

DESPATCH

EAST AFR. PROT.

N<sup>o</sup>. 36076

36076

5 OCT 08

No.  
1008

(Subject.)

1908

Langham &amp; Fagan West African

10 Sept

Previous Paper

20  
22/60Send letter for Capt. Fagan and threatening  
forfeiture of concession with warning by Nov. 7  
heads & tail p.

(Minutes.)

20th Oct

This despatch makes it clear that Capt. Fagan has not been materially hindered in his operations in the actual area of concession by native troubles. There is no reference here to any proclamation such as Capt. Fagan speaks of in 1908; but I assume that he wrote under misapprehension.

Inform Capt. Fagan ref. to 10/30015 that the info obtained from the for docs not support his contention that he was materially hindered in his operations by native troubles; & say the S. of S. does not propose to interfere with the action of the Govt. in the matter.

copy to Govt. info. Reprogrd.  
SAC 13/1

and on the few cases of previous  
years on the question, but it would  
refer to my minute on 19350/108  
for a short history of the question.

The effect of the action proposed  
will be that the proceedings for  
forfeiture will go forward if  
Capt. Grossan does not fulfill  
his obligations under the agreement  
before the end of the current year  
(which he is not in the least  
likely to do) & if the goods  
with or without obligation will  
remain possession of the factors.

This is not I think to be regret-  
ted and seems due to me  
that even with a railway the  
Idaho timber could not  
profitably be exported, & it will  
be long before the local market  
is large enough to make its  
exploitation on a large scale  
profitable.

19351 14/10

What is the present position?  
A. J. R.

14/10

Yes. But let him know what the  
information is which does not support  
his contention. We want to convince

it will only

if we can get it

to do so

as we

desire him.

Dec: 3<sup>rd</sup> 1908

Dear Authors,

Captain Foggo

wants to see  
you at  
3 - W. Beacon Hill -

to see him -

The subject is of course  
the foggy condition in  
the ship he wants to  
try & will if he can  
arrange it having  
got a free place  
of storage in  
his

the following are  
desire to have you  
in ready a letter for  
you to take me down  
yours. I hope you  
will come along with us  
and we will have  
a good time. I am  
expecting to have  
it before you get  
here.

Yours

Captain Gregson called here  
on the 5<sup>th</sup> inst. and saw Sir  
J. Hopwood - see Sir J.'s note  
of the interview. He also  
saw me. I reminded him  
of what we had said in  
our letter of the 4<sup>th</sup> ult.  
and 27<sup>th</sup> Oct., ~~Admiralty~~ and  
suggested that his best course  
would be to answer them  
in writing. I impressed  
upon him that our object  
was not to insist upon the  
forfeiture of his present con-  
cession but to get a suit-  
able arrangement substituted  
for it; and I assured him  
that we should be prepared  
consider in consultation with the  
local authorities any reason-  
able proposals which he  
might put forward, but that  
we could not agree to postpone  
indefinitely the proceedings for  
the cancellation of the concession.

MS. Add. 11  
at once

3676  
Governor's Office,

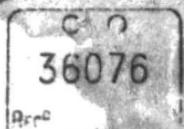
Nairobi,

September 10th 1908.

EAST AFRICA PROTECTORATE

No. 458

(Incl. 1)



My Lord,

I have the honour to acknowledge Your Lordship's despatches of the 15th June (No. 278) and 20th July (No. 347) respectively regarding Captain Grogan's forest lease.

*Mrs. Grogan  
Jul. 18th  
Mr. Lands  
Jul. 22nd  
of Lands  
Aug. 25th  
Lt. Governor  
Sept. 3rd*

2. Captain Grogan sent me a letter on the same subject, a copy of which is enclosed. The arguments used by him in his letters to Your Lordship and to me are mainly dealt with in two notes written by the Commissioner of Lands which I forward for information. As to the allegation that native troubles hindered the development of the forests,

I would observe that the district was quite free from all such troubles in the middle of 1905, and the Eldama Ravine Station diary shows that Captain Grogan's surveyors were at work in the forests for a great part of 1905.

3. I attach a Minute by the Lieutenant-Governor. Whatever may have been the case with regard to the new area, Captain Grogan wished to survey to the East of the Nandi country, the only time it could be held not to be safe to work in forests near the Ravine was from October 1905 to May or June 1906; and the whole of the Nandi country has been perfectly quiet for the last year.

I have the honour to be,  
With the highest respect,

My Lord,

Your Lordship's most obedient,  
humble servant,

H.M. PRINCIPAL SECRETARY OF STATE

FOR THE COLONIES,

DOWING STREET,

LONDON, S.W.

106-18

X 1 1908

*Henry S. Lee  
J. Hayes Taylor*

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INCLOSURE

In Despatch No. 258 of April 10th 1908.

COPY,

28862

Camp Hill, Nr. Newcastle,  
Staffs, July 15th 1908.

C O  
36076

Your Excellency,

With reference to certain notices threatening legal proceedings for the forfeiture of forest agreements made between H.M. Government and myself and Mr. Lingham, I have the honour to inform you that I have been in communication with the Colonial Office direct. You have, no doubt, received copies of the correspondence.

In those notices you refer to Forest Concessions as having been granted to us.

I would venture to remind Your Excellency that no specific land areas have yet been granted to us and until specific land areas are defined the fulfilment of conditions is impossible.

I would further remind Your Excellency that the district in question has been a closed district for some years and that such clearing has involved us in considerable pecuniary loss for which we have refrained from making any claim.

I hope to reach Nairobi about Christmas and in the meanwhile I am endeavouring to come to an agreement with the Colonial Office as to what constitutes workable forest. Without such a definition completion of Government agreement with ourselves is impossible.

I trust that you will see your way to withdraw or modify these notices, since, as they stand, I am

H.M. the Lieut.Governor,

Nairobi.

R.

- left with no alternative but to proceed against  
H.M. Government for specific performance and damages  
for delay.

I have Sc.

Sd/- Ewart S. Grogan.

Enc. Mr in M.

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INCLOSURE N.2

In Despatch No. 12 of Sept 10 1908

Minute.

The Nandi troubles occurred before I came to the country.

It is true that Mr. Grogan in sending his rent on the 5th October 1906 to the Land Office said that he paid under protest since owing to the Nandi trouble he had been denied access to the forest.

But it is also true that a month or two after that he accompanied Mr. Hutchins over the forest, and there was no question at that time of danger to parties going in that direction.

It should be remembered that the area we admit as conceded to Messrs. Lingam and Grogan is situated near Eldama Devine Station; Mr. Grogan's contention is that, as there is not 120,000 acres of suitable forest inside that area, he and Mr. Lingam are entitled to go far afield in search of such forest, and this necessitates their going into the wild country.

He must be careful to show when it was safe to go into the forest admitted by us as part of the concession.

I imagine it was so safe certainly towards the end of 1906. Since then Mr. Grogan has disputed the terms of the agreement and has done nothing.

At any rate when we sent the notice in February 1907 we intimated that we were prepared to do our part of the bargain this year, and he must fulfil his part this year also.

For the rest I wish to note on two points made in Mr. Grogan's last letter.

He refers to promises made to him by Sir Donald Stewart.

He

He should be called on to produce those promises in writing.

Secondly he contends that he should not have been asked for survey fees when he had already had an expensive survey made with the approval of the authorities.

Mr Berton Wright tells me that Mr Orogan particularly wished his own Surveyor to do the work because he was also a timber expert.

When the result of the survey was examined it was found that it did not show more than half the land mentioned in the agreement, and it did show a great deal more outside it. Obviously then a fresh survey was necessary.

J. A. Montgomery,  
Commissioner of Lands.

22-7-08.

In Despatch No. 1051st Sept. 10, 1885.

Minutes

Since I wrote my minute of 22nd July two fresh sets of papers have come:

- (1) a letter from Mr. Grogan dated 15th July to His Excellency the Governor,
- (2) C.O. Despatch 347 dated 29th July.

I propose to deal with Mr. Grogan's arguments in each.

(1) "I would venture to remind Your Excellency that no specific land areas have yet been granted to us, and until specific land areas are defined the fulfilment of conditions is impossible."

This is contrary to the facts. Each agreement to lease conveys to the lessee "all that and those pieces and parcels of land situated and being near the Elidam Ravine, comprising together sixty-four thousand acres or thereabouts, which said pieces are more particularly delineated and described on the sketch plan annexed and in the schedule further described." The Schedule carefully defines the boundaries which are well known to Messrs. Grogan and Lingham. I have instructed the Director of Surveys to put up beacons on the area mentioned in Mr. Grogan's agreement, as that has first to be marked off.

It is left afterwards to the Chief Conservator of Forests to alter these boundaries so as to enclose if possible an area of sixty-four thousand acres of workable forest. But this is entirely discretionary; the words are "the boundaries may be so modified".

"R. Grogan's

Mr. Grogan's next point is that the district question has been a closed district for some years past being so the forest could not be worked.

This is a matter for the Administrative Officers to comment on. I would only repeat that towards the end of 1906 Mr. Grogan went over the forests with Mr. Hutchins, that I believe there was nothing to prevent his obtaining permits to work in the forest at any time after that, and that Roovers (the Van Bradas) have actually been living for sometime on their land beyond the Grogan and Ling Nam forests.

Then comes his excuse that the term "workable forests" has not yet been defined.

This is also contrary to the facts. It will appear from copies of letters which are enclosed, from which it will be seen that a definition of the term was sent to Mr. Grogan on the 2nd November, 1906; that he then made no objection to the definition, but afterwards, sitting on behalf of Mr. Bingham, he proposed another definition which seemed to me not as clear as the one I sent him.

(2) The letter of the 16th June to the Colonial Office covers a good deal of the same ground. He here also says that no forest has been felled.

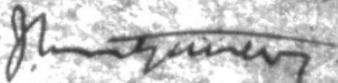
He adds that the sum of surveying 64,000 acres of workable forest lay with the Government which is not quite correct. The sum of surveying the area mentioned in the schedule lay with the Government.

(3.)

Government, and that can be done at any time. It does not prevent the lessees beginning work within the well defined limits stated in the agreement.

I have already commented on the Survey done by Mr.Grogan's Surveyor.

This letter has been replied to by the Secretary of State, and Mr.Grogan has been told that forfeiture will not be enforced if he bona fide intends to work the forest, and will agree to the conditions which were sent him long ago.



Commissioner of Lands.  
20-5-08.

~~Enclosed 113.4 in M2~~

~~INCLOSURE NO. 7~~

~~Mr. Despatch No. 100 of Sept. 1, 1906.~~

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M I N U T E .

Mr. Posker, who was District Commissioner at the Ravine throughout 1905 and the early part of 1906, tells me that the survey of the two forest areas in question was completed some months before the Mandi troubles began, and that the surveyors returned to the Ravine about July 1905.

It was not until about October 1905 that it became unsafe to move about in the forests without an escort, and it remained so until about May or June 1906. From that time onwards it was safe.

The "new area in Mandi" referred to is the forest area on the East side of the Mandi Country. Mr. Brown was anxious to survey this area with a view to applying for it in the event of there not being 54,000 acres of workable forest in each of the Lingham and Oregon concessions.

~~P. F. JACKSON.~~

Lieutenant-Governor.

Sept. 9<sup>th</sup> 1906.



GOV. 36076 E.A. P.

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16

J.M. 27 Oct.

Capt. E.S. Grogan

Sir,

H.R.C. 19/10

Mr Ellis

Mr Antrebus

First Repwood 21/10  
Lt. Secy N. 21/10  
Lord Crows 25/10

Copy to Gov. L.F.

With ref. to the letter from this Dept. of the 4th Sept., I am to inform you that the info. obtained from the Govt. of the E.A.P., I am &c. to inform you that the info. obtained from the Govt. does not support your contention that you were materially hindered in your operations in the area of concession by native troubles.

It appears that the survey of the two forest areas in question was completed some months before the Nandi troubles began, and that while from Oct. 1905 to June 1906 the district was disturbed, from the latter date it has been safe to move about the forest; and it is stated that some months later you accompanied Mr Hutchins over the forest, and there was no question ~~as~~ at that time of danger to parties going in that direction. The Gov. adds that the whole of the Nandi country has been perfectly quiet for the last year.

In these circumstances Lord Crows sees no sufficient reason for interfering with the action ~~taken~~ the Gov. in the ~~steps~~ <sup>steps</sup> he is taking to enforce

confidence with the members of the tribes.

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