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BANABA - WRONG UNRIGHTED.

One of the nastier skeletons in Britain's colonial cupboards has come to light in the high court in London. Two actions were brought by the people of Banaba (Ocean Island), which since 1916 has been administered as part of the Gilbert Islands, and whose 1,500 acres have been devastated by the mining of its phosphate deposits, now within a few years of exhaustion. The Banabans have been living since 1945 on another Pacific Island 1,000 miles to the south in the Fiji group. In one of their two suits they asked for £21 million as extra royalties, claiming that their phosphate had long been sold at unduly low prices by the joint commission set up by the British, Australian and New Zealand Governments.

Mr. Justice Megarry ruled on Tuesday that the obligations of the crown in this matter were governmental ones, not fiduciary obligations enforceable in the courts. But he found that there had been "grave breaches of those obligations". He dwelt on two in particular. In the 1931 deal the phosphate royalty was, under an ordinance of 1928, left to be fixed by the British resident Commissioner, Mr. (Later Sir Arthur) Grimble, who in 1928 had threatened the islanders with punishment and destitution if they would not accept a royalty of 10½ old pence (4½p) per ton. In the 1947 negotiations the government failed to urge the Banabans to obtain expert advice and, in effect, prevented the official appointed to help them from doing so.

In such a case, Sir Robert Megarry added (in an unusual and perhaps unique passage in his judgment), "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". It was virtually an invitation to the British government to make a substantial ex gratia payment to the Banabans to recompense them for some of the money they were bullied out of in the past.