the Gilbertese income per head is about half that of the Banabans' at present and that of the Solomon Islands one-quarter? In view of his statement, would it not be better for Her Majesty's Government to consider a proper settlement of the South Pacific as a whole with a view to British obligations being discharged there with clean hands and being seen to be so?

Will he understand that some Hon Members do not think that that is the case in the statement that he has made, either in respect of the Banabans or in respect of other peoples throughout that zone of the Pacific?

Dr Owen: I agree with my Honourable Friend that we need to look at the South Pacific as a whole. I acknowledged in my statement that other islands had contributed to the Ocean Island phosphate industry and energy.

As to the question of the sum of 10 million Australian dollars, that is about 6½ million pounds sterling, so it is not a negligible sum of money at the current exchange rate. It takes account of the fact that although the Banabans have received more than 7½ million Australian dollars in phosphate revenue over the last three years, they have, unfortunately, built up no reserve funds against the time when their revenue from Ocean Island will cease. We regard the existing division of phosphate revenues as reasonable. When Honourable Members have time to read the very valuable report of Mr Posnett, they will see that it provides substantially more than the 7 million Australian dollars suggested by him.

I have given the figures of the difference, but I confirm what my Honourable Friend said - that the Gilbert Islanders are receiving less than one-quarter of what on average is the income received by the Banabans.

Sir Bernard Braine: Whilst acknowledging the Foreign Secretary's desire to make amends for the sordid and shameful treatment that the Banabans have suffered for many years, may I ask whether he does not realise that the sum that he has mentioned is only about one-fifth of what the Banabans would have earned from their phosphates if they had been given proper advice and information in 1947 and if there had not been grave breaches of trust by Her Majesty's Government, and that the sum will do very little to right the injustice?

/Is the



Is the Right Honourable Gentleman aware that proper restitution to the Banabans could be made if Ocean Island is returned to them now and the Gilbertese are generously compensated for loss of revenue from any remaining phosphates?

Finally, is the Right Honourable Gentleman aware that until Ocean Island is separated from the Gilberts and returned to the Banabans, neither they nor any of us who care about our country's good name will consider that justice has been done?

Dr Owen: The Honourable Gentleman has taken a very great interest in this area, and I pay tribute to that, but as he knows, his views are not shared by all Honourable Members on his side of the House nor on the Government side of the House. The fact is that it is a question of judgment between the constitutional position in particular and the Banabans, and whether it is a relationship with Fiji or with the Gilbert Islands is very controversial, and people genuinely hold different views. What the Government have tried to do is to bring about an honourable compromise on this subject.

As to the question of the sum of money, the sum is not a negligible sum. In the view of the three Governments - and I must stress that this has to be something that is agreed by three Governments: I pay tribute to the Australian and New Zealand Governments for their help in the discussions and negotiations, this is a generous provision that will enable the Banabans to plan for their future on Rabi and finance that future, but it must take account of the per capita incomes of people in the area and the problems, to which my Honourable Friend the Member for Newham, South (Mr Spearing), drew attention, of the economic position of the whole of the South Pacific.

Mr Christopher Price: May I thank my Right Honourable Friend for his keeping the constitutional position open, but will he tell us a little more about the constitutional position? Will he assure us that in the final resort he would not rule out an association with Fiji rather than one with the Gilbert Islands?

Dr Owen: I have mentioned the special autonomous position. This has yet to be negotiated but, for instance, it could include an Ocean Island Council, elected fully by the Banabans as the local government of Ocean Island, representation in the Gilbert House of Assembly, Gilbertese citizenship if the Banabans wished and the Government of Fiji agreed, special guarantees for Banaban rights on Ocean Island and for their



share of the remaining phosphate revenue, and safeguarding all the Banabans' interests in the Ocean Island phosphate industry. This issue will have to be discussed. There will have to be a Constitutional Conference. When my Honourable Friend has had the opportunity of reading the Posnett Report, I think that he will see the complexity. I know that he has raised the matter himself over the years.

As to the settlement. I do not come before the House saying that mistakes have not been made. Of course they have been made. One of the reasons for us trying to have an ex gratia payment is to settle this issue honourably. But I also think that we ought not to give selective interpretations of the Vice-Chancellor's judgment on this issue. Nor should we fail to look at the record of Britain's involvement in the Pacific, taking it in its historical perspective, because it has been an honourable record.

Mr Paul Dean: May I put two points to the Right Honourable Gentleman? The first concerns the financial arrangements. Will he give an assurance that the financial offer which is to be made to the Banabans will in no way adversely affect aid to the Gilbert Islands and the other countries in the area, including, of course, Tuvalu, Fiji and the Solomons?

Secondly, on the constitutional point, while welcoming the concept of autonomy for Ocean Island within the Gilbert Islands, may I ask the Right Honourable Gentleman to recognise the dangers of fragmentation, not only to the unity of the Gilbert Islands but also to the other island nations in that part of the world?

Dr Owen: There is no question of an ex gratia payment being at the expense of the Gilberts. Our aid programme for the Gilberts is a continuing one and is increasingly directed towards revenue-earning projects, against the time when phosphate revenue ceases. Our capital aid on projects totals 2.2 million sterling in the current financial year. In addition there is a substantial programme of about 1.5 million sterling for technical cooperation.

On the question of fragmentation, there is widespread recognition in the Pacific of the dangers of fragmentation. More generally, also, concern about the implications of fragmentation of territories there has been expressed in the United Nations on a number of occasions.

Mr Townsend: Will he carefully consider allocating some of the settlement to the Gilbertese, who have a very strong case?

/Dr Owen



Dr Owen: This is a subject for further consideration. I recognise the need for keeping a balance between the need to settle the Banaban issue honourably and the need to discharge our obligation to the whole South Pacific area - trying to set any ex gratia payment in relation to the economies of the countries and the per capita income of the people of the area and the very dire poverty that exists in some of the islands.

It is a question of balance. We have tried, with the Australian and New Zealand Governments, to achieve the right balance. I hope that the House will agree that we have at least done our best.

Sir John Langford-Holt: Does he not agree that it is vital that on this matter he gets the wholehearted support of this House and that failure to do so would prejudice the rapid and successful passage through this House of a Gilbertese Independence Bill?

Dr Owen: All I would ask is that Honourable Gentlemen make a judgment on the ex gratia payment in relationship to the problem in existence in the South Pacific. I would urge Honourable Gentlemen before forming a final judgment to read the Posnett Report. It is a very valuable and balanced account of the complex problems that we are dealing with, some of which were inherited and some for the future.



JOINT RESOLUTIONS (TO BE KNOWN AS THE 'BAIRIKI RESOLUTIONS')  
APPROVED BY THE GILBERT ISLANDS GOVERNMENT AND THE RABI COUNCIL  
OF LEADERS AT A MEETING HELD IN TARAWA, GILBERT ISLANDS, FROM  
1ST - 9TH NOVEMBER 1977.

1. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved as follows:-

- (i) that a referendum to decide on the separation of Banaba from the Gilbert Islands should be held on all islands of the Gilbert Islands and, with the prior approval of the Government of Fiji, on Rabi also;
- (ii) that a visiting mission from the United Nations Organisation should be invited to supervise the referendum mentioned in (i) above and that Her Majesty's Government must be bound to honour the outcome of the referendum when deciding on the question of independence at the forthcoming constitutional conference;
- (iii) that Her Majesty's Government should be asked to arrange and meet the cost of the referendum in (i) above and to invite a visiting team from the United Nations Organisation in accordance with (ii) above;
- (iv) that the referendum mentioned in (i) above should be held as soon as possible after the General Elections in the Gilbert Islands and the Rabi Council of Leaders elections but before the Constitutional Conference;
- (v) that ballot papers to be used in the referendum should contain the following words only -

'Ko taku n an iango ba Banaba bon teuana maibuakon  
abani Kiribati ke tiaki?

- (1) Banaba BCN abani Kiribati
- (2) Banaba bon TIAKI abani Kiribati


- 2. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that Her Majesty's Government make available to the Rabi Council of Leaders with effect from January 1978 till current mining on Banaba ~~cesses~~, without reducing the amount that the Gilbert Islands Government is receiving from phosphate taxation, a sum of money equivalent to but not less than 60% of phosphate royalties on the pre 1973 leases and a further sum equivalent to but not less than 25% of phosphate royalties on the 1973 leases without reducing the current Banabans' share from phosphate royalty benefit.
- 3. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that Her Majesty's Government, the Governments of Australia and New Zealand be requested to provide funds for the rehabilitation of Banaba and that the said fund must not reduce, in any way, the Gilbert Islands' allocation for development aid from the said Governments.
- 4. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that the partner Governments should be asked to set up the British Phosphate Commissioners' reserve fund as a separate fund for distribution to the Gilbert Islands Government and the Rabi Council of Leaders.



5. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that Her Majesty's Government should be asked to set up the Management Board as agreed to in the Tarawa Agreement 1976.
6. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that the Rabi Council of Leaders should go ahead with the replanting of Banaba wherever possible and that the Gilbert Islands Government would provide seedlings for fruit bearing trees not readily available on Banaba and offer any other possible assistance.
7. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that the definition of the word "native" in the Gilbert Islands Closed District Ordinance should be extended so as to include people certified as Banabans by the Rabi Council of Leaders and/or its representative on Banaba.
8. The Gilbert Islands Government and the Rabi Council of Leaders jointly resolved that henceforth Ocean Island be referred to only by its Gilbertese name "Banaba".
9. The Gilbert Islands Government and the Rabi Council of Leaders resolve to continue dialogue on matters of common interest and be united in their submissions to Her Majesty's Government or any other Government or organisation with the view to improving the lot of their people.
10. The Gilbert Islands Government acknowledges the offer made by the Rabi Council of Leaders that should the outcome of the referendum, referred to in 1 above, be in favour of Banaba's separation:-
  - (i) that 25% of the phosphate royalty benefit should continue to be paid to the Gilbert Islands Government till mining ceases on Banaba;
  - (ii) that Gilbertese labour should continue to be used on Banaba;
  - (iii) that the Gilbert Islands Government should be allowed to fish in the Banaban economic zone up to 20 miles within Banaban waters;
  - (iv) that the Gilbert Islands Government utilises the services and facilities offered by Rabi Holdings Ltd.
11. The Rabi Council of Leaders acknowledges the offer made by the Gilbert Islands Government that should the outcome of the referendum, referred to in 1 above, be not in favour of Banaba's separation:-
  - (i) that the existing basis for the division of the royalty between the Rabi Council of Leaders and the Gilbert Islands Government remain unchanged till mining ceases on Banaba;
  - (ii) that the existing employment arrangements continue unless changed by the Gilbert Islands Government;
  - (iii) that the Banabans, subject to the provisions of the Closed District Ordinance, be allowed to commute freely between Rabi in Fiji and Banaba and any other Gilbert Islands;
  - (iv) that the Banabans retain their right of land ownership in the Gilbert Islands;
  - (v) that the Gilbert Islands Government should provide the basic services to the Banabans who opt to return and



- (vi) that the Banabans be, subject to the concurrence of the Fiji Government, conferred dual citizenship by the Gilbert Islands Government upon application;
- (vii) that the Banabans elect one of their members to be their representative at the Gilbert Islands House of Assembly.

Signed at Tarawa in the Gilbert Islands this fourteenth day of November, 1977.

For the Gilbert Islands Government:- For the Rabi Council of Leaders:-

(Naboua T. Ratiota, CBE)

(Rotan Tito)

(Toweia Uaruta)

(Teikabua Toaoti)

(Otiuea Tanentoa)

(Tobeko Anterea)

(Dwebwetake Aroiota)

(Tokaike Tabuariki)

(Tekaroi Russell)

(Aroa Tokinone)

(Roniti Teiwaki)

(Durateko Tuatoira)

(Ibeata Tonganibeia)

(Kariatabwowa Tabuariki)

(Teatao Teannaki)

(Burentau Eburawati)



GPO Box 1404,  
Suva,  
Fiji.

27th February, 1979.

*Wm Nixon*

I know in my heart (and mind) that this letter should really have been addressed to Honor, to thank her so much for the generous hospitality at 77, Arthur Circle, and enduring my presence as a day-boarder for the better part of four days. Failure to address the lady of the house would, of course, horrify a purist in the social sphere like our one and only Eric Bevington, but I hope Honor will forgive me, since the greater part of this letter will (though not to your or her surprise) deal with 'shop'. Further, though I fully recognize the imperative necessity to keep the Professor informed, if possible blow by blow of the Banaban activities in Ocean Island, I see no reason why an OHMS envelope should not be used for such a crucial service. Alas, further or is it farther? - the "Burne free postal service" will have to end in the not too distant future. Nevertheless, I shall be surprised if Honor is not as interested as you are by the attached cuttings and my comments on some of them below.

2. The cuttings are in order of date and should be read sequentially.

3. On a general point, I am informed on pretty good authority that this whole business of the current invasion of Ocean Island has been cooked up by a public relations firm (so called) here in Suva, which consists chiefly I believe of part-Europeans. I am glad to feel that old Rotan is not associated with it in any way, and I really find it hard to believe that it is the Banabans who are indulging in this violence. It seems so out of character, and so unlike the Banabans we knew many years ago. But, of course, it may all stem from that day when the then Resident Commissioner (ahem! - no pun intended by that word!) brutally expelled them from the Gilbert Islands to land on Rabi Island in the depths of the Fiji winter.

4. Now for some odd comments on certain of the cuttings; where I refer to a cutting of which there is more than one on any one day, I shall call it (2) or (3) in brackets. So, here goes:-

- (a) 9/2/79(1) - I wonder who the chairman of the Council is - Tebaiti Tawaka? I had always thought the Rev. Kaburoro was;
- (b) 9/2/79(2) - This letter from a Fijian of Natewa Bay - opposite Rabi - is interesting, since the Fijians generally have supported the Banaban community; now Ratu Mara and others have changed their coat;
- (c) 12/2/79 - the Gilbertese officials arrived before the Banabans so I do not understand why the latter were permitted such freedom as enabled them to sabotage equipment, etc., especially as the Banabans had categorically stated that they intended to do just that;
- (d) 14/2/79 - as the invasion, with its stated intention to sabotage equipment, emanated from Nauru and on a Nauruan ship the "Cenpac Rounder", relations between the Nauru and Gilbert Islands Governments must be pretty tense;
- (e) 16/2/79 - a Fred Caine, a Fiji M.P., appears in the news for the first time. He is a part-European member (with a European seat in Parliament), and obviously a link with the firm mentioned in paragraph 3 above. He is an ineffective insurance agent, but with "the gift of the gab". As Ratu Mara has now dropped his support of the Banabans, and as Caine is a member of the Fiji/European/and to some extent, Indian, Alliance party, it's certain that Caine will not be re-elected next general election. But the Banabans may be paying him to make his presence worth his while. Later cuttings show what effect his presence has had on others;
- (f) 17/2/79 - Fred Caine is here described as a trade unionist. That is only superficially true. He joined a trade union only a few months ago and may well have done so, realizing that his future as an Alliance M.P. is in serious jeopardy. He knows no more about trade unionism than the man in the moon, and, as far as I know, has no sympathies for the movement;



- (g) 17/2/79 - mention is made of the solidarity of the Fiji Council of Trade Unions with the Banabans. The union movement in Fiji is split; the Fiji Trade Union Congress is far and away the largest union, and the FCTU is quite small; its "solidarity" with the Banabans is not therefore of much significance;
- (h) 19/2/79 - I have heard nothing more, nor seen anything in the news, about the collection of these reinforcements for the Banabans on Ocean Island. But this cutting is only eight days old and maybe something will eventuate. But surely the Gilbert Islands' authorities will not permit any more Banabans to land, after the sabotage they have caused? I wonder if you know any of the Banabans named as having been detained?
- 19/2/79 - see the reverse of the opening page. This has nothing to do with the Banabans but it is most interesting that the US Government has dropped its claim to Funafuti, Nukufetau, Nukulaelae and Niulakita. Nor can the US have been bought off by the Tuvalu Government, which has no money of its own, though HMG might have done so. However, the paragraph marked X may explain it. Fiji, the Gilberts, Solomons, PNG are against allowing the US to fish in their 200 mile zones, whereas, Samoa, Tonga, and the Cook Islands take the opposite view. Maybe Tuvalu has agreed, or been forced to agree, with the second group. I shall always wonder if the barrage of information in the Macdonald report on the Ellice and Tokelau Islands was a contributory factor in the US withdrawing its claim. Presumably we can now expect to hear that the US has dropped its claims to the Gilbert (Line Islands) and Phoenix Islands?;
- (i) 19/2/79 - as stated in (b) above, the Fijian (and Indian) public are now turning against the Banabans;
- (j) 19/2/79(2) - Usher is a former Education Officer, a New Zealander, and a former P.R.O. in Government, and later Mayor of Suva. He has never forgiven Government (in the person of Ronald Garvey) since the latter refused to make him an O.B.E. when he was PRO at the time of the Queen's first visit to Fiji (for the reason that he was then living openly with another officer's wife!) Nor was he introduced to the Queen, as he expected. He was PRO for 2 years after I became CS but I found him pompous, dogmatic, know-all, and generally useless. Be all that as it may, he has now become a sort of professional letter writer to the Fiji Times on all or any subjects.
- (k) 20/2/79 - this is as typical a Ratu Mara effort as one could envisage. Mara himself has tried to solve the problem and failed, but he dares not openly say what he really now believes, i.e. that further discussions are useless since any decision to excise Banaba from the Gilbert Islands must offend one of the parties and put HMG in an invidious position as regards Belize, the Falkland Islands, etc. How can there be a solution acceptable to all parties, as Mara says? His motto is "Never reach a decision if there is any disagreement, but just hope that the problem will be solved by effluxion of time";
- (l) 21/2/79 - WFTU support is better than FCTU support, but what can the former do about it, since the UK and other western nations support the ICFTU. But maybe the Australian and NZ delegates, who are presumably WFTU supporters, might make life difficult for the Gilbert Islands in respect of shipping, supplies, etc.;
- But why, oh why, do not the Gilbert Islands Government refute a lot of Cairne's remarks. Their public relations have not improved since the time of the Banaban High Court cases;



- (m) 21/2/79 - so the Deans want to continue mining - what? the little phosphate land left would not long provide a livelihood even if they had the know-how to develop and mine it, and could ship it and find markets? It sounds like Alice in Wonderland to me. And what ships will be prepared to run to Ocean Island, and take supplies there I wonder;
- (n) 21/2/79(2) - Acra-man is, needless to say, another part-European. A silly pompous little man who got his NZ B after 10 years study, eventually became Secretary to the Ombudsman, and thinks he knows all the answers;
- (o) 22/2/79 - typical Usher letter - "international terrorism", "political gangsterism", etc.;
- (p) 23/2/79 - more part-Europeanism!;

5. I will keep you briefed; it will be interesting to see what action the Government takes against the saboteurs.

6. You must forgive the appalling standard of typing in this letter; I have now 28 letters to write and this machine would almost make one commit suicide. Its an Olivetti (Italian) made under licence in Barcelona - so what can you expect of it - and to make matters worse it was a generous gift from Neil and Nora; I only wish they had consulted me about the make before buying it!

My love to Honor. I did enjoy reading your book so much, and I only regret that half the time I was watching out for errors and so was unable to enjoy it as much as I would otherwise have done. I just hope that you are not extradited to Peru and that that lady who got all that stuff out of the Peruvian archives is not sent to the tin mines!

*W. R. G.*



NOTE TO EDITORS

Lord Brockway's Question relates to the Vice-Chancellor's expressed opinion that

"If I am right in my conclusion that any obligation of the Crown towards the Banabans was a trust or fiduciary obligation in the higher sense, and not justiciable in the courts, then I have no jurisdiction to make any order on the matter. At the same time I do not think it could be right for a judge before whom matters such as these are brought simply to refuse jurisdiction and say no more..... But in litigation against the Crown in which the Attorney-General is a party, I think a judge ought to direct attention to what he considers to be a wrong that he cannot right, and leave it to the Crown to do what is considered to be proper.

Accordingly I draw the attention of the Attorney-General to the matters of criticism that appear in this judgment, and in particular the two that I have just mentioned. How far these matters are proper for the attention of the Crown in right of the United Kingdom and how far they are for the Crown in some other right I shall not attempt to say: this is a governmental matter, and not legal. I shall accordingly leave the Attorney-General to make such communications to other persons concerned as he considers proper. The Crown is traditionally the Fountain of Justice, and justice is not confined to what is enforceable in the courts."

However, in the course of his judgment, Mr Justice Megarry made a number of very favourable remarks about the concern shown for the welfare of the Banabans by the Colonial Office and by officials, and he also made various reference to the settlement of the Banabans on Rabi.

The following is a selection of the Judge's remarks on these points:

"The Japanese transferred most of the Banabans to other islands, and when in 1945 Ocean Island was recovered from the Japanese, it had been devastated

/and was



and was uninhabitable. Though the Banabans' right to return to Ocean Island has been carefully preserved, it was plainly impossible for them to go back immediately after the war."  
(Vol 1 page 7 G/H)

E "Parties of Banabans have from time to time visited Ocean Island and remained there for some while; indeed a party was in residence when I visited it. But from any practical point of view there has long been no question of the Banaban community as a whole ever returning to live on Ocean Island."  
(Vol 1 page 8 C)

"These and many other provisions of the King's Regulations were plainly designed to protect the native inhabitants against exploitation."  
(Vol 1 page 16 F/G)

"The Colonial Office was emphatic that there could be no question of removing the Banabans from Ocean Island unless the transfer was most clearly for their benefit and also voluntary in the full sense of the word."  
(Vol 1 page 20 F/G)

"The Colonial Office was showing great concern for the protection of the Banabans, and so was the Resident Commissioner and, to a somewhat lesser extent, the High Commissioner."  
(Vol 1 page 20 G/H)

"On the official side there was an evident concern that no terms should be put to the Banabans for acceptance unless they were considered to be proper and in the best interests of the Banabans. On all sides it was accepted that nothing could be done unless the Banabans agreed."  
(Vol 1 page 21 A/B)

F "It became reasonably plain that if mining continued, a time would come when it would be virtually impossible for the Banabans (who then numbered some 550) to continue to live upon Ocean Island, to which they were fiercely and understandably attached. At the same time, the Colonial Office, though making prolonged enquiries about other possible islands for the Banabans, were firmly refusing to contemplate any removal of the Banabans to another island without their full consent."  
(Vol 1 page 47 F/G/H)

/"But the



"But the most striking feature of this period was a petition by the Banabans to the Secretary of State dated 7 June 1940 seeking a new home for the Banaban people somewhere in the Fiji group, so as to be under the same High Commissioner."  
(Vol 1 page 100 B/C)

"All the Banabans' houses on the island [Ocean] had been destroyed, and many of the trees as well ... plainly the immediate return of the Banabans to live on the island was completely impracticable ... All agreed to go to Rabi for an initial period of two years on the footing that they would all retain their rights in Ocean Island and the Banaban funds ... if at the end of two years they wished to return to Ocean Island, the Government would bear the cost of their transport."

(Vol 1 page 102 F/G and Vol 1 page 103 D, E/F)

"At this stage the Banabans sent another letter to the High Commissioner dated 7 March 1947 asking to be told that Rabi was their land, like Ocean Island. They stressed their desire to make Rabi their new headquarters and home ....."

(Vol 2 page 3 G/H)

1120000  
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"Mr Maude and Mr Macdonald were on Rabi from 7 to 13 May 1947 and they spent the 8th, 9th and 10th in a series of meetings with the Banabans. On the 10th and 11th the Banabans voted by secret ballot on their future, with Banaban supervisors in charge; and then there were further discussions on the result of the ballot. Three hundred and eighteen out of a population of 336 adults over 18 had voted. By 270 to 48, a majority of nearly 85%, the Banabans decided to make Rabi their headquarters and home."

(Vol 2 page 3 D/E/F)

"The Banabans are now well established in Rabi, over 1500 miles away; and there they have an island over ten times the size and unaffected by mining, as contrasted with the much smaller Ocean Island with some five-sixths of it mined."

(Vol 4 page 79 B)



Thurs. 6<sup>th</sup> Jan 1977  
BBC. Prog.

BBC Programme

ANNOUNCER:

Now James Cameron traces the story of the longest and costliest legal case this country has known. "Go Tell It To The Judge."

- FILM -

JAMES CAMERON:

In December of last year the Law Courts finally gave judgment in the longest and costliest civil action ever heard in London.

This is a story of a people called the Banabans.

"My Lord, the plaintiffs were born on Ocean Island. A very small island just South of the Equator, it is six miles in circumference and has an area of 1500 acres."

Nobody ever bothered about this minute place until someone suddenly found it was almost solidly made of phosphate - among the richest deposits in the world. It had four villages in which dwelt a very small, peaceful and innocent people. This strange tale begins in 1900 with a bright, young New Zealander called Albert Ellis on his way to Ocean Island. Weeks before he'd found that an old rock propping open his office door was, in fact, phosphate made of generations of bird droppings, a very valuable fertiliser. It took two months to trace the source of this rock, the little pinpoint of Ocean Island.

He found a little society living on a sort of Eden, an equatorial island only 3 1/4 kilometres across. They were great boatmen and fishermen. Indeed, they lived almost entirely on fish and coconuts. Apart from a couple of missionaries, they'd met hardly anyone from anywhere else. They were intuitively kind and gentle and Ellis was charmed by their welcome.

Ellis's tests showed enormous resources of phosphate so he wasted no time. On the first day he and his assistant, Naylor, drew up an agreement signed by a Chief - he wrongly took him to be King but Banabans didn't have Kings - who granted him exclusive mining rights for 999 years at £50. a year. Mr. Ellis quickly raised the British Flag with, as he put it, its never failing message of good cheer for the natives. Good cheer for him, too. Ocean Island turned out to be virtually solid phosphate.

Almost at once the phosphate was being loaded from a makeshift jetty to be shipped to Australia. The simple Banabans joined the game with enthusiasm, loading their own phosphate into Mr. Ellis's ships. Those centuries of seabirds had not laboured in vain... Everywhere else phosphate had become scarce. Ellis's company had blundered onto a fortune. The only worry was that somebody else might move in on this bonanza. So their influential Chairman, Lord Stanmore, persuaded the Government to annex Ocean Island to the Empire. What was easier

Proc. NO. 1441  
Proc. Jenny BARR  
Cynthia W.M.  
Laurie Richardson  
James Cameron



in those halcyon colonial days? So on September 28th 1901 a 21 gun salute was fired and "God Save The Queen" played to an audience of wholly baffled Banabans.

By and by dozens of illiterate islanders were putting their marks to complicated legal documents they had no earthly means of understanding. By 1908 the company's profits were half a million a year. The Banabans continued to be paid an average of £16. an acre. So deep and expensive were the mining shafts it was clear that the land would soon be useless for any human purpose.

Bertram Jones is a journalist on Fiji. He chanced on this Banaban story and dug into the records.

BERTRAM JONES:

They hadn't realised, when they signed that early agreement with the company, that the removal of all rock and alluvial phosphate meant removing the entire island, except the rock pinnacles. Some of the Colonial Officers on Ocean Island did I think perceive the damage that was being done and tried, in ways that were open to them, and they were subject to strict discipline, to do something about it.

J.C:

One of them was a resident Commissioner, Quayle Dixon, an impulsive and brave man who felt that the Banaban people were getting a dirty deal and said so.

B.J:

Quayle Dixon came up against rather formidable opposition in his efforts to do what he could for the islanders. The opposition naturally came from the mining people who didn't want their rights tampered with in any way, or their rights as they concede them to be. Quayle Dixon, on the other hand, seemed to be very much concerned about what was happening to the natives and he resisted what he thought were the undue encroachments and the gentle bending of some of the regulations that the company was indulging in.

J.C:

Within 10 years of Ellis's arrival the Banabans had come to hate the phosphate company. They saw the access paths to their lands carelessly mined away, roots of the coconut trees ruined. Quayle Dixon took these pictures and sent them on to Albert Ellis. Ellis was not amused. Very soon company pressure saw to it that Quayle Dixon was transferred as far away as possible to the Falkland Islands.

The company now wanted another 250 acres. But the Banabans no longer trusted the paternal, mavericious Europeans who had to offer the Elders Royalty money and a trust fund to persuade them to sign.

B.J:

It was also the understanding of their fathers and grandfathers that when once they had conceded those 250 acres, which they were not too pleased about giving, not too happy about it at all, when once they'd allowed that land to go they would never be asked for more. But, of course, they didn't understand the true nature of that original concession, which they later said "our minds were



dark inside when we signed it. We didn't know." And it meant that they hadn't a leg to stand on.

J.C:

For the Banaban people life was a matter of survival and they knew that survival on a dry Pacific island depended entirely on the coconut tree. The tree of life, in fact. The phosphate people so badly needed the land that in the 1913 agreement they put in the clause that finally persuaded the reluctant islanders to sell.

"That they shall return all worked out lands to the original owners, and that they shall replant such lands wherever possible with coconuts and other food bearing trees, both in the lands already worked out and in those to be worked out."

J.C:

Now this is a major issue in the great court case. Did the Pacific Phosphate Company ever really intend to replant the coconut trees and what is whenever possible? This couple of desultory attempts give a pretty cynical reply with nuts simply dropped on bare rock. The Banabans insist that with a minimum of soil and watering trees could have grown and they reckon to know.

In 1920 the Governments of Britain, Australia and New Zealand bought out the phosphate company for £3½ million. Now there could be no possible pretence of a disinterested third party in the deal. And soon yet more land was needed.

In 1928 the resident Commissioner was young Arthur Grimble, who later became known for his charming bestseller, "A Pattern of Islands." The Banabans were flatly refusing to sell any more land, it was Grimble's job to make them.

"To those of you who sold land in 1913 and are willing to sell land again now they will make up the difference between the Royalty paid then and the 10½ penny a ton...(fades out)"

J.C:

But by this time the islanders weren't to be wooed by the bribes and blackmail of the British Phosphate Commissioners - the BPC as they were called. By now they had a spokesman, a young man just back from theological college in the Gilberts.

"(fades in)...will remain unchanged. You will receive no more."

J.C:

This young man was Rotan Tito\*, without doubt the most meaningful personality in his people's brief history. Rotan Tito said outright they wouldn't sell for anything less than £5. a car load. In other words, no deal.

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\* phonetic spelling.



"The BPC provides phosphates to the farmers of Great Britain, of Australia and of New Zealand. To the farmers of the British Empire. And you, your island, is one of the only two places in the whole British Empire producing this phosphate. You should be very proud to be ... (fades out)"

J.C:

Rotan said very well, if the Empire needed the phosphate that much they could pay £5. a car load for it.

"And I say to you, Rotan, you are thinking selfishly, that you are not thinking of your children, of their future. You are stirring up trouble and it will do you and your people no good. If you sell no more land to the BPC you are signing your own death warrant, your people will die. You will be committing suicide."

"Saturday 13th August. Most unfortunately someone voiced dislike of BPC and in spite of every reason I could adduce to show how entirely dependent they all were on BPC the popular antipathy into the concern carried the assembly. To overcome their native shame an extremely strong motive must be instilled into them. The only motive strong enough is fear of poverty. The terms offered are not rich enough to inspire love of gain."

J.C:

But it wasn't Rotan Tito who was to give Arthur Grimble the most trouble. It was the women.

"Friday 29th July. Women of Buakoniki\*, about 20, dreadful objections."

"It is the mining of the land which brings you the money with which you buy your food. It brings you the doctors who heal you when you are ill. The land lying idle will grow only coconuts. You are no longer used to living only on coconuts. Your food now includes biscuits; it includes rice."

"Do you realise how foolish, how utterly foolish your attitude is?"

"Talking to them one had the hopeless certainty that they were not listening. Simply sitting and repeating to themselves we want to keep our land, we want to keep our land and so on, ad infinitum. I explained before they left that I was not bargaining with them on behalf of the BPC but was giving them conscientious advice as a friend, after long deliberation as to the solid welfare and profit of the Banabans. They did not contradict this, of course, but quite plainly disbelieved in me and the administration and all its works, and the BPC and every other human institution. The interview has left me depressed."

J.C:

Grimble was fond of the Pacific islanders in his fashion but he was also ambitious and he could bring himself to write this extraordinary letter.



"To the people of Buakoniki greetings. You understand that the resident Commissioner cannot again discuss with you at present as you have shamed his important Chief, the Chief of the Empire. I am not writing to you in my capacity as resident Commissioner but I will put my views as from your long-standing friend, Mr. Grimble, who is truly your father. If everyone signs the agreement the Banabans will not be punished for shaming the important Chief and their seriousness conduct will be forgiven. If the agreement is not signed consideration will be given to punishing the Banabans and the destruction of Buakoniki village must also be considered to make room for mining."

J.C:

Still the islanders refused. Then Whitehall made a law which entitled the British to take land by compulsion. Rotan Tito sent Grimble a bag of gold to pay for a lawyer to help them. Grimble turned him down and signed the compulsory purchase order. In desperation Rotan wrote to the Secretary of State in London.

"Sir, we real Banaban community have the honour to apply respectfully for a personal help from you because we are in great heaviness of sorrow on account of our land of 150 acres of phosphate to be dug out. It contains a great number of well grown coconut trees and is the only piece of land which we Banabans live mostly on. So therefore please kindly help us by your merciful arbitration and judgment in front of our Heavenly God and in front of His Majesty, King George V. We are Your Lordship's Most pitiable people, the Banaban community. Writer, Rotan Tito, for the native owners."

J.C:

The letter was ignored. When the mining started again the women clung to their trees, if their trees were cut down let them be cut down, too. This was, after all, the most fertile part of the island. Arthur Grimble may have seemed equivocal or even heartless - may be he was - but like so many Colonial Officers who passed through Ocean Island, he was probably basically well-intentioned; may be he thought that the greater good of the Empire, which was to say the Australian farmers and their fertiliser, meant more than the needs of unimportant island people. Anyway, the women were defeated and their trees destroyed.

Then the totally inexplicable happened. Somebody else's war exploded over the Pacific islands. Death fell out of the blue skies for no reason any Banaban could understand. On Ocean Island the phosphate people got out just in time, not so the Banabans. Under the Japanese occupation 160 of them were shot. Five died from flogging. In 1943 the Japanese shipped the rest of them out to labour camps, some to Naru\*, some to the dreadful camp at Kusai\* where they



lived and slept and starved on mud, the rest of them to Tarawa. By the end of the war 463 Banabans were dead, a third of the whole population.

Back came Albert Ellis to reorganise the ruins. He wanted 600 labourers recruited at once but no Banabans. The reason for this was soon clear. The British residency was a wreck but the officials were busy making use of the chance that they had long been waiting for, to get rid of the Banabans from Ocean Island for good. All the memos said the same thing:

"It is considered most desirable that this unique opportunity should be taken for taking them to Rambey\* instead of returning them to Ocean Island. While present shipping difficulties are realised, it is strongly urged that they should not be permitted to frustrate the carrying out of a project which the Commissioners have been striving to achieve for decades and which if not done now will never be done."

J.C:

So the remaining Banabans, 1003 of them, were rounded up on Tarawa and shipped to the island of Rambey in Fiji 1600 miles away. They were ill, demoralised and in no shape to argue.

"You should inform them on behalf of the Government that their temporary removal to Rambey Island is necessitated by the fact that it is quite impossible for them to return to Ocean Island at the present time."

J.C:

|| This was not true. The workers houses were still there.

"Time considered very opportune. Kennedy considers ~~can obtain~~ their willing consent, especially with help Rotan. Imperative no Banabans go to Ocean Island meanwhile." (A little unclear)

J.C:

On December 15th 1945 the Banabans first saw Rambey in the rain. It was a daunting change from home. It was nine times bigger than Ocean Island, five times wetter, overgrown with jungle; it had been bought for £25,000 of their own trust fund, their own money. Only now did the British Government realise that they were dumping the Banabans on Rambey in the middle of the hurricane season.

"Consideration has been given for the disadvantages of canvas housing during the hurricane season. It can be expected that a considerable number of tents would be lost during a strong gale. For this reason the number of tents has been fixed at about 30% more than would actually be erected in the first instance. "

J.C:

At this point the Banabans as a people came very near to extinction. They



slept on stretchers in tents awash with the relentless rain; they were already weakened by three years under the Japanese. The entire community was in real danger of being wiped out. In the first few months 40 of their older people died. Two things probably saved them. One was their compulsive and cohesive belief that God was on their side. The other was the presence of Rotan Tito, the man who stood up for them first against Grimble and then against the Japanese. He thought that the move to Rembey would be only temporary.

The BPC now wanted virtually all that was left of Ocean Island. They offered Royalties for the phosphate at 1/3d. a ton. Later the lawyers were to ask why the British Government, as trustees for the Royalty money, approved an offer so far below the going world rate. The Banabans knew nothing about world prices and they were given no independent advice, but they realised that with this last area of Ocean Island gone so would be their last hope of returning.

"Before I go into details of the Royalty payments, I assume that you are happy with this offer, ..."

"We know that you are going to take all our land and we need our price to be £250. an acre...."

"Ridiculous. How can you possibly justify asking a price like that?"

"Because you are going to take all our land and most of us may be intending to go back to Ocean Island. We are here, just for temporary for two years, and after that we have to make our minds... We may go back there and no land for us."

J.C:

at

It was strange that/these last critical negotiations the Banaban adviser, the Englishman paid to help them out of their own funds, did not arrive. Perhaps it was not so strange. The adviser had had a letter from the British High Commission.

"You should, of course, take no part whatever in Mr. Maynard's land negotiations with the Banabans, making it clear to them, if necessary....."

"(incoherent)... and this is a man who is supposed to be here to help us, but I don't know why he didn't turn up."

"Perhaps he is ill."

"No, he was working in the office all day today. And he didn't come to our meeting today and he's supposed to be here. We pay for him as an adviser, and he didn't turn up to help the Banabans at all."



J.C:

Next year the BPC came back with a slightly better offer and the Banabans, again with no legal or technical advice, signed away what was left of their land. Nothing now stood in the way of the mining operation; the labourers were mainly Gilbertese.

By 1950 the BPC was exporting 276 million tons of phosphate to be turned into fertiliser. In fairness it has to be said that this greatly advantaged the farmers of Australia and New Zealand who saved about half a million pounds a year by getting this subsidised fertiliser.

Slowly and clumsily the Banabans tried to build a new life on Rambey Island but it wasn't home and never could be. Among people like the Banabans there's an overwhelming ancestral feeling about land, their own land, their fathers land but no longer their children's land. Their children had never seen Ocean Island but the bond was born and built into them indestructibly. Over 20 years they acquired a bus, a hospital, a school and a petrol pump and a race of skilled and crafty fishermen had diminished into a race of tin openers living on Australian canned pilchards. Uprooted and purposeless, the Banabans drift into unemployment and often into drink. Rambey Island has development potential but the Banabans know nothing about business; they see little future for their children. Nevertheless, they run their island as a true co-operative. Islanders have no entrenched ideas about possessions. The councillors agree on sharing the pooled Royalties which until the '60s were less than £20,000 a year. The undisputed Banaban leader is still Rotan Tito, Chairman of the Council. His son, Tobuki Rotan\* is heir apparent and manager. His grandson, Thomas Tael\* is Secretary.

TOBUKI ROTAN:

We've got our problems here on Rambey, it revolves around the young people. On Ocean Island I heard these things weren't there, these problems were non-existent but now that we are in Fiji community is loose, Rambey is a lot bigger than Ocean Island. Our villages are not organised as they used to be in Ocean Island because of this children are left loosely, so to speak, and, you know, have nothing to do - they involve themselves in all sorts of mischiefs and this is building up on Rambey right now. They'll get drunk ...they'll destroy things, burn houses, these are the major problems that we are facing with the young people.

J.C:

Some say, naturally, that if the Banabans got rich it would go to their heads, Rotan Tito makes that story look silly. He's the biggest landowner but he shares all his money, like everybody else, that's the islanders tradition. Thus, no one has a car or a posh house. To show off what you own is just not done. Rotan spends much of his time reading his Bible. He lives among his big, extended family who, like all Banabans, sleep on mats and keep their possessions in suitcases.



The diet is poor and dull and repetitive. No one could say that the Ocean Island phosphate brought much luxury to the Banabans.

It wasn't until 1960 that Rotan Tito chanced to read in a magazine that all along the British Government had been supporting the Gilbert and Ellice Islands, who had no phosphate, out of their money - the phosphate money, paying the Gilbertese eleven times what they paid the Banabans.

Finally, in 1966 Rotan's son, Tobuki, decided to look for help in the outside world.

T.R:

It is nonsense that we don't need the money. We need a lot of money to build up this island. When we came here we haven't got any good homes, no good roads, no proper buildings for our schools and hospitals. In fact, it is our money. It is not the money of somebody else. It is wrong for the British Government to tell us what to do with our money. I don't think any Englishman would accept this or anyone in the world. I believe that they are using their power for the fact that we are small and tell us, dictating to us how to use our own money, and they should be ashamed of themselves.

J.C:

Tobuki set out from Rambey with literally no idea of where to go or whom to see, no plans, only this sense of deep injustice. First he went to see fellow Methodists in Fiji and some local lawyers. He went to Australia and New Zealand to try and talk to their Governments, but he soon realised that this was not where the real power lay so he decided to go to London. His father had always said in Britain you always get justice.

T.R:

I did not know how to make arrangements for accommodation. I just got on the 'plane and came. I thought that it was easy like in....just to step in and ask a room. So when I got in the airport I got in a taxi and I asked him to take me to London. And when he asked me what part of London I did not know. So we spent the time moving around somewhere and he had enough...so he said well, I'd better get you off, I can't do all these, you don't know where - it cost me £12. And so I got out with all my two suitcases and I did not know where to go, and I walk around, around, looking there, I went inside. It was the wrong place. Fortunately I met an Indian at three am. in the morning and he thought I look like an Indian. So I said no, I'm a Banaban from Fiji but I got lost.

J.C:

At last he found a bed in a Methodist hostel. He then bought himself a raincoat and then he made the first of many, many trips to the Foreign and Commonwealth Office. In the last ten years Tobuki has called on that office 50 times, uphill work indeed. He reminded the bureaucrats that the Banabans had been loyal, he reminded them of the time when 500 of them had raised an



astonishing £12,000 for Britain's war effort. He asked for a realistic sum to set them on their feet in Rambey. It was reckoned that Britain owed them many millions in Royalties. In 1967 he got an offer from Judith Hart of £80,000 for which the Banabans would have to withdraw all claims from the start of the century.

T.R:

I have faith in these high officials and I believe that they must have courage to do what they believe is right, because what all we ask is not to grab someone's money or someone's homeland, you know. It's our own homeland. It's our own money. We are not trying to grab the money of the people of England or the ....it's all ours by right and we've been explaining this to them year by year, yes; papers after papers, but it is sad - I mean, being a Minister myself and also ...among the white people, it is sad for me to see people in high places not having that courage, you know, to do what is right.

J.C:

Tobuki told his tale to seven Ministers of State. They were all very charming; they told him how pleased they were to have heard his story and they did nothing at all.

T.R:

It's very, very difficult to understand how your top men works, how to convince them, you know, how to help them to see the trust(?) it's very, very hard. I've been reading all these papers, watching television, you know, political programmes and so forth, still I don't know how to convince your people.

J.C:

By 1969 Tobuki had found a flat in Victoria. He had the patience of Job but he sadly decided they'd just have to take these people to court. That meant a lawyer. And how to find one? How he did find one is a kind of fantasy. One day he saw a tramp in Victoria Station. He tried to give him some money, a Banaban custom, but he'd no time. Later that evening a young Irish porter from his block of flats asked him out for a drink. They finished up in a Fleet Street pub and there, lo and behold, was that same miserable tramp from Victoria Station sitting nearby.

T.R:

I was so surprised to see the man again, the same man I saw in Victoria Street sitting on his own, all rags, ... So I offer him coffee and sandwiches and cigarettes and I try to find out whether he was really the man I saw in Victoria at two pm. It was now almost three am. in the morning. And he said he was. And then he told me that his plan was to commit suicide at three o'clock by jumping into the river because he had given up life, was so poor. So I persuaded him not to commit suicide but to start - I would try to help him to start a new life. He didn't believe it in the first place, and I said no, let us go



back to my flat and we worked out how much it would cost me to give him everything, you know, give him everything.

J.C:

The fairy tale goes on. The redeemed tramps turn to ask Tobuki how can he possibly repay him. Tobuki says just tell me who is the best lawyer in England. And the answer comes, why, Richard Brown of Wimbledon. Now Mr. Richard Brown of Wimbledon had at the time a staff of one plus his wife, but to Tobuki from Ocean Island Mr. Brown of Wimbledon was part of a divine plan and not to be questioned.

- FILM of Tobuki visiting solicitors -

J.C:

And so it came to pass that probably the most complex and heavily documented case in British legal history landed in the lap of the understandably nervous Mr. Brown of Wimbledon. But Mr. Brown did the Banabans proud in his choice of counsel, the eminent QC, Elwyn Jones, agreed to take the brief although he had to give it up when he became Lord Chancellor, with as junior John MacDonald, highly thought of at the Chancery Bar. By and by learned counsel, including Mr. Brown of Wimbledon, found themselves on Rambey among dancing girls and a band playing "Oh God Our Help in Ages Past." Elwyn Jones made a stirring speech about David and Goliath which went down very well. John MacDonald came back later to sieve through the jungle of evidence to find a case that might stand up in court, encouraged by the island band playing Victorian hymns.

- FILM of band -

"Did she agree or ever sign anything saying that the land could be mined?"  
"Just a recap, Sephero\* who owned these bits of land in 1913, refused to let them be included in the Eastern mining area and so everything else was mined and these islands were left. Then in 1947, without asking her, they just mined it and it disappeared. And have you ever been paid anything for it?"

"No, nothing at all."

"And was your mother ever paid anything for it?"

"I try to remember - nothing ..."

"Then I think we shall probably want you to come to London to give evidence in the case. Would you be prepared to do that? It won't be too bad because Tobuki I expect will go and Rotan will be going, and perhaps one or two others."

T.R:

I don't know how to explain it, but I have explained it to Lord Elwyn when



he was there in the first place. I think you would be surprised how I happen to know you and to engage you with this big undertaking. It was all through the poor man, you know, with the help of the porter, an Irish young boy.

(Laughter)

J.C:

Early last year a boatload of Banabans set off again for Ocean Island. For years they've been asking for independence. Now they felt they'd be in a stronger position with some of them actually on the island. But the British countered this by declaring Ocean Island a closed district and that no Banaban who hadn't been actually born there could enter without a licence. A few with special permits to set foot on their native land arrived at a place they could hardly recognise, as a few more tons of it vanished into a phosphate cargo ship.

It's now established that half the workers children on Ocean Island have chest diseases because of this fine, white phosphate dust which blows continually over their homes. All the water now has to be imported - this was always a problem on the island. Today everyone tells the Banabans they're crazy to think they could live here when the British Commissioners clear out.

SPOKESMAN:

We lived here before the BPC - we had no problems and, you know, if it goes up we will just revert to our old system and as far as water is concerned, which is the main problem here, our people thrived on Ocean Island before the BPC started bringing water from overseas. And if there is really a scarcity of water on the island we've got Rambey - Fiji, you know, .... this is our advantage. I think all these ideas of difficulties - these are all English. You put a native on Ocean Island, he'll survive.

J.C:

The Banabans whose home it is look like squatters and feel like refugees. The phosphate people make it clear that they're an unwelcome embarrassment. Rotan Tito went to the camp to try and lift the morale and reduce the resentment - not easy. Never have its people felt more like second class citizens than here where they belong.

On his second day on Ocean Island Rotan Tito went to look at what had been the Buakoniki Village where he'd been born, where his mother's family had lived for generations. It was also unfortunately the richest in phosphate. They are now mining it for the second time.

The experts reckon there are about three years of phosphate mining left, may be £60 million worth. Then says the BPC Manager we'll leave the island to the birds. Not all the British Phosphate people are wholly insensitive to what they've done.



WORKER:

I think most people imagine Ocean Island to be just a pile of rock with very little vegetation. But in the '40s and '50s this area here was very well covered with palm trees, mangoes, ... most of the tropical fruits. There was a mass of vegetation right through particularly this area where the machines are working now. Sad, of course, always to see the destruction of trees... But then there's many, many other places where trees are destroyed, sometimes unnecessarily, land development and so on, in this case, of course, there's great benefit to Australia and New Zealand.

J.C:

The Banabans understand but not altogether. Could it not have been done without totally destroying their island? Did the phosphate people have to humiliate them so, embitter them so? The wound has gone very deep.

ISLANDER:

I think the BPC are the greatest exploiters of our Banaban people and I, you know, I hold no reservations on that one. We've been ill-treated by them in 1900, may be we could understand that because we were uneducated then. I'm not saying that, you know, we're fully educated now but even at this age and time they are still treating us as if we are fools. I just can't understand, you know, people can do such a thing to one another - human being. It's just sheer exploitation.

J.C:

By 1975 a terrific rise in world phosphate prices gave the Banabans enough Royalties to allow Rotan Tito to come to London to bring two legal cases. One against the British Phosphate Commissioners and one against the British Government. For this dedicated old man, now 76, it was a strain, he was often ill. When Rotan wasn't in court he spent his time in the Victoria flat watching television films he couldn't understand and would probably have hated if he could. His son Tobuki learned to cook, sort of, and became expert in Chinese takeaways.

Every day the Banaban witnesses went to the Law Courts in their identical new raincoats. Their first case claimed £6 million compensation for the 250 acres of their island which should have been replanted with coconuts - whenever possible. Rotan Tito soon discovered that British justice was not as clear cut and simple as he'd thought. He was troubled and hurt. Under cross-examination it seemed as though he were on trial.

"Do not try to make us fools. I would only beg of my Lord that I am the plaintiff. I have been knocking and begging that I may come before the Government of Britain to show what I have deeply felt so that our complaints be heard in the High Court to arrive at the truth. It was expected when



I arrived in the court that I would be asking the questions of the court because I was the one who has been wronged."

J.C:

It seemed to Rotan that nobody would ever understand what had happened to Ocean Island until they'd seen it.

"My Lord, it is the plaintiff's view that it would be of great assistance to your Lordship to view Ocean Island personally. While we are aware that the journey of over 11,000 miles will be a long and tiring one, we also feel that it will be of great value to your Lordship to see the evidence with your own eyes."

J.C:

The defence objected strongly but the Judge agreed to go, doubtless setting all manner of awkward precedents for future judges.

"One matter I think should be left wholly out of account and that is inconvenience to the Judge. A view of Ocean Island would of course be far removed from being a pleasant holiday trip to the South Seas. The journey would be long and exhausting and a proper inspection of the rugged terrain of the island would in all probability involve a considerable degree of strenuous agility in high temperature. Nevertheless, it seems to me, though by no great margin, to fall within the bounds of what a litigant is reasonably entitled to expect from a Judge."

J.C:

His Lordship almost certainly didn't expect that the sea would be so rough that he would arrive on Ocean Island in a crate with his green Bermudas very wet. The whole trip, including a visit to Rambey, cost £40,000. There were nine people in the Judge's party, all speculating on what his Lordship was speculating. The party included Dick Turpin, Lands Officer to the Gilbert and Ellice Islands, Roy Price, Solicitor to Her Majesty's Government or the Crown, George Clark, Solicitor to the British Phosphate Commissioners, John Binlock, QC, Counsel to the Crown, and Donald Rattie, Counsel to the Phosphate people. The Counsel for the Banabans was John MacDonald, and their Solicitor Keith Hollis from Mr. Richard Brown of Wimbledon. Arthur Bradford, the Judge's Clerk, came along to look after his Lordship. The gentlemen were not ill paid, the barristers getting an average of £150. a day plus expenses. Is it a lump of phosphate or is it perhaps not a lump of phosphate?

- FILM of them inspecting the island -

J.C:

Perhaps his Lordship was not all that much the wiser. But then it was



necessary to consider the complex problem of how far a coconut root has to go to find water - a question rarely arising in the Law Courts. The Banabans claimed £6 million for the failure to replant the land. How did the Judge rate the chances of the coconut tree? And now to the golf course where Banaban lawyers show the Judge how the island once looked. The one and only Banaban knows his place, six steps to the rear. A few Europeans are stealing themselves to excavate the golf course which with the ruined residency is all that's left. The outing had a certain strain with the lawyers quietly competing to drop in a discreet word at the right time. Judge MacGarry listened and remained judicially inscrutable. It was terribly hot but the Judge kept up the pace and it was a weary lot of lawyers who got back to London to finish off a case that beat all records by lasting 105 days.

The second case, however, most troubled the Government because this questioned the whole integrity of the colonial record.

"Rotan Tito and the Council of Leaders against Her Majesty's Attorney General. My Lord, this is a case of breach of trust by the British Government against the people of Ocean Island."

J.C:

It all began with our colonisation of the Gilbert and Ellice Islands, which needed a lot of money for roads and schools and hospitals and, of course, administration. They didn't have any phosphate resources but Ocean Island did. So obviously embody Ocean Island into the Protectorate. But the Banabans have no relationship, no cultural or emotional bonds with the Gilbert and Ellice people. Why, they asked, should the British without even telling them spend 85% of their money, the phosphate money, on people who didn't own an inch of Ocean Island? Their argument was if Britain was going to colonise people she should at least pay for them herself. This phosphate business had therefore caused a quite unnecessary hostility between these little Pacific societies. The Gilbertese Chief Minister, (incomprehensible name) says his people need the money as much as the Banabans.

CHIEF MINISTER:

I think the Banabans do not have the right sense of possession or they misunderstand it. Because, you know, if we struck oil, say, inside this lagoon and who is going to benefit out of it all, who is going to dictate how it is being divided between the people of the Gilbert and Ellice Islands? Are they the people of Tarawa, I don't think so.

J.C:

But it wasn't the people of Tarawa who were dispossessed and exiled. The second Banaban case claimed that the British Government as their trustee had a duty in 1931 and 1947 to pay them the proper commercial rates, which would have



made them better off by £21 million. They were now convinced that they had been and are being deliberately misled and the Colonial Office minutes prove it.

"It seems to me that a point for consideration is whether we should warn the Fiji Government that we are quite definitely going to the talks in January ready, in effect, to ditch the Banabans if this proves necessary."

J.C:

? ) All sorts of documents like this turned up in the court case while Ocean Island continued to disappear. Now Tobuki finally realised that Grimble and the phosphate negotiators were in fact getting their orders from the British Government.

T.R:

I never believed that in my whole life. All along I believed my father when he often said no, we'd better go to England to see the top people, Secretary of State. He's a good man, you know, kind man, you know. He won't do all these things, only these small people down below have been treating us in this manner. Well, for the first time I learned it was the instructions from the very top man, you see, and you know, you saw me - how I felt, now I look better and say what a wasting time, I'm wasting all money to come all the way from Fiji trusting that the top man is a good man.

J.C:

On the 18th June the two cases finally ended. After 221 days, 7 million spoken words and costs of £ $\frac{3}{4}$  million. So the lawyers left court 16 for the last time. John MacDonald, the Banaban Counsel, had had a long haul. As the Judge said, his professional and private life had been engulfed by the affairs of Ocean Island. Judge MacGarry went away to spend four months writing his immense and massive judgment. He knew well the vast precedent it would establish and this is what he decided: In the first case he found that the phosphate people had failed to keep their promise to replant the Banabans land. The Banabans should get damages but just how much he could not bring himself to say. This they must go away to settle with the British Phosphate Commissioners. For the failure to restore the ravaged land he said :

"The damages shall not be token, not minimal but not large."

J.C:

He discounted the argument that nowadays mined land must legally be restored. "However potent such arguments may be in political or social fields, they cannot affect the law of contract."

J.C:

The second case on the breach of trust issue was finely balanced and could

*Produce  
minutes  
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clearly have gone either way. Judge MacGarry eventually decided that the British Government were not, in fact, trustees of the Banabans. The British were therefore not technically liable for the injustices committed in their name and in the cause of immense millions of pounds of profit from phosphate. Nevertheless, he added, in words rarely used by Judges against Government, and which this Government cannot possibly ignore, the Government owed a moral duty to the Banabans and had let them down many times. He specified two glaring examples which occurred during the two negotiations when the Banabans had to make their most critical decisions. First by letting Arthur Grimble personally fix the meagre Royalty, having compromised himself with a disgracefully threatening letter about destroying the village and unspecified punishments if they didn't agree to sell their land. Grimble may have been ill and rundown at the time, he said:

"Even so, with every allowance it is impossible to read that letter without a sense of outrage."

J.C:

And the Judge went on to say:

"The other failure of Government was the gravest in its consequences to the Banabans, and that was the absence of any advice when they were embarking on the 1947 negotiations. The improvidence of the disposition must have been foreseeable by persons of business experience."

J.C:

The Judge concluded with a most unusual recommendation:

"I am powerless to give the plaintiff any relief but in litigation against the Crown I think a Judge must direct attention to a wrong that he cannot right and leave it to the Crown to do what it considers proper. The Crown is traditionally the fountain of justice and justice is not confined to what is enforceable in the courts."

J.C:

But where else but the courts was it left for the Banabans to go for justice? How will they explain to their children the meaning of words like these:

"The question is not whether the Banabans should succeed as a matter of fairness or ethics or morality. I had no jurisdiction to make an award just because I conclude they have had a raw deal."

J.C:

So it is back to square one or square nothing for the people of Ocean Isla. It took the courts 105 days to come to no conclusion about the amount of the



replanting damages. 116 days to decide that in the breach of trust issue they didn't have a case at all. There would be no £20 million compensation, just more and more incomprehensible legal words.

Perhaps out of those words may come an urge of conscience, that a British Government may even yet give the islanders the justice they've denied them for nearly 80 years.

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