



THE TREASURY SOLICITOR
Matthew Parker Street London SW1H 9NN

Telegrams Proctorex London SW1

Telephones 01-930 7363/1124 ext 87

Telex 917564

BY AIR MAIL

Professor H E Maude
77 Arthur Circle
Forrest, A.C.T.2603
AUSTRALIA

Please quote
T&M 71/948/NDI
Your reference

Date
14th January 1976

Dear Professor Maude

OCEAN ISLAND PHOSPHATES - ROYALTY ACTION

Thank you for your letter of 6th January, which crossed with ^{my} letter to you of 9th January, from which you will now know that I have made a tentative booking for your wife and yourself (and for Mr Macdonald) at the Royal Commonwealth Society. I will let you know a more definite date as soon as I am able to do so; the present auguries suggest that this is not likely to be later than that suggested in my letter of 9th January.

There is no doubt at all about the importance attached by the Crown's advisers to your evidence - both as regards the circumstances of the purchase of and decision to remain on Rabi (and allied matters) on the one hand and as regards Banaban land ownership on the other. I hope that you will not, in the event, find the experience of giving evidence a disagreeable one. Mr Vinelott will give you all the help which he can and the attitude of Vice-Chancellor Megarry (he has now acquired this historic title as Senior Judge of the Chancery Division) towards witnesses appears considerate (and, as the author of the leading English text book on land law he is likely to find that part of your evidence of especial interest). It is true that you will no doubt be cross-examined by Mr Mowbray and, in this respect (he did not appear in the replanting action) he is an unknown quantity, but he has given the appearance of being a courteous and likeable man and I would find it difficult to imagine him as a tiger in interrogation.

Thank you for having allowed me to retain the Ellis diary for the time being and I look forward to receiving from Richard Sands the Viviani paper which you mention. Thank you also for having drawn my attention to the affidavit and I will look into this matter.

I was most interested to learn more details of your writings and would myself have thought that the Pitcairn legislative history would be a very suitable candidate for publication, as surely having general historical, as well as legal and constitutional, interest.

I am afraid that the various legal concepts to which you refer at the head of page 3 of your letter - "te nenebo" and so forth - are completely strange to me. While the question of a blood payment for murder is far removed from bona vacantia (although, curiously enough, there is a rare category of bona vacantia arising at common law in consequence of what used to be called "felonious killing" - and distinct from the old concept of "forfeiture") it does seem reminiscent of the Anglo-Saxon concept of wergild which, as I recollect, involved a payment for a shedding of blood resulting in death, although I think that this might be monetary rather than in the form of land.

I hope that, during your visit, there will be an opportunity to discuss some at least of these fascinating matters.

Yours sincerely

(N D ING)

N.D. Ing