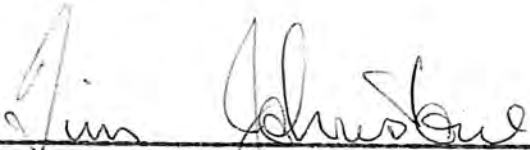
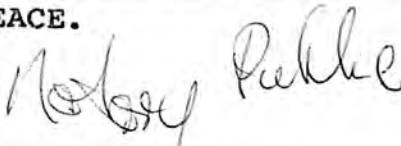


H.E.M.1

THIS IS THE BUNDLE MARKED "H.E.M.1" WHICH IS REFERRED TO
IN THE AFFIDAVIT OF HENRY EVANS MAUDE SWORN BEFORE
ME THIS 22nd DAY OF JANUARY, 1975.



JUSTICE OF THE PEACE.



COPY.

Hem 1

in despatch R.C. - H.C.
no. 175 of 27th May.

GILBERT AND ELLICE ISLANDS COLONY.

Lands Commission Office,

Ocean Island, 7th March, 1932.

Sir,

I have the honour to forward a Report on the Native Lands Commission, appointed under the provisions of the Gilbert and Ellice Native Lands Ordinance, No.8 of 1922 to enquire into the ownership of all native owned lands on Banaba (Ocean Island) and to codify the native customs of land conveyance and inheritance.

2. I arrived at Ocean Island from Beru on the 24th September, 1931 and, in accordance with Your Honour's instructions, proceeded to arrange for the holding of the Commission. In pursuance of Section 4 of the Ordinance I appointed sixteen Banabans to be native members of the Commission, four being chosen from each of the village districts on the Island. In addition to these members, the Native Magistrate and Chief Kauburo sat as assessors throughout the meetings of the Commission, as laid down by Section 5 of the Ordinance.

3. The Commission sat at each of the four villages on the Island, commencing at Tabwewa on the 5th October, 1931, and finishing at Uma on the 7th March, 1932. In all, 97 claims were heard by the Commission, 33 at Tabwewa, 6 at Tabiang, 42 at Buakonikai and 16 at Uma. The vast majority of these claims were either

groundless

Honour

The Resident Commissioner,

Gilbert and Ellice Islands Colony,
Ocean Island.

groundless and were unanimously rejected by the Commission, in accordance with Section 7 (1) of the Ordinance, as not being well founded, or were amicably settled by the parties in the presence of the Commission. Altogether 28 claims were rejected by the Commission, either because they were frivolous or because they were clearly based on happenings before the establishment of the Protectorate in November, 1900. 15 claims were withdrawn with the consent of the Commission and 54 claims were settled by agreement between the parties. All claims recorded for hearing before the final Commission were settled by agreement during the course of the hearing.

4. 2,479 pieces of land were registered by the Commission, divided as follows among the inhabitants of the four village districts:-

1. Tabwewa = 695
2. Tabiang = 291
3. Buakonikai = 843
4. Uma = 650

Besides hearing claims, the native members of the Commission were instrumental in discovering many pieces of land which had been lost by their owners, as well as in settling the boundaries of lands and in erecting permanent marks where the boundaries had been hitherto in doubt.

5. The various points of native custom with regard to land which arose during the course of the inquiry were settled by the Commission at the time, and at the final sittings the land customs were codified and are annexed to this letter. In Enclosure I is given the customary conveyances that I recommend should be in future recognized by the Administration. They have

been

When read to the Lands Commission and have been agreed to unanimously, the members asking me to inform Your Honour that the Banabans request that the Rules as laid down in Enclosure I may be enforced on the Island from henceforward and that, wherever applicable, they may be applied also in cases where their land has been leased and is now represented by a capital sum or by an annual payment of interest. Enclosure II includes conveyances customary before the coming of the Government but no longer recognized except as establishing ownership prior to the declaration of the British Protectorate.

6. I recommend that the Native Government be instructed to keep records of all adoptions as "Nati" and "Tibu" in special books to be instituted for the purpose, and that no adoption be considered as legal unless the adopter, the real parents of the adopted and the "Utu" of the adopter have signed their respective agreement to the adoption in the relevant book. A suggested specimen form of agreement to an adoption as "Nati" forms Enclosure III to this letter, and a similar form could be used for adoptions as "Tibu".

7. I have the honour to suggest that the Banaban customs of Inheritance and Conveyance of land be incorporated in an Ordinance in order to fix finally the procedure to be adopted in future. In Enclosure IV is given a suggested draft Ordinance which, while it is not couched in exact legal phraseology, embodies the recommendations contained in this Report.

8. In accordance with the provisions of Section 3 of the Native Lands Ordinance, 1922, I have the honour to request respectfully that the

appointment

appointment of the Native Lands Commission on Ocean Island may be officially gazetted retrospectively as from the 5th October, 1931, the date on which the Commission commenced its sittings. As instructed by Your Honour, I have acted from the above date as the Native Lands Commissioner appointed under the above-mentioned Section, of the Ordinance and as such have signed all documents, legal and otherwise. The Commission held its final sitting on the 7th March, 1932.

I have etc.,

(Sgd.) H.E. MAUDE,

Native Lands Commissioner,
Ocean Island.

(or her) and no conveyance under this title can be made to a member of "Te Utu ae kan". The conveyance is in fee simple.

Note:- For purposes of Land Conveyance the term "Te Utu ae kan" is defined as including the near kindred of an individual up to and including

his

Benaban Land Conveyances, recognized by the Lands
Commission.

1. Te Aba n Nati. Land given by an adopter to a child adopted as "Nati" (son or daughter). The child adopted as a "Nati" leaves his or her real parents and has no further claim on their lands, his land being entirely given him by his adoptive parent under the above title. Should the adopted child die without issue the land reverts to the family of the giver.
2. Te Aba n Tibu. Land given by an adopter to a child adopted as "Tibu" (grand-child), with remainder to the heirs of his or her body. Should the adopted child die without issue the land reverts to the family of the giver.

Note:- All adoptions as "Nati" or "Tibu" must be registered in the Native Court and declarations of agreement with the adoption must be signed by the real parents, the adoptive parents and the "Utu ae kan" (near kindred) of the adoptive parent.

3. Te Aba n Tara. Land given in return for nursing during sickness or old age. No conveyance is allowed under this title unless the Native Court is satisfied that "Te Utu ae kan" (the near kindred) of the conveyor refused to look after him (or her) and no conveyance under this title can be made to a member of "Te Utu ae kan". The conveyance is in fee simple.

Note:- For purposes of Land Conveyance the term "Te Utu ae kan" is defined as including the near kindred of an individual up to and including

his "Tibu toru" but excluding his "Tibu mamaio".

4. Te Aba ni Karoupo. Land devised by the owner to an individual as a token of great affection. No conveyance is allowed without the consent of the "Utu ae kan" of the conveyor and in no case should exceed a small portion of his (or her) lands. The conveyance is in fee simple.
5. Te Iria. Land given by the real parents to a child about to be adopted as "Nati". No conveyance is allowed under this title without the consent of the "Utu ae kan" of the conveyor and in no case should exceed a small portion of his (or her) lands. Should the adopted child die without issue the land passes to the family of the adopter.
6. Te Aba ni Kamanna. Land given to a foster mother or wet-nurse in return for suckling an infant. The conveyance is in fee simple.

The largest land that the murderer possessed would be taken as "Kie-na" and the next largest as "Kabuna-na". Should the murderer also possess a smaller piece of land it would be taken as:-

(3) "Doo-na" or the murdered man's coffin.

Te Aba ni Kanaiu. On a famine occurring, those who were destitute would go and live with those

Banaban Land Conveyances not recognized by the
Lands Commission.

1. Te Aba ni Butirake. Land given by an old man, or occasionally an old woman, to a girl who bound wreaths on him (or her). The man or woman was then bound by this custom to give her some land. This custom was usually used only when it was generally considered that certain lands had got into the wrong hands.
2. Te Aba n Rau. Land claimed by a husband from a man who committed adultery with his wife. The adulterer would usually flee, as if caught he would have been killed. In his absence his land was taken and his house broken up by the wronged individual, whereupon he was at liberty to reappear, as it was considered that his offence had been expiated by the conveyance of land under the above title.
3. Te Nenebo. On an individual being killed by another two lands would normally pass from the murderer to the family of the murdered man. These lands were called as follows:-
 - (1) "Kie-na" or the mat for the murdered man to lie on.
 - (2) "Rabuna-na" or the murdered man's shroud. The largest land that the murderer possessed would be taken as "Kie-na" and the next largest as "Rabuna-na". Should the murderer also possess a canoe it would be taken as:-
 - (3) "Bao-na" or the murdered man's coffin.

Te Aba ni Kamaiu. On a famine occurring, those who were destitute would go and live with those who

who had food or were skillful fishermen. These people would look after them throughout the famine and when it was over were entitled to take all their lands under the above title. The destitute might continue to use the products of their old land sufficient to maintain life or alternatively might be supported by their relatives but in any case the land passed irrevocably on their death.

5. Te Aba n Iein. Should a betrothed boy break off his engagement to a girl after having commenced sexual relations with her four or five lands would pass from his family to her's under the above title. One or two lands would often pass on a boy terminating his engagement even though no sexual intercourse had taken place. Should the girl break off the engagement no land would pass. On Banaba it was customary for betrothals to take place at a very early age, often as soon as the child was born.
6. Te Aba n Ira. Land conveyed by a thief to the owner of the property stolen. The amount of land which passed under this title would depend on the nature and quantity of the stolen articles.
7. Nenebo-n te Man. Should an individual kill any tame frigate or other bird belonging to another, one piece of land would be conveyed under the above title by the killer to the owner of the bird.
8. Te Aba n Riring. Should an individual dislocate his or her arm or leg one land would be conveyed under the above title to the bone-setter.

Natinaki-n (ara-n te tei) mairou-ia (ara-ia te tama
ma te tina) i rou-n (ara-n te tia natinati).

Ti kariaia nati-ra ae (ara-n te tei) ba e na natinna
(ara-n te tia natinati) ao e na atongaki te tei aei
man te bong aei ba nati-n (ara-n te tia natinati).

..... Ara-n tama-na
..... Ara-n tina-na

I kariaia natinaki-n (ara-n te tei) mairou-ia ana
karo aika (ara-ia tama-na ma tina-na) ao man te bong
aei e na riki (ara-n te tei) ba nati-u.

..... Ara-n te Tia Natinati

Ngaira ana Utu (ara-n te tia natinati) ti kariaia
ba e na natinna (ara-n te tei) ao man te bong aei ena
roke tiba-na ae riai man aba-n (ara-n te tia nati-
nati).

..... Ara-ia ana Utu
te Tia Natinati.

Tani kakoana:-

..... Ara-n te Tia-Motaki-Taeka.
..... Ara-n te Mataniwi-ia Kaubure.

..... Tai-na.

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e
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Translation.

1.

Adoption of the child of by

We agree that our child shall be adopted by and that from this day he shall be called and known as the child of

We Father of Child.
..... Mother of Child.

I agree to adopt from his (or her) parents and from this day shall be called and known as my child.

I Adopter.

We, the near kindred of agree that he (or she) shall adopt and that shall from this day be entitled to his (or her) share of the land of

We The Near Kindred
of the Adopter.

Witnesses:-

..... Native Magistrate.
..... Chief of Kaubure.

..... Date.

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AN ORDINANCE.

To regulate the Inheritance and Conveyance of Native Lands on Banaba (Ocean Island).

Be it enacted by the High Commissioner as follows:-

Short Title.

1. This Ordinance may be cited for all purposes as the Banaban Native Lands (Inheritance and Conveyance) Ordinance, 1932.

Interpretation.

2. In this Ordinance:-

"The Near Kindred (Utu ae Kan)" means the direct ascendants or the issue of the direct ascendants of an individual up to and including his (or her) great grand-parents.

"Mwi ni Mane land" means land descended through the father.

"Mwi n Aine land" means land descended through the mother.

Method of Inheritance.

3. Save as hereinafter mentioned no man or woman shall possess the right to devise his or her land to any person save his or her issue or, failing issue, to his or her next of kin.

Failing issue, the next of kin of an individual shall be deemed to be, in order of proximity of relationship:-

(1) In the case of "Mwi ni Mane land"-
(A)

1. remaining issue of father,
failing which
2. brothers and sisters of father,
failing which
3. issue of brothers and sisters
of father, failing which
4. brothers and sisters of
father's father (if land
originally descended from
father's father) or
brothers and sisters of
father's mother (if land
originally descended from
father's mother), failing which
5. issue of 4 above,
failing which the land shall pass to
the descendants of the collateral
branches of each preceding generation,
until an heir be found.

(2) In the case of "Mwi n Aine land"-
(B)

1. remaining issue of mother,
failing which
2. brothers and sisters of mother,
failing which
3. issue of brothers and sisters
of mother, failing which
4. brothers and sisters of
mother's father (if land
originally descended from
mother's father) or
Brothers and sisters of
mother's mother (if land
originally descended from
mother's mother), failing which

5. issue of 4 above.

failing which the land shall pass to the descendants of the collateral branches of each preceding generation, until an heir be found.

In the event of no heir being found the land shall revert to the Crown, to be held for the common benefit of the Islanders.

Save as hereinafter mentioned a man or woman shall devise his or her land in equal shares to his or her issue or, failing issue, to his or her next of kin, provided that, with the consent of all the issue, a man or woman may devise a large portion of land to his or her male issue.

4. It shall be lawful for an adoptive parent to devise ^{land} to his legally adopted child or grandchild, equal in amount to the land given to each of his natural issue (if any). Should the adopted child die without issue, the land thus devised shall revert to the family of the giver.

5. It shall be lawful for the true parents of a child about to be adopted as a "Nati" (son or daughter), to convey to the said child a piece or pieces of land not to exceed two in number, provided that the consent of the near kindred of the conveyor is first obtained. Should the adopted child die without issue, the title to the land

thus

"The Aba n Nati"
and "The Aba n
Tibu".

"The Iria".

thus given shall lapse in favour of the adopter.

Aba ni "Tara".

6. It shall be lawful for an individual to devise land to a person or persons in return for nursing him or her during sickness or old age, provided that no conveyance is made under this title to a member of the near kindred of the alienator and provided that it is established to the satisfaction of the Native Court that the near kindred of the alienator refused to care for him or her during such sickness or old age. Every such conveyance shall be in fee simple.

7. It shall be lawful for an individual to bequeath one piece of land to a person as a token of affection, provided that the consent of the near kindred of the alienator is first obtained. Such conveyance shall be in fee simple.

8. It shall be lawful for an individual to convey one piece of land to a wet-nurse or foster-mother, in return for suckling his or her infant. Such conveyance shall be in fee simple.

9. No conveyance of land shall be valid unless it be duly registered in the Lands Register in the presence of all interested parties and the signatures of an Administrative Officer, the Native Magistrate and the Chief of Kaubure appended thereto. Should the conveyance be made during the lifetime of the

conveyor

Aba ni
"Kaure".

Aba ni Kamamma".

and Conveyances
be registered
Lands Register.

conveyor, the title to the lands conveyed shall not pass until his or her death, provided that the title to land given as "Te Iria" shall pass at the time of the adoption, and the title to land given as "Te Aba ni Kamamma" shall pass on the completion of the services of the wet-nurse or foster-mother.

Registration of Adoptions.

10. No adoption made subsequent to the coming into force of this Ordinance shall be lawful unless the adopter, the true parents of the adopted and the near kindred of the adopter certify their agreement to the adoption in the form prescribed in the Schedule to the Ordinance.

Status of an adopted child or grandchild.

11. An individual adopted as a son, daughter or grandchild, shall be regarded for all purposes of this Ordinance as the real issue of the adopter, and shall not be entitled to any share in land devised by his or her natural parents.

Procedure when Native Lands have been leased.

12. The provisions of this Ordinance shall apply in all cases where Native lands have been leased, and are represented by rent payed by the lessee.

The Schedule.

Adoption of the child of by

We agree that our child shall be adopted
By and that from this day he shall be
called and known as the child of

We Father of Child.

..... Mother of Child.

I agree to adopt from his (or her) parents
..... and from this day shall be
called and known as my child.

I Adopter.

We, the near kindred of agree that he
(or she) shall adopt and that
shall from this day be entitled to his (or her) share
of the land of in accordance with the
provisions of Ordinance No. ... of 1932.

We The Near Kindred
of the Adopter.

Witnesses:-

..... Native Magistrate.

..... Chief of Kaubure.

..... Date.