Dear Mr. Aylton,

I attach hereto for His Excellency's information a short memorandum on points raised in Mr. Smith's letter confidential of the 24th October last and also his No. 229 of the same date, concerning land difficulties in the Gilbert Islands.

The point worthy of most particular attention is that when Mr. Smith ordered the return of the conquered lands after the New Burel, the order was not thoroughly carried out. Therefore, the status quo until belief was never restored. Therefore the Government is not obliged for consistency's sake to attempt to restore the conquered lands on other islands of the group.

Of course, the question of the three islands, Abemama, Kunia and Funafuti is a separate issue. In all
The other islands whose lands were won and lost in war, the play of battle had surely ceased before the coming of the Flag. Conquests were recent things. But Abemama, Kunia and Nanuca had long been fused under one dominion. The Niau, Tim Buikos held them in inheritance from his father Tim Buikos, who owed their acquisition to the character and generalship of his brother Tim Buikos. Quite 35 years must have elapsed between the conquest of Kunia and Nanuca and the coming of the Flag.

The question of the return or otherwise of those islands to the descendants of their original owners does not, however, depend on history, but on expediency. The view expressed by Mr. Bliss is that the Abemamaans are richer already than is good for them and would benefit by being obliged to work their plantation Abemama lands instead of allowing these to lie idle while they depend upon the tribute of the vassal islands for sustenance.
This certainly very true so regards the individual one Abemama, namely the Vaa, Tom Bauro (Paul), nephew and successor of Ira Biakua. Tom Bauro holds 500 pieces of land on Abemama, 244 on Kamira and 244 on Manuia.

But he is alone in this story, although there are others of his family who have moderately large holdings on all three islands.

I am not able to commit to writing many points, of which I am more or less sure, regarding the position of affairs because the matter is a very delicate one and impinges on the rights recently acquired in Kamira by Mr. Murdoch. I hope that, whatever decision is arrived at, that respected gentleman will be guaranteed in the continuance of such rights for life, as I would be unwilling to cause harm either directly or indirectly the smallest discord.

This matter lends itself rather to "viva voce" than to the written word.

With reference to the point weighed.
upon by Mr. Macdonald in his memorandum attached to Mr. Elliot's No. 224 of the 24th October last, that there is no universal land usage applicable to the entire Gilbert Group, and that customs vary according to island and sometimes to family. I should like to say, while admitting this to be true in minor points, that the fundamental spirit is the same from North to South.

Very naturally, it will be impossible to draw up in advance a minute procedure to be adopted in every Island by the Commission. But it will be as easy to adapt the Commission by common sense rules to all types of case as it is for the same Court in England to hear cases so different as primogeniture and gavelkind. The old men of every Island will give expert witness concerning local usage. Once again, may I say, the European official is an organiser and supervisor, not a judge; the native knows the law; the Commission will extract it from him, and apply it.

Very truly yours,

[Signature]