

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

GROUP B

1973 R. No. 2013

BETWEEN: (1) ROTAN TITO
(2) NEI RAETERENGA
(3) NEI BOTI
(4) NEI NAURU
(5) NEI TONG
(6) EWEKIA
(7) NEI BAITERE
(8) ERIA RIBAE
(9) IOTEBA
(10) NEI KATIRIA
(11) TETEBANO and
(12) NGAIWAKA

Plaintiffs

AND: (1) SIR ALEXANDER WADDELL
K.C.M.G.
(2) STANLEY CHARLES
GAINNEY
(3) SIR ALLEN BROWN C.B.E.
(4) HER MAJESTY'S
ATTORNEY GENERAL

Defendants

A F F I D A V I T

Deponent: H.E. Maude

Sworn: The *22nd* day of January, 1975.

MACPHILLAMY CUMMINS & GIBSON
Solicitors,
11th Floor, National Mutual Centre,
Darwin Place,
CANBERRA CITY. A.C.T. 2601

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Defendants

I, HENRY EVANS MAUDE of 77 Arthur Circle, Canberra, Australia MAKE OATH AND SAY as follows:-

1. _____ I was Acting Native Lands Commissioner on Ocean Island from October 1931 until March 1932. During that time I presided over the Lands Commission which was appointed under the Gilbert and Ellice Islands Colony Native Lands Ordinance No. 8 of 1922. The Lands Commission was appointed to enquire into the ownership of lands on Ocean Island and to codify Banaban customs of land conveyance and inheritance.
2. _____ The Lands Commission registered 2479 pieces of land on Ocean Island. During this time I became very familiar with Banaban customs of land conveyance and inheritance.
3. _____ The Documents now produced and shown to me tied together in a bundle marked "H.E.M.1" appear to be a copy of the report I submitted to the Resident Commissioner on 7th March 1932 and copies of the four documents which were enclosed with my said report. The first of the documents sets out the Banaban Land Conveyances which were recognised by the Lands Commission.

Jim Johnston
Justice of the Peace

Henry Pulelie

H E Maude
Deponent.

4. _____ The fourth document enclosed with my report dated 7th March 1932 is a draft ordinance to regulate the inheritance and conveyance of land on Ocean Island. As far as I am aware this ordinance was never enacted. Its provisions are however based on then existing Banaban customary law. My draft was approved by the other members of the Land Commission, who represented the 4 villages on Ocean Island.

5. _____ I believe that my report constitutes the best written evidence which exists of Banaban customary land law.

6. _____ I visited Ocean Island after the 1939-45 War as Acting Resident Commissioner. I was one of the first civilian Government officers to land on the island. I made a search for the records which had not been removed before the Japanese invasion in 1942. I satisfied myself that the records of land ownership and of native births, marriages and deaths on Ocean Island could not be found.

SWORN at Canberra in the said)
Territory this 22nd day)
of January, 1975, before me:)
)

H. E. Maude

Jim Johnson

Justice of the Peace
Notary Public
A.C.T. Australia