

1934

KENYA

1934

23034/8

C0533/442

23034/8

CLOSED  
UNTIL

1985

Land Commission.

Registration of Land Titles

Previous

sample

Sir C. H. H. 17/9

R 297 22/10

M. Johnston 22

Th. Flood 23

Reg 297 31/11

Room 309 27/11

M. Johnston 8

Th. Flood 9

R 297 14/12

Room 309 13/12

M. Johnston 15

297

subsequent

38005/10/35

Reg 297 27/11

Th. Flood 27

Sh. Bottenby (owner)

M. Cliff 24/7

M. Johnston 20/7

297 7/10

M. Johnston

297 17/8

R 309 27/8

M. Johnston 22

297 24/8

M. Johnston

Reg 297 10/11

M. Johnston 17/9

Th. Flood 17/9

Kenya  
Land Titles

Kenya Report 366 (1st Mail) \_\_\_\_\_ 19<sup>th</sup> July 34  
Refer to the meeting of the Land Commission regarding  
the Land Titles Ordinance & proposal of that of Recorder of Titles.  
Consideration should first be made as to whether a new  
present form of title is to be given & suggests that advice of  
Sir E. Downes. He is proceeding to Zanzibar to examine what  
similar difficulties should be obtained.

The Morris Carter Commission in dealing with land in the Coast Province have recommended that the office of Recorder of Titles should be re-instituted and that the work of adjudication of titles should proceed energetically (Section 1341). Later on they say it is a matter for consideration whether the present Land Titles Ordinance should be amended first, but they leave that with the Coast Land Titles Committee which is at present sitting. They say that the value of private land in remote areas is not such as to justify elaborate machinery and that the cost of survey alone is prohibitive. In Section 1347 they say that regulations after a period of preliminary study ought to be made and enforced.

Kenya are now anxious to take advantage of Sir Ernest Downes's visit to Zanzibar to get him to look into the question for a short time. I have consulted Sir Ernest and he is quite ready to place himself at the disposal of Kenya for a short period on the understanding, however, that his Zanzibar work must come first and that he may find that the problem is so great that a short visit would not help matters. As regards the fee, he is receiving in respect of his Zanzibar visit £250 a month while in Zanzibar with proportionately less for the period of the voyage and

2250 for his Report.

As Sir Ernest Dowson is leaving for Zanzibar on the 3rd of August there is no time to fix up details with him and indeed there is not the information on which details could be fixed, up because there is no means of saying how long the investigation will last. I think the best thing to do is to tell Kenya to settle it up direct with Sir Ernest Dowson and the Govt. of Zanzibar and I submit a draft for the purpose. If it goes by air mail it will get out to Kenya well ahead of Sir Ernest and during his stay at Mombasa preliminary arrangements can easily be made. He tells me that he will have to spend four days in Mombasa, which he had meant to do in any case for the purpose of getting information about his Zanzibar work. They can consult him while he is in Mombasa.

I am rather dubious about charging the cost (which won't be much) against the £50,000. That sum is rather intended to meet the cost of the Commission's proposals in the West of Kenya coming from the Coast Province & though a visit of an expert like Sir Ernest might be obtained into part of the Commission's proposals I rather question its propriety. It should rather be charged to the Coast Land Titles Committee now at work and I am disposed to say that we can tackle that later.

J. S. G. 27.7.

Not passed

As to the £50,000 sum for the investigation of the East of Kenya... The £50,000...  
27.7.

Additional info...  
in the dep. to Kenya

McCliff

27.7.

J. S. G. 27.7.

By air mail 5/17/34 4 To Kenya 612 (2 allowed) - 31/7/34

5 To Hq. Pilling } (with letter 21 for no. 3) 31/7/34  
6 To the same } 31/7/34

7 To E. Dowson (Banda) - 31/7/34

By air mail 8 To Zanzibar 150 (1/1/1) A/1 31 1934  
31/7/34

9 To Kenya, 656 14 AUG 1934  
Receipt for  
of para. 4 of  
of 27/7/34

10 S.B.B. 9/2. Elding (100) (abstract) — 9 Aug. 34  
Suggests the diversion of part of Sir E. Dowson's  
should be left to C.O. to allocate information after he has  
finished his work in Kenya & I have  
(Orig on 23812/10 I have extract regd. for use)

? Put by (Phon with  
2/18/34  
Dowson  
note

*[Handwritten initials]*

11. Lewis Roberts, Albany 209 (H.A. Mail) — 16 Aug. 34  
States that Sir E. Dowson's fee is considerably higher  
than was contemplated & that unless it can be paid from  
the ex gratia grant his advice will not be sought. Requests  
that he may be informed by tel whether this proposal is agreed to.

In spite of the threatened alternative  
I can see no justification whatever for giving  
way. Sir E. Dowson's visit was not, strictly  
speaking, part of the recommendations of the  
Kenya Land Commission; the £50,000 is not yet  
a definite grant, the authority of Parliament  
being still required; and as we endeavoured to  
suggest in No. 9 on the file (which has not, of  
course, yet reached Nairobi) it would be  
exceedingly difficult to justify spending for  
the benefit of Arabs and other on the Coast  
monies intended for the indirect compensation  
of the tribes (mainly Kikuyu and Kaviranda)  
who suffered in the War.

? Telegraph as in draft.

*[Handwritten signature]*  
24

24/8/34

12. Sir E. Dowson (S 17) — 17 Aug. 34  
States that he has met Sir J. Byrnes at Mombasa to  
conjoint investigation of it seemed probable of execution within  
the month suggested. Sir J. Byrnes views on the matter & sends a copy  
of a letter to Sir E. Dowson

It seems probable that when Sir J. Byrnes  
saw Sir E. Dowson at Mombasa on Aug.  
20<sup>th</sup>, he had not received the letter  
(No. 12) despatched at 7-30 pm on the 21<sup>st</sup>.

It is also possible that, after his talk  
the Governor may have decided that  
Kenya can find the £500 from normal  
sources. We can only wait to hear

? Put by (Mr. Cliffe thinks  
a printed note not likely necessary)

*[Handwritten signature]*  
17/9

17/9

17/9 34

*[Handwritten initials]*

12. Tel. to Gov. by 205 (Dowson)

14 Sir E. Dowson (S.O)

8 Oct 54

Enclo. copy of corres. with Kenya regarding his enquiry into the Coast Belt hand problem & states that he will continue investigations in T. Bar until the end of the month.

The correspondence doesn't reveal whether Sir E. Dowson is going to Kenya.

Put by

*[Signature]*

22

1. 2. Flood  
23. 10  
over

*[Handwritten mark]*

15 Sir E. Dowson (S.O)

23 Oct 54

Enclo. copy of corres. regarding his investigation of the Kenya Coast Belt hand question.

Mr. Dowson arranged to go to Mombasa by the air route from London on 1 November and to stay in Kenya until the end of the month. He will leave for England by the air route of 29 or 30 November to catch the 'Zandana' at Port Said.

Put by

*[Signature]*

7/11/54

1. P.  
2. P.  
3. P.

*[Signature]*

*[Handwritten mark]*

16 Sir E. Dowson (S.O)

Dec

States as to his investigation of the Kenya Coast Belt hand & his journey home.

? Put by

*[Signature]*  
18  
11. 12. 54

*[Signature]*  
15 at

*[Handwritten mark]*



16<sup>b</sup>

GOVERNMENT HOUSE,  
KENYA,  
EAST AFRICA.

5 December 1934

Dear Cliffe, Kenya Coast Belt Land

I am flattered with  
ill-digested information regarding above,  
but I have crammed a lot into the time  
& visited most of the territory concerned -  
It is a bad tangle but can I think  
with patience be unravelled - although  
naturally not without some expenditure  
Anyhow when my material all comes in  
& I am clear out of the way I should  
anyhow be able to let them know how they  
stand & the best way to tackle things  
when they can do so.

This letter goes by the same  
air mail as I travel to Cairo. I  
come on from Egypt to Marseilles by P.O.  
& then across France as I think I have  
already advised you.

I hope to have a letter to  
Sunday awaiting me on arrival

about place & time of our meeting.

I will report my arrival in  
England & due course.

Yours truly

Frank M. Snowden

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Zanzibar 7/15

23 October 1954

297  
Noddy  
Dear Cliffe.

Kenya Coast Belt Land Enquiry

I enclose what I hope is the last consequence of paper in the arrangements for the above. I should not have started the collection so light heartedly if I had thought it would have become such a tangle.

The correspondence on phase itself of you are patient enough to wade through it.

Yours sincerely

Ernest W. Davidson

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8  
COPY OF TELEGRAM FROM THE CHIEF SECRETARY TO DISTRICT  
OFFICER, SETE, DATED ZANZIBAR, 10TH OCTOBER, 1934.

Please inform Dowson reply from Kenya as follows  
received by me yesterday begins - There is no desire to bind  
you to endorse land commission recommendations or to require  
draft legislation in legal form but this Government would  
expect your report to indicate provisions which would have to  
be made in new legislation to carry out such policy as you  
may advise. Cost of typing will be refunded and it is  
proposed to undertake printing of report here. Chief  
Secretary. Ends.

CHIEF SECRETARY

M.M.A.

**TELEGRAM FROM THE CHIEF SECRETARY ZANZIBAR TO THE COLONIAL  
SECRETARY @ NAIROBI.**

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Zanzibar, 11th October, 1934.

No. 60. Following this Dowson stop Thank you  
able clarifying points queried stop Will do not clearly  
indicate in report measures required meet various possible  
contingencies and after Government has considered report  
and decided consequent policy will assist embodying this in  
legislation if so desired stop Place of printing report noted  
There will be maps as well as letterpress stop Calling from  
Peera Will arrange passages on return Zanzibar and call  
again. Ends.

Chief Secretary

By Air Mail

Veti,  
PEMBA.

17th October 1954.

The Commissioner for Local Government,  
Lands and Settlement,

NAIROBI.

Sir,

I have the honour to attach in confirmation of messages exchanged, text of the following cables:

- (a) My No.58, dated 6th October 1954.
- (b) Yours of 9th October
- (c) Mine of (?) 17th October. ~~(attached)~~ (Hatch - Spring 11)

As I am writing from Pemba, I have not got complete references.

As it was necessary to make definite arrangements without further delay if I was to come to you at all, I ventured to assume that my undertaking to assist in the manner indicated in my last cable would satisfy your requirements at least as fully as in the manner suggested by you.

2.) I will gladly assist you in any way that is reasonably possible from England, to give effect to any measures that your Government may eventually adopt in pursuance of my recommendations. I have always very gladly assisted in this manner any Government that I have advised to give effect to my report after its presentation: but such assistance in implementing my proposals has never constituted any part of my contractual obligations.

3.) In your case my objection more particularly relates to assuming any contractual obligation to formulate one-sided a priori legislation, whether in my report or otherwise. From the information given me, your Coast Belt land problem

is a tangled one, and it is a sufficiently onerous responsibility to undertake beforehand, and on the basis of a single month's study, to indicate the lines along which remedies for the existing state of affairs are to be found. This (if you will refer to my letter of the 28th August last to H.E. the Governor) is all that I expressed myself as willing and able to do when originally invited to assist you. There are bound to be several possible lines of action to be weighed after a study of the conditions on the spot: and while it will be my duty to present the advantages and disadvantages of alternative courses, it is only the Government that can decide on the one to be adopted. It would, in my opinion, be purely wasteful academic effort to formulate legislation until this decision has been reached. Moreover, there are, I think, other evident considerations which make the method of assisting you which I have proposed preferable to that you had in view.

4.) No reference was made in your letter of the 1st October, Ref. LHS. G/1/54, to any provision for costs of publication of my report in any course, which suggested that this need had been overlooked. When I am in Nairobi I shall doubtless have an opportunity of consulting the Government Printer about the most convenient type, format, etc., having regard particularly to the incidence of the requisite duty.

5.) Owing to the delay in concluding arrangements I have found it necessary to abandon my original intention to leave here for Nairobi on the 25th of this month and to return to England from Mombasa on the "Madura" on the 28th November. I am consequently to proceed to East Mombasa on 1st November by air and to leave Nairobi by Air on the 28th or 29th November, so as to catch the "Madura" at Port Said instead.

I must close this letter in Pamba if I am to catch this

12  
Week's Air Mail; but I will cable from Sanibor as soon as  
I know whether I have been able to secure the necessary  
accommodation by Air on the dates mentioned.

I have the honour to be,

Sir,

Your obedient servant,

(S) ERNEST M. DOWSON

Zanzibar 8 Oct. 1954 11/1

3

No. 1000

Dear Cliffe

Suggested Enquiry into Kenya Coast Belt land problems

No 13

I enclose copies for your file of three papers to be charged concerning above since despatch of my letter of 28<sup>th</sup> Aug to the Governor of Kenya Colony which you already have

The papers will only be of academic interest when they reach you so I need not comment on them

2 I am being looked after splendidly in every way here: and if I do not succeed in helping them it will not be for lack of the most whole hearted assistance

3. My arrangements are most uncertain still owing to the difficulty Kenya has had in coming to decision about their work but I shall continue my investigations here until end of this month.

Yours sincerely

Ernest M. Dowson

Nairobi,

24.9.34.

Dear Sir Ernest Dawson,

Thank you very much for your letter<sup>a</sup>, to which I have delayed replying until I could tell you something definite about the visit I hoped you would pay us. I am happy to be able to say that Government has decided to invite you to make a report on our Coastal system of Land Titles and an official letter will go to you in a day or two. As I believe Gilbert told you the delay was due to the refusal of the S/S to allow us to charge the cost of your visit against the £50,000 grant which the Imperial Government has made to this Government for carrying out the Kenya Land Commission Report.

Arrangements are being made for Fannin to get together the documents and I trust that you will correspond direct with him on any points upon which you wish information collected prior to your visit.

I was sorry not to have been able to meet you at Mombasa but I thought - as both of us could not go - it would be better for you to see and discuss matters with Gilbert in the first instance. I look forward to seeing you either in Mombasa or Nairobi.

I hope you are not finding the damp heat of Zanzibar too trying. Perhaps a little nearer to the date of your visit you would send me a note of your plans so that I can fit mine with them.

Yours sincerely,

(Sgd.) W.M. LOGAN.

P.O. Box 339  
Tel. No. 2411

DEPARTMENT OF LOCAL GOVERNMENT  
LANDS AND SETTLEMENT.

Nairobi, 1st October, 1964.

When replying, please quote  
No. LND. 41/1/64. and date.

Sir,

I am directed by His Excellency the Governor to invite you to visit this Colony on your return journey from Zanzibar in order to advise this Government on the question of land titles in the Coast area.

2. Under the Land Titles Ordinance of 1908 (Cap. 143), a Recorder's Court was set up, and by the end of 1933, 130 Certificates of Interest, and 9190 registered Certificates of Ownership had been granted. There are outstanding 4143 claims, and doubtless if the legal and administrative machinery were set into motion again a considerable number of late claims would be submitted.
3. The office of Recorder was abolished in 1922, and the local District Administrative Officers were made Deputy Recorders, each in respect of his own district. No surveyors or demarcators were available after that year and little progress has been made with continuing the work. By the end of 1922, £111,592 had been spent in the Recorder's Department, the Arbitration Board and for Survey against a revenue recovery of £32,949.
4. Whilst the system has been reasonably satisfactory for large and valuable areas, it has, in working, been very unsatisfactory in respect of small plots. The claimants of small areas did not, in over 2,000 cases, take up the Certificates of Title, probably because of poverty and because the survey and other fees, which they were called upon to pay, were in excess of the value of the land.
5. The Registration of Titles Ordinance, 1919, (Chapter 142 of the Revised Edition of the Laws of Kenya) has been applied to the Coast Area, with the effect of bringing Certificates of Title granted since 1919 under its provisions, which require a rigorous survey of holdings and the issue of indefeasible titles.
6. Under the Land Titles Ordinance and the Registration of Titles Ordinance all transactions in land in respect of which a Certificate has been issued must be registered in the Mombasa Registry. It is known, however, that many unregistered and therefore illegal transactions in such land have taken place; also that the subdivision and transfer of land in respect of which Certificates have not been taken up or in respect of which claims remain for adjudication is proceeding, thereby increasing the difficulties of obtaining a final settlement.
7. The Kenya Land Commission has recommended that the work of adjudication should be proceeded with, and the problem with which this Government is faced is to evolve a system of survey and registration which is more elastic and less expensive to property owners.



8. This Government understands that you would be prepared to spend four weeks in the country in the near future and furnish a report (after your report on Zanzibar had been completed) within 12 to 18 months, and that your report would comprise such new legislation in draft as you advised was desirable, and would provide measures for correlating the existing titles with such new system as you advised.

All the documents you would require to examine and study will be prepared in readiness for your visit, and it is understood that you would be willing to undertake this work for an inclusive fee of £500 to be paid upon the submission of your report plus travelling and transport expenses whilst in Kenya.

9. I should be grateful if you would inform me whether you would accept this Government's invitation on these terms, in which event this Government will communicate formally on the subject with the Government of Zanzibar.

I have the honour to be,

Sir,

Your obedient servant.

(Sgd.) W M LOGAN.

COMMISSIONER FOR LOCAL  
LANDS AND SETTLEMENT.

Recd. Ord Mail 6 pm 4.10.54

TELEGRAM FROM CHIEF SECRETARY ZANZIBAR TO THE  
COLONIAL SECRETARY DAR ES SALAAM.

Zanzibar, 6th October, 1934.

No. 58 Following from Sir Ernest DOWSON

The Commissioner for Loans.

As regards certain conditions formulated in your letter  
of the 2nd inst. I regret that I am unable to undertake my  
part of the work. I cannot undertake to enter a personal  
guarantee. The Commissioner stated as I may find this involves  
the withdrawal of money after and stop I should be sorry if my  
part of the work is not done. I am sorry that  
nothing is to be done. I am sorry that  
the Commissioner has complete discretion as to the amount of  
repayment and form of repayment. The other Government  
is a matter of all similar conditions. I have also  
refer paragraph six of the letter of the 2nd inst. I am sorry  
cannot for the purpose of the statement of  
financial terms stop. I am sorry that the Government  
willing to accept these conditions. I prefer to release  
me from any liability stop. I am sorry.

Chief Secretary

S. S. Mantola.

18-13

Between Mombasa & Zanzibar

28 August 1954



M. Mantola

Dear Cliffe

Kenya Coast Belt land problem

You may like to have a copy of enclosed for your files. He arrived in Mombasa last S. Sunday morning, 25<sup>th</sup> Aug and I saw Sir Joseph Byrne when I saw. He said they would like me to carry out the investigation of the above situation of the discussion with Gilbert the Surveyor General, F. ... it seemed capable of execution unless the work previously suggested. I got a general idea how things are for conversations with the above ~~with~~ the (I met) Oswald of Tulle (a useful little fellow called Hawkins) that morning & the next. After some cogitation I despatched the enclosed this morning.

My impression is that the news is <sup>intrinsically</sup> at least as bad as in Zanzibar and that when I get on to the ground (if I am asked to stay) I

shall find that much careful work has been wasted  
through inexperience & ignorance. I may find I  
am unduly pessimistic but it will be just as well to  
know the facts; ~~find out~~ for although the mess. may ~~not~~ be  
dominant so long as the sketch remains economically  
moribund it will cry aloud to Heaven if things  
begin to move there. If it is possible to tidy it  
up quietly before it fronts appear I imagine  
it will be better to do so.

### Zanzibar inquiry

I have roughed out a detailed programme for  
the Zanzibar inquiry and find I shall require  
8 weeks. In view of the general situation there  
I cannot avoid seeing in dividends and representation  
of various interests there.

I had a long talk with Christoph at  
Mombasa. He was most helpful and is  
an excellent person. Sensible, fair and  
realistic.

Give my greetings to Flood. We did not  
know at all & had my age out and quite  
cold mail we had received. Give my  
yours sincerely  
Ernest M. Ernest M. [unclear]

20th August 1944.

Your kind reply,

Operational Intelligence

I have, as requested in our recent interview, discussed with Mr. Gilbert and Mr. Fain the main features of the above problem; and have satisfied myself that it will be practicable to carry out the inquiry into the situation that the above case concerns, within the compass of a month's stay on my way home from Gibraltar. I should not on the basis of a stay of this duration, give you a study of the question fully detailed in every particular; but it would be sufficient to enable me to form a clear picture of the main salient facts, and to indicate the lines along which research for the exacting state of affairs to be found. This would, I believe, meet your requirements. Certain preliminary measures would, however, be necessary between now and my return to enable me to do this.

My first suggestion would be for you to make a preliminary reconnaissance of the area to be covered, and to make arrangements with the local authorities to facilitate the existing situation. This does not imply a necessarily preliminary visit to the proposed area, but the inquiry itself could only be satisfactorily conducted if it is based on the ground, and on the people affected. It would necessitate a series of personal visits to many representative areas throughout the country, and at the time and possible difficulties of this kind should be taken into account. I estimate that the above operations would occupy three full weeks after which I should be glad to wish me to visit as often as possible to give you my findings as verbally. I feel I should also see the head of the organization of the Land Survey and request advice as to the departure would occupy the remaining week. I should not have time either in Barbados or on my way to interview individuals or local bodies who may be interested, but such persons might be circumspectly interviewed and their expressions of views by themselves could be made to form of written memoranda.

3. When undertaken by a single individual, the above-mentioned problem it was recognized that this could only be successfully conducted with the permission of a few weeks if exceptional measures were taken to provide me with documentary information before my arrival and if I could officers were previously deputed to carry out preparatory measures in advance. The latter problem is admittedly most complex and ramified for so small a territory but

closed/

closer acquaintance with your parallel tangle here leads me to apprehend that the latter is also far from easy to unravel. I am, however, satisfied that I can carry out your wishes provided (i) that I am in a position to assist the documentary information effectively within a week of my return, and (ii) that the area visited in the Coast Belt in the subsequent fortnight and representative of that district as a whole, and justify the work done therein under the Land Titles Ordinance when this was operative, and of the situation resulting since it ceased to be so. This will only be possible if (a) I can find all the necessary papers in order here, and (b) the itinerary of the Coastal visits has been well thought out and the necessary arrangements have been made, and work successfully.

4. These conditions can I feel sure be secured if the officer in charge of the local Land and Survey Office here may be charged with this duty (under the general direction of his official Chiefs) and if he may be relieved from his routine work in the interval to such extent as may be necessary to allow of this. Documentary study of the Kamsiber problem on the way out has shown that I shall require eight weeks to carry out my investigations here, so that I should be able to start work for you here at the end of October.

5. Your Excellency will appreciate that I shall only have time while in Kamsiber and here, to collect the raw material for the two inquiries. All serious study of the two problems, the consideration of possible remedial measures and the presentation of these in a tangible form must be deferred until my return to England. This is the difficult and lengthy part of these investigations. I am also bound, as Your Excellency recognises, to give priority throughout to a consideration of the Kamsiber problem, save only for the necessary month's interlude here on my way back to collect the information for my subsequent investigation of your problem. As I shall not reach England until Christmas, and must devote some attention to my own affairs first, it will be anything from three to six months later (according to the development of my principal inquiry) before I can so much as begin serious study of your problem. I should not like to undertake it unless it was clearly understood that it will be some time, (certainly a year, possibly eighteen months) before I can give you any considered recommendations. In view of this delay (and subject of course to the concurrence of the Government of Kamsiber) I will, on my way to England, report to you briefly and provisionally on the existing situation in the Coast Belt - if this appears likely to be of any practical assistance.

6. Subject to two adaptations to suit the differing circumstances (which are explained below) I will undertake the investigations of the Coast Belt problem, and the submission of the necessary report thereon on the same terms as I am carrying out the similar task for the Government of Kamsiber: that is to say for an inclusive fee of £500 for the work, plus refund of travelling and transport expenses while in Kenya, and of the costs of typing and printing my report later. The two adaptations are (i) that, as I pass your doors in any case, my fee will be based on time spent in Kenya to the exclusion of time spent on the voyage out, and (ii) that payment of the above fee (as distinct from refund of expenses) admits presentation of my report in due course. I believe that my willingness to

undertake the investigation on these terms subject to local investigations being finished by a month's stay, was communicated to Your Excellency by the Colonial Office some weeks ago; but I think you asked me to confirm this.

7. As I am very anxious to make definite arrangements for my return voyage to England (which involves special provision to enable me to work on the way), I shall be very grateful if Your Excellency will let me know as soon as you can (if possible by telegram or letter) if upon reconsideration in the light of the explanation given here, you continue to wish me to undertake the investigation of the Coast Salt Land Titles problem for you.

I have the honour to be,

Your Excellency,

Your obedient servant,

Sy) Ernest M. Dawson.

His Excellency,  
 Brig. General Sir Joseph Byrne, G.C.M.G., K.B.E., C.B.,  
 Government House,  
 DARHAT.

23034/8/34

H 25 AUG  
D  
12  
24/8/34  
23  
H/P

C. O.

Mr. Freeston. 24

Mr.

Mr.

Mr. Tomlinson.

Sir C. Bottomley

24/8/34

Sir J. Spalding

Sir G. Grindle.

at once

Presd. U.S. of S

Party. U.S. of S.

Secretary of State

11c

August, 1934.

No. 203

Your despatch 16th August, 409.

For reasons given in my despatch

(report that I

14th August 656 I am unable to

agree to proposal.

**DRAFT. TELEGRAM.**

GOVERNOR,

NAIROBI.



AIR MAIL

KENYA  
No. 409



24 11  
GOVERNMENT HOUSE  
NAIROBI  
KENYA

REC  
24 AUG 1934  
O. O. REGY

AUGUST, 1934.

Sir,

No 4

I have the honour to refer to your despatch no. 612 of the 31st July, from which it is observed that a fee of £500 is suggested by Sir Ernest Dowson for his advice on land titles in the Coast Province.

2. This fee is considerably higher than was contemplated by this Government, and, unless it can be paid from the ex gratia grant of £50,000, Sir Ernest Dowson's advice will not be sought, and the best uses possible will have to be made of the local committee, who will have access to Sir Ernest's report on Zanzibar. There is no cost attached to the work of this committee.

3. In the circumstances I should be glad to be informed by telegram whether you are prepared to agree that Sir Ernest Dowson's fee, if he is consulted, might be met from the £50,000 grant.

I have the honour to be,

Sir,

Your most obedient, humble servant,

*H. Phillips*  
GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP GUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

Recd Tel 24/8/34 (12)

EXTRACT FROM A LETTER DATED 9th AUGUST, 1934.

FROM: Mr. C. J. McLELLAN, D. M. No. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

*Handwritten signature or initials*

... was rather amused at the Kenya Government's attitude about Dawson's case. We have already requested that they might like an expert they were very proud and great and hinted that they had no need for experts. We then decided to please the Government of the wife of Dawson on his way through Malaya. As a result they have come round and are willing to pay for a part of the travelling expenses. We regard the Government's expenses as things it had better be left to the Government office to allocate expenditure after the fact as to his work in both places.

C. D.

9 16

Mr. President. 10

23034/8/34 KENYA

Mr. *Hard* 10 *js*

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Stubbough.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

C. D.  
R 1 AUG.

DOWNING STREET.

14 August, 1934.

DRAFT.

KENYA.

NO. 656

ROY.

Sir,

In continuation of my despatch No. 612 of the 31st of July, I have, etc. to inform you that, after due consideration of your proposal to charge against the anticipated Parliamentary Grant of £50,000, the expenses connected with Sir Ernest Dawson's visit to Kenya, I have come to the conclusion that such action ~~will~~ <sup>would naturally</sup> be consonant with the circumstances which led up to the proposal for this grant and the motives which have actuated His Majesty's Government in supporting it, and ~~an attempt~~ <sup>an attempt</sup> ~~unable~~ <sup>unable</sup> to approve the I have, etc.

FURTHER ACTION.

G. O.

23054/18/34 27  
Kony A

Mr. Capps 3077  
Mr. Fildes 30 1/2  
Mr.

Mr. Parkinson  
Mr. Tomlinson  
Sir C. Bottomley  
Sir J. Stothburgh  
Permt. U.S. of S.  
Part. U.S. of S.  
Secretary of State.

**DRAFT** Came

S. Phillips

Dear Sir  
31 July

Dear Sir

Thank you for your  
letter of the 24<sup>th</sup> of July  
about the Kenya issue.

We are passing the

substance of it to the

Kenya & Tanganyika  
by air under Air Mail.

For Everett Brown  
KMC

C. O.

23.34 8/34 78

- Mr. Clegg 3077
- Mr. Flood 3078
- Mr. [unclear]
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Barly. U.S. of S.
- Secretary of State.

AIR MAIL

5-0 for [unclear]

DRAFT. [unclear]

19 [unclear] G. Pilling  
 [unclear] [unclear]  
 (change)

21 S. B. P. McKelvey [unclear]

12

23

[Faint, mostly illegible handwritten text, possibly a letter or report]

**FURTHER ACTION.**

[Handwritten signature or initials]

taking a this additional  
I have no doubt  
that you will be able  
to fix things up satisfactorily  
with the Milling Co. whom  
I am writing in another letter  
yours sincerely  
J. E. W. FLOOD

(Signed) J. E. W. FLOOD

23034/8/34 Kenya.

DD  
R 30 JUL  
D 31  
H

AIR MAIL.

Answered by No 11

Downing Street,  
31 July, 1934.

Mr. Flood. 277

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomkinson.

Sir C. Bottomley.

Sir J. Shuckburgh

Permt. U.S. of S.

Perly. U.S. of S.

Secretary of State.

DRAFT.

KENYA.

NO. 612

GOV.

27

FURTHER ACTION.

Copy to Mr. Flood  
2/10/34  
J. E. W. FLOOD

Copy to Gans (6)

Sir,

I have etc. to acknowledge  
the receipt of your despatch No. 330 of  
the 19th of July in which you suggest  
that Sir Ernest Dowson might be invited  
to advise on the subject of land titles  
in the Coast Province of Kenya.

2. Sir Ernest Dowson leaves  
England for Kanibair on the 2nd of  
August and will spend four days at  
Mombasa <sup>on the way out</sup> ~~en route~~. I have ascertained  
that he would be quite prepared to  
consider spending some time in Kenya to  
advise upon the question at issue, but  
he is reluctant to commit himself in  
advance in  
the absence of any indication as to the  
extent of the problems before him, and  
he is somewhat doubtful whether a  
fortnight will be sufficient. That

point, however, can only be decided after he has examined the situation on the spot.

I suggest then that when

Sir Ernest arrives in Mombasa the

situation should be placed before him

an official invitation to accept his

return and report upon the situation

should be made to him. Details of such

arranged direct by correspondence between

you and the Resident in Mombasa.

3. For his visit to Mombasa Sir

Ernest Dowson has agreed to accept a fee

of £250 a month while in Mombasa, with an

allowance at the same rate for one-third

of the period of the voyage in each

direction and one-half <sup>of each</sup> for the remainder

of each voyage together with ~~an allowance~~

fee of £250 for his Report. The fees payable

to him are to be free of taxation so far as

the Zanzibar Govt. is concerned and the Govt.

will also meet the cost of typing, printing,

and any necessary clerical assistance. I

C. O.

Mr.

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomkinson.

Sir C. Bollenby.

Sir J. Shackburgh

Permt. U.S. of S.

Party. U.S. of S.

Secretary of State.

**DRAFT.**

**FURTHER ACTION.**

30

*Lower*  
understand that for his visit to  
have no doubt that he will be  
happy to undertake the suggested  
to accept a fee of £500, to include  
investigation in Kenya on the same  
his Report.

*also*  
to come out. It would be proper in

for Kenya to bear a proportionate

amount of his travelling, and

allowances on his voyage, while

subsistence fee would probably be

charged should he have to

special Report on conditions in Kenya.

4. I shall advise you further

in regard to the suggestion that Sir

Ernest Dowson's <sup>expenses</sup> ~~fee~~ might properly

be charged against the grant of £500, the

amount to be made by H.M.G. towards

the carrying out of the recommendation

of the Land Commission, but I am

at present inclined to the view that any

*I have, etc.*

such expenditure should more properly be

regarded as part of the cost of the Committee

dealing with land titles in the Coast Province

(Sgd.) P. GUNLIFFE-LISTER.

29 July 1934.

Answer (7)

Dear Sirs Kenya Coast Belt Land title.

When I got back here on Friday night I found enclosed from Fairman "Please destroy it. He said something in one of his previous letters about wishing his Govt would ask me to help them to clear up their tangle too: but I thought there was more politeness. Perhaps it was. Anyhow one can understand the idea grossly as I was passing their doorstep. I also appreciate now why he has sent stuff to meet me at Marseille and pressed me to get the Coast Belt volume of the Carter index from you. There was something of the leaves you of Kenya - it is well as of Zanzibar. I anticipate I shall not find any very great affinity between the problems of the two places when I get down to it.

I do not know if you have sent an answer to Kenya's inquiry yet. If you have will you give me the substance of request and answer for my guidance. If you have not answered yet I should like the following points made.

- ① Obviously my first duty is to Zanzibar, and I could only undertake a second inquiry in my way home with the approval of the Zanzibar Govt. For any break in my return must, to that extent anyhow, delay my final report to Zanzibar.
- ② at the same time I, of course, appreciate the elegance and reasonableness, from the general stand point, of getting me to look at the Coast Belt problems in situ while I am there.

And in practice the Zanzibar Govt. would clearly feel bound to be helpful, subject to anything possible being done to give them Casim's precedence.

To safeguard the Zanzibar's first claim as far as circumstances permit and mutual consideration allow I must make my acceptance of the Coast Belt inquiry contingent upon

- (a) the Zanzibar inquiry not requiring a very much longer visit than anticipated
- (b) my remaining reasonably fit
- (c) the Kenya inquiry being limited to the

independent collection of material while there, its digestion and the

copy sent to my father's box in Kenya



ultimata reporting to Govt. being postponed until my final report to the Zambia Government has been presented

(4) Subject to these conditions and to your own & the Zambia Govt's concurrence, I will gladly undertake the Kenya inquiry, provided ~~that I can obtain the prospect of completing the local investigation within a month.~~ Kenya inquiry provided there appears to be a reasonable prospect when I get

ultimata reporting to the Kenya Govt being postponed until I have completed my report to the Zambia Govt

(5) Subject to these conditions and to your own & the Zambia Govt's concurrence, I will gladly undertake the local investigation provided when I get there, there appears to be a reasonable prospect of completing the local investigation within three or four weeks. If I understand it I will make a good job of it, but I must judge for myself when I get there how long a stay that is likely to entail.

(6) As it will amount to be precise about terms, I will do the whole job for a £500 fee to be paid upon delivery of my report. Other conditions to be the same as arranged with the Zambia Govt (bearing out of publishing of report etc.). It would also seem reasonable, if I do the job, that the two Govts should share the cost of travelling & fees in connection with the time spent in each country. But this is a matter to be suggested by you to the Zambia Govt.

In that connection it may be observed that I shall be assumed to have talent in the way of the study of the Kenya problem and although the nature of my study is not yet ascertained for Zambia it will necessarily be more directly concerned with the Kenya issue than with a study of the Kenya problem in general & therefore the converse will also hold. In deciding my stay in the one or the way out, will be advised to meet the two problems.

If anything in the above compares with what you may have said, I will abide by what you have said.

Yours sincerely

Wm. H. D. D. D.

AIR MAIL



GOVERNMENT HOUSE  
NAIROBI  
KENYA

KENYA  
No. 366.

17<sup>th</sup> July 1934.

Sir,

I have the honour to refer to Chapter XVI of Part II of the Report of the Kenya Land Commission and particularly to the recommendations contained in paragraphs 1341, 1346 and 1347 on the subject of the Land Titles Ordinance.

*Handwritten:* No. 1  
Answer (4)

2. The Commission recommend the revival of the post of Recorder of Titles, but leave in the hands of a Committee, which Government has appointed, the question whether the system inaugurated by the Land Titles Ordinance should be maintained. In their estimate of the cost of giving effect to their recommendations generally the Commission include a sum of £1200 per annum only for the salary and other emoluments of the recorder. The total cost of administering the Land Titles Ordinance up to 1922, when the post of recorder of titles was abolished and survey work was discontinued, amounted to many thousands of pounds, the greater part of which was expended on the survey work.

3. In considering the Commission's recommendations the first question which arises for decision is whether or no the present form of title is to be given. The Committee appointed locally in 1932 with the terms of reference set out in the enclosure to this despatch have found it difficult to make progress, and it appears

improbable ...

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

improbable that they will produce an acceptable solution of the many difficulties involved.

4. It is understood that Sir Ernest Dowson, A.S.S., is shortly proceeding to Zanzibar to examine and report on difficulties of much the same nature which have arisen there, and that he expects to arrive in Mombasa en route for Zanzibar about the third week of August. Sir Ernest Dowson's visit would afford an excellent opportunity of securing experienced advice, provided that his services could be obtained for a short time at a reasonable fee. Should you see no objection, I should be glad if you would ascertain from Sir Ernest Dowson information as to the amount of the fee which he would require for this purpose. It would probably be sufficient if he were to spend a fortnight at the coast of the sea, north from Zanzibar.

5. It is suggested that the results of this investigation might fall to be made at a meeting of the Committee of the Council of the Government, and that the recommendations of the Kenya Land Commission.

I have the honor to be, Sir,

Sir,

Your most obedient and loyal servant,

J. J. J.

MR. GADIER-GENERAL.

J. J. J.

TERMS OF REFERENCE OF COMMITTEE APPOINTEDIN 1932.

To enquire into the suitability and adequacy of the Registration of Titles Ordinance (Cap. 142) the Land Titles Ordinance (Cap. 143) and the Registration of Documents Ordinance (Cap. 144) concerning:-

- (a) Certificates of Ownership issued by the Recorder of Titles, but not yet taken up by the owners;
- (b) The subdivision of land held under Certificates of Ownership;
- (c) Claims filed in the Land Registration Court, but in regard to which Certificates of Ownership have not yet been issued;
- (d) Land transactions which have taken place in the Protectorate, but in regard to which no documents have been registered;

and arising from such enquiry to make recommendations as to any amendments to those Ordinances which, in their opinion, should be made.

---

Extract from Kenya Land Commission Report

1341. In that year the economic situation is so essential for the resumption of Coast title work then in progress, and it is not possible to resume it since except on a much reduced scale.

We are so much impressed with the necessity of fixing once and for all what lands are at the disposal of the Crown, and what lands are private, that we recommend that the office of Recorder of Titles be resumed, and that the work of that office should proceed energetically.

1346. Our recommendation regarding private title is that the work of adjudication be pushed forward. Whether or not the present Land Titles Ordinance should be amended will be determined as we leave in the hands of the Coast Land Titles Commission, which is now sitting. There is no room for a change of the present ordinance, the ground titles are being processed, and the land areas, not so much as the elaboration of Expenditure, which is provided to govern such matters as the sale, mortgage, lease, transfer or succession of property, and the prohibition of sub-division.

Recommendations regarding Private Claims and Private Title

1347. It is our view that the work of settling private title claims is necessarily expensive and will be the worst possible way of dividing into tiny fragments through subdivision. Experience in the Flana River suggests that in the course of a generation the holdings become hopelessly complicated in respect of the description of the shares of co-holders and of the affairs which are exceedingly detrimental to successful cultivation. In our parts of our Report we have recommended the stopping of subdivision, the subdivision of fragments, and these land matters which we would especially commend to the attention of the Committee. In our opinion this is a question which should be decided after a period of preliminary study, regulations should be made and enforced. In land which is at the disposal of the Crown, as apart from land which may be claimed as of right, we recommend that no lease should be granted without adequate safeguards against unauthorized subdivision.

Whether private tenure for natives should be a mixed preference of the lines of individual tenure or of group or family tenure is a matter for special study. We offer some observations on this question in the third part of the Report (sections 1498-1409, 1650-1680 (1966)).