

77 Arthur Circle, Forrest,  
A.C.T. 2603, Australia,  
9th February, 1976.

Dear Paddy,

I am honestly quite overawed at your letter, for I must admit, with regret, and to my everlasting shame, that I no longer possess the powers of instant recall that you evince with such virtuosity. However, I see that one can safely refer Mr Mowbray to you whenever detail on any subject is required.

2. I think that (a) - (f) of your para.2 just about covers everything that you are likely to be asked. At least I can think of nothing else. They might, I suppose, ask you about legislative and other developments affecting the Banaban community during the period when you were C.S., Fiji.

3. Re your para.5:-

- (1) Best bring them with you.
- (2) I saw nothing in these that concerned you (or me, for that matter).
- (3) I gathered that Lester Gaynor was to see no less than 50 people during his contemplated tour, so I doubt if he's going to arrange another lot of bookings, which would necessitate 50 more cancellations followed by another 50 revised schedules.
- (4) Yes, I noticed my omission as soon as my letter had been posted. I should greatly appreciate the Binder article: preferably the separate reprint, but if not than the journal issue. Many thanks.
- (5) I have stipulated a 3 hour maximum for my evidence and cross-examination, so no need to worry about paying any income tax, unless you go on arguing the toss ad infinitum. I propose to agree with everything that Mr Vinelott and Mr Mowbray put to me; not to do so would be presumptuous, seeing as how they are both Q.Cs.

4. Your note on Relations with the Banabans, para.3: this is probably the sensational 'Who is Mr Macdonald?' occasion (see the daily press headlines, and also my enclosure herewith), when you addressed the Banabans as Senior Political Officer. I bet they were impressed with the title, worth at least three lines in the Civil List.

5. The Health of the Banabans. The only information I know on the health of the Banabans while on Kusaie is contained in an article by Arobati Hicking entitled 'Coconut Milk. Substitute for Dextrose in Normal Saline', which appeared in the Hospital Corps Quarterly (Supplement to the U.S. Naval Medical Bulletin), vol.22, no.3 (August 1949). Arobati was



the N.M.P. in charge of the Banaban and Gilbertese community during the war. I have not got a copy but you may be able to locate one.

6. The only other letter which I have is a personal one from Kennedy dated 3.1.46, which says:-

'Things have gone fairly well but supplies from Suva are haphazard and no one in W.P.H.C. office seems to be taking any interest in us or making any effort to help. .... The Banabans are working very well and there have been, to date, no further symptoms of the laziness they displayed on Tarawa.'

Altogether I reckon that you have shown conclusively that the Banabans were in excellent mental and physical shape in 1947. I can only hope that you, and not me, are asked questions on this matter, but I imagine that we can tip Vinelott off.

7. Negotiations with Maynard. Your para.3. I feel that by now the Judge has more or less come to the conclusion that the Secretary of State was in the position of a Trustee. I doubt if the High Commissioner or the Resident Commissioner were considered to be more than executives; but it is not for us to express any opinions on such legal niceties. I can only say that the statements and reasoning in your paras 19-24 are in accord with mine, though unlike you I have not got the documentation to quote from with such telling effect.

8. The Statement of Intentions.

- (1) I brought it with me. Para.2 of the H.C's telegram No.150 of 26.2.47 speaks of sending a plane to pick me up and para.5 tells me to bring it with me. I demurred in my telegram No.156 of 28.2.47, but was again directed to do this in the H.C's telegram No.171 of 5.3.47.
- (2) I was not present. Para.3 of my letter to the H.C. of 11.7.47, transmitting the final Statement of Intentions, indicates that it was a tete-a-tete between the A.G. and your goodself.
- (3) How do I know. You were there and I was not.
- (4) My recollection is that they were minor drafting changes and not matters of any substance.
- (5) Yes, at Tarawa. See para.5 of the H.C's telegram No.150 of 26.2.47 and para.2 of his telegram No.171 of 5.3.47.
- (6) I think he prepared a draft, incorporating the A.G's amendments, in Suva. This was later amended in the light of changes consequent on our discussion with the Banabans.
- (7) I think that it was faired on Rabi for signature. Else how could Holland and Rotan, ma, have signed it?



- (8) I can only presume so, but have no recollection of this being done.
- (9) Yes: very eloquent it was.
- (10) Goodness knows, but presumably Rotan.
- (11) Sorry, but I have no idea.
- (12) Yes, my distinct recollection is that it was read clause by clause.
- (13) Yes.
- (14) (a) I do not remember the allegation coming up.
- (b) My recollection is that it was brought up in the general discussion, and that I also mentioned that if, on the other hand, they preferred to sell Rabi there were no lack of buyers and it could be sold at a good profit to themselves (this, I think, the origin of the story of selling Rabi 'over their heads').
- (15) Unfortunately I have not. Honor and I have hunted every conceivable place for a day and a half: every room, every shelf, and all the boxes in the garage. Evidently I did have something before we came up from Sydney some 16 years ago because in a cupboard we found a list of files which included: 'Notes on conference with Banabans, 1947' and 'Rambi Island affairs'. But, alas, they have long since gone the way of all things. I took notes in pencil for use in preparing my covering letter but they were far from being a shorthand transcript of everything that took place and were not to be compared with Holland's, which are either at Rabi or were eventually torn up by him.
- (16) No, I think that they only argued about the nature and necessity of a Government reserve. The other points were all generously in favour of the Banabans.
- (17) and (30) I think that you have got the gist of the arguments. But was it not here that argument took place on the lines reported in para.6 (2) and (3) and para.9 of my letter of 11.7.47 forwarding the Statement of Intentions?
- (18) I have an idea that the necessity for obtaining the approval of the Governor was queried by some.
- (19) What other point could have been argued here?
- (20) Me too.
- (21) and (22) That is so, but (11) did not satisfy those who still argued along the lines reported in paras 6 (1) and 8 of my letter under reference.
- (23) I fancy that some Banabans argued that the amount of their Annuities was for them to decide and had nothing to do with the Governor or Government.



- (24) There was nothing else. It was not a very controversial issue.
- (25) It was not so much argumentation as a series of questions on the points mentioned by you. They required some reassurance that there was no barrier to their going to Ocean Island at will and gaining access to their non-leased and non-purchased lands there.
- (26) This was strictly 'on you', and I only lay back and looked at the ceiling until you had finished a long oration.
- (27) I believe that, although not very clearly expressed, Rotan and some others wanted their Adviser chosen, appointed and paid for by themselves.
- (28) and (29) I have no specific recollection of this matter being mentioned, but I feel sure that it was, in fact, raised more than once in passing. We would, however, have obviously nipped it in the bud, as my instructions were to deal with the Rabi-Ocean Island question and to keep off the question of Maynard's negotiations, concerning which I knew nothing and was, as a consequence, quite unable to comment. The Banabans were told that it was for them to make any representations which they liked to the High Commissioner, through the Banaban Adviser.

9. Rotan's Assertion that Rabi would be sold. This is a masterly presentation of the facts and will do very well, though I could not myself hope to match the clarity of your reasoning. As I understood them from H.E.'s telegrams my instructions were to draw up a draft Agreement on the lines of the appropriate paras of my Memorandum of 2.9.46, which said nothing about selling Rabi over anybody's head: in fact it read unequivocally to the contrary. But I do not anticipate that the matter will be raised in cross-examination as it was clearly a case of old Rotan losing his head.

10. The Banaban Funds Ordinance. Fine: this is something for you. But, re your para.4, did you in fact discuss this with me and, if so, when? Possibly when I was in Suva on my way back to Tarawa after leave in the U.K.?

11. Two points seem to constantly recur to me:-

- (a) To what extent are we permitted to use notes and documents to refresh our memories? Or is it a memorization test pure and simple? No one knows anything about British Rules of Court here but perhaps your legal friends in Fiji may be able to help?
- (b) Please bring the latest Native Lands Ordinances, i.e. those amending No.3 of 1940, together with any Rules and Island Lands Codes published in the Gazette under the provisions of any Lands Ordinance. I do not know



if the various Island Codes (including the Banaban)  
have been gazetted as yet?

Hoping this is what you want and that Rotan was not to  
difficult. You took us rather by surprise and after talking  
it over for some four hours we wanted to phone you with some  
further suggestions but had no phone number.

I must stop now as Ing and Street keep me busy 7 days  
a week on queries which I cannot possibly answer in the absence  
of documentation (which they do not send). Its sure got me  
down.

Honor sends her love, and I my respects,

Yours,

*John*



Enclosure

Speech 16. A2. Page 7.

Mr. Mowbray: ... I can now go to page 174 which is a memorandum from Mr. P.D. Macdonald on the question of the fund.

The Vice-Chancellor: Who is Mr. Macdonald?

Mr. Mowbray: It was thought to be someone with some knowledge of the Banabans.

The Vice-Chancellor: He seems to be some officer on the High Commission staff.

Mr. Vinelott: I think he was senior political officer. There is a reference to him earlier at page 84, half-way down the first paragraph where it appears that in September 1934 he was Acting Administrative Officer, Ocean Island. Later he goes back to Suva on the High Commission staff.

The Vice-Chancellor: Is this the memorandum he refers to there?

Mr. Mowbray: No.

The Vice-Chancellor: So Mr. Macdonald would then be on the Gilbert & Ellice Island Colony staff?

Mr. Mowbray: Yes. He is writing a memorandum as someone who has had some experience of the Banabans. I can start at paragraph 2 on page 134. (Reads paragraph 2 down to the end of sub-paragraph (b)). That is something your Lordship has not yet seen. (Reads on to the end of paragraph 4.) Then he sets out the various funds. I need not read that.

The Vice-Chancellor: No, but it does give a clear statement of four separate funds.

Mr. Mowbray: Yes, certainly. Then he goes into the history and I can turn to page 139, paragraph 3 under this heading: "The old Banaban Royalty Trust Fund". I do not know that one can put too much weight on it, but there is a reference to the old fund as having been a trust fund. The memorandum reads: "This has been built up between 1930 and 1931 by the payments paid into it of royalty money at the rate of 6d. per ton. Three points may be noticed in connection with this fund" - I do not think I need read more here, and I can go to paragraph 5 on this page "by the continued payment" etc. (reading to the end of paragraph 8).

He then goes into the figures and I can turn on to page 142, paragraph 11: "With regard to (b)" - that was the sliding scale in the middle of page 140 - "the scheme hardly appears" etc. (Reading to the end of the memorandum



The Vice-Chancellor: Which was B.2 referred to in paragraph 13? If this is his recommendation, one wants to know what it is. It may be that it is his suggestion of an appointment of an officer which he says is almost essential if final settlement is to be obtained. He offers various solutions, but says "Whatever you are going to get, you do need an officer appointed." That makes sense.

Mr. Mowbray: Yes. He is saying that someone has got to be appointed to play them at their own game and obtain their confidence.

The Vice-Chancellor: And to hammer away at the Banabans to ~~XXXXXX~~ finality. Anyway, that is a good clear statement of the separate funds and giving proper recognition to the rights of the landowners who tend to be somewhat administratively submerged in some of the other discussions.

Mr Mowbray: Yes. Would your Lordship now turn to bundle 32 and look first at page 5. That is a despatch from Mr. Barley .....

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