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My father's money was used in
the purchase of the land in the
vicinity of Cambridge, Mass.
in 1840. I was born there
in 1848. My father's name
was John C. Hathorn and
my mother's name was
Mary Ann Hathorn.

My father was a
merchant and a
farmer. He was
a member of the
Massachusetts
Legislature for
many years. He
was a man of
high character
and great
industry. He
was a man of
great ability
and great
energy. He was
a man of
great
character
and great
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was a man of
great
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TIGHTLY BOUND FOR ALL WORDS TO BE
REPRODUCED IN ENTIRETY

the draft of a supplementary
indemnity for expenses to
Lord Walpole, Colonel Greiff, for self & yourself.
Walpole, Colonel Greiff.

and by myself. The accompanying

supplementary indemnity
supplementing, as indicated

para (F) of C.O. letter

of 18965/24 of the 30th of May

the ~~indemnity~~ original

deed dated the 21st of Sept

1922, in which you undertake
undertaking to indemnify
against

the Gov^t of Kenya ~~interest~~

claims by other parties in

respect of the areas mentioned

in that deed.

(Signed) H. J. READ

natives to remain on the land.

4. A further letter will

be sent to you regarding your
suggestion that ^{the} supplementary
indemnity referred to in
para (F) of C.O. letter of the
30th of May should be supplied

to ~~you~~ for signature by Lord Walpole,
Colonel Greiff, and yourself.

5. With regard to the

question of water rights, Mr
Thomas agrees to your ~~proposal~~
having the right to take

water from the Tuatata and

Von Kuenen, subject to the
requirements of the natives

and to the fair needs of any
other persons who may at any

time hold Government land
bordering on the streams.

With regard to the taking of
water from ~~the streams~~,
the ~~streams~~,

DRAFT.

MINUTE.

Mr

Mr

Mr.

Sir C. Davis

Sir G. Grindle.

Sir H. Read.

Sir J. Masterion Smith

Lord Arnold.

Mr. Thomas.

Your letter, Mr Thomas
is unable to trace the
residence

Position of this stream on the
map but if it is within or
on the boundary of the land
to be granted to you, the
same conditions will apply
to the ~~the~~ taking of water as
in the case of the Mwatate
and Voi Rivers.

6. A copy of this letter
is being sent to the Gov for
his information and guidance.

(for copy on)

(Signed) H. J. READ

1924

KENYA.

43051

331

FROM

GROGAN, E.S.

DATE

9th September, 1924.

10 SEP 24.

RE CIRCULATION:

Mr Grogan 24/9

Mr

M'BARAKI.

Singapore

Reviews position of negotiations to date and requests that an offer "bearing some relation to the acknowledged value of the property" be made or that alternatives suggested be considered. Suggests final effort to find solution.

Previous Page

Gov./37422.

I attach a note giving an outline of the history of the affair, the papers of which have not previously been to the Secretary of State.

I was able to discuss Major Grogan's letter with Lord Stevenson on Monday, and he then considered that the matter should be put to the Secretary of State on the following lines:-

Local opinion was in favour of offering £300,000 for the whole estate. They were told that the Secretary of State was prepared to go as far as £150,000 for the whole, less the area on the east, which would be left to Major Grogan for estate development. The local Government want the whole. For this Major Grogan wants £400,000, but it is not ~~very~~ desirable to go beyond £300,000.

If the Secretary of State approves we should make Major Grogan a definite offer of £300,000 for the whole.

Subsequent Paper

*Let Mr Grogan know on 10/9/24
Fin. Dept. on 11 Oct. 1924
Answer - 1 DEC 1924
Copy to be kept (c) 13 FEB 1925
187/25*

187/25

Major Grogan called on Wednesday,

I said that it was necessary to await the Secretary of State's return, but that I would endeavour then to obtain as early a decision as certain pressure on Mr. Thomas' time admits. We did not see the purchase price, but he gave me some figures to show how the money, if we could be disposed of, would be used.

debentures, which must be bought in full.....£150,000.
 Mortgage on part of property.....£ 5,000.
 Advances by Grogan to Company for current expenses.....£ 15,000.
 7,000 shares. Some bought at £1. and some at £10. £ 80,000.

£201,000.

Grogan himself has borrowed £100,000 from the Bank for this work, and still owes £45,000 to the Company in deferred payment for shares taken up..... £145,000.

£346,000.

(The price of £10 for some of the shares is due, according to Major Grogan, to the interest which Messrs Boulton Bros took in his scheme. They were responsible for selling these shares to the Alliance Bank of Simla their own creation - at a high price, and presumably they benefited by the

transaction, even though it did prevent them joining the Alliance Bank in its insolvency early last year). 33

The above figures show, I think, that unless Major Grogan is prepared to leave himself personally still in debt over this business, the offer of £300,000 has not much chance of success.

He pressed on me his ~~scheme~~ latest proposal (namely, for the Government to take on the land on a perpetual lease at £24,000 a year, with the option of purchase at any time at the price of £400, on the grounds that the Government borrowing capacity is limited, and that it could by this ^{arrangement} agreement spend £400,000 capital to much better advantage. From his point of view, the certainty of an income of £24,000 a year would save the Company, and incidentally would enable him to convert the debentures to a lower rate of interest.

He talked about his plans now in progress, for the further development on the Crown lease area to the east of the present wharf. There are to be 600 ft. of lighterage front, with dolphins outside this to which a ship could be moored for loading. The wharf storage shed,

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332

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He talked about his plans now in progress, for the further development on the Crown lease area to the east of the present wharf. There are to be 600 ft. of lighterage front, with dolphins outside this to which a ship could be moored for ^{independent} loading. The wharf storage shed,
on

the cliff, the transit shed on the reclaimed ground below the cliff, the conveyers, and the Railway connection could be provided complete for £70,000. 3,000 tons a day could be handled, (against the 800 tons a day on the Government £1,000,000 two berth quay, when it is completed), and there is a definite space running back from the front for storing and sorting cargo.

His figures of cost are based on actual estimates, and although it seems too good to be true, we must remember that he has bitter experience to guide him in the matter.

Major Grogan always leaves me with an impression that his schemes are fundamentally sound, and, apart from this, I think we have to face the prospect, that the new Government wharf, though probably of great value later on, as a first step towards a great harbour when the development of the interior justifies it, is likely to be something of a white elephant for many years, and that we cannot rely on its dealing satisfactorily with the growing trade of the port. While, therefore, I put forward the proposal to offer £300,000 in accordance with Lord Stevenson's decision, I feel bound to say that the later information since obtained from Major Grogan, offers little

little prospect of this amount being accepted, and that we shall still be faced with the prospect of a rival port with which we cannot possibly compete, coupled with the development of an estate which must greatly increase in value. Against that is the view which has been held here, that if we hold out long enough the property will drop into our mouths. That assumes that Major Grogan is in such extremity that he will have to face a debt of £100,000 in addition to the money which he has already lost over this concern, and the £250,000 which he told me he had lost over the forest concession.

But ? in the first instance offer £300,000 for the whole estate.

So proceed?

As regards rival ports, the crying need of East Africa is for concentration of traffic on one or two ports which could then offer sufficient freight to secure a good return. Therefore the former ports the better

30.9.24 P.S.

Lord Stevenson

I should very much like to
have a discussion with you and Mr.

Bottomley about this.

It seems to me that since it
seems to be agreed that we must buy
M'Baraki in order to enable Kilindini to
live we should either offer a price which
can be accepted, which on Mr. Bottomley's
estimate is a good deal more than £300,000,
and is probably £400,000, or we should
follow the "ripe pear" policy and buy it
up (if we can) cheap when it has come to
grief (if in fact it does).

(In any case the policy of using
a disguised preference on the railway
to damage M'Baraki for the profit of
Kilindini seems to me quite indefensible).

Mr. Bottomley thinks that the
Colony can find the extra money but we
should of course have to consult the
Governor.

Mr. Bottomley
Mr. Bottomley

Lord Stevenson would like to

discuss this at 11:30 am on

Friday next.

We discussed this matter
this morning. Lord Stevenson
demurred to the view that it was
agreed that we must buy M'Baraki
in order to enable Kilindini to
live. We ultimately decided

11:30 am
Friday

no Stevenson
you will keep
Good
7/10

11/10

that we had better find out from
the Governor what he thought
would be paid. See draft
annexed.

11/10/10

M'BARAKI.

335

To make the position clear it is necessary to begin by saying that about 17 years ago the question first arose of providing a ~~wharf~~ ^{wharf} alongside ~~the berth~~ ^{Mombasa Island} for steamers in the Harbour of M'Baraki. The Port was then, (and it is now), dependent upon lighters, and it was considered essential to bridge the gap between the railway and the steamers.

2. Various schemes were discussed and ruled out on the ground of expense or ^{technical} ~~temporary~~ difficulties, and at the outbreak of War, the position was that no construction beyond ~~the~~ Government Lighterage Wharf had been carried out, but a seven-berth scheme, estimated to cost about £1,000,000 had been prepared by the Consulting Engineers and tenders had actually been invited.

3. No progress could be made during the War, and in 1920 the scheme came before Lord Milner's Colonial and Economic Development Committee, in the form of ~~the~~ ^a two-berth scheme, estimated to cost about £1,000,000, with capacity to extend further as occasion arose.

4. The site is at Kilindini, on the west side of Mombasa Island. On the south side of the Island lies the M'Baraki creek, and there has been since 1910, an agreement to lease 53 acres of Crown land to the east of the creek, (including ~~the~~ frontage on the creek, and on the open Harbour), to Major Grogan, for use in connection with the development of the large forest property which had been leased to him in the Highlands of Kenya.

(In what follows it is ^{usually} convenient to refer to

Major

Major Grogan personally rather than to the Companies which he has formed for working the forest and the port concession) of which, at all events, he has been the prime mover.

5. Major Grogan has added to this Crown area leases from private persons of land to the north and west of the creek, his whole estate amounting to about 150 acres. While the Kilindini scheme was under the consideration of Lord Milner's Committee, Major Grogan made a proposal under which the Government would co-operate with him in developing the M'baraki site instead.

6. He put forward a scheme for the rapid development of the frontage by works of a much simpler character than the Kilindini wharf would be, and maintained that the large amount of land behind the frontage would give better facilities in handling traffic and for harbour development, than that at Kilindini.

7. The engineering details of his scheme varied from time to time in the course of the discussion, but it is not necessary to mention the changes. The point was, that as compared with the Government scheme, with a solid concrete block ~~Maze~~ wall which (barring an earthquake) should outlast the Pyramids, Major Grogan's structure could not at the best claim any high degree of permanence, and it was chiefly on this account that, in spite of the much lower price of Major Grogan's proposals, the Secretary of State's Committee and the Consulting Engineers decided to adhere to the Kilindini scheme. It was also alleged against Major Grogan's

soneme

9 |

scheme that the tidal current at M'Baraki was too great for a ship to be manageable. This is not certain and Major Grogan has stated that the current is definitely an advantage, as it secures steerage way while the ship is moving slowly relatively to the wharf front.

8. The Secretary of State's decision was coupled with the intimation to Major Grogan that he might proceed with his own scheme on his own land.

9. The contract for the Kilindini work was then placed at a cost of a little over £1,000,000, the work to be completed within three years, expiring in June, 1924. A year's extension has now been allowed, and it is understood that the work will not be completed within that extended time.

10. Major Grogan at once got to work on ^{the} ~~the~~ berth which lies on the crown lease area, just to the east of the mouth of the creek. It was finished about the time that the contractors actually began work at Kilindini. The structure was found to be too flimsy for ships to berth alongside ~~the site~~, and it is now used as a lighterage wharf. In November, 1922, it was leased to the African Wharfrage Company, one of the two Lighterage Companies working the Harbour, ^{it} ~~and~~ consisting for ~~practical~~ ^{practical} purposes of the Union Castle Line, and the British India Line. The lease provided for a rent of £1,000 a month and an option to purchase for £120,000 the wharf site and the land on which the Railway ~~side~~ ^{sidings} runs (below the cliff) to the main Uganda Railway.

11. At the beginning of 1923, the Governor put forward a scheme for acquiring for the Government as

much

much land as possible facing the Harbour, and the purchase of Major Grogan's estate was included in this scheme.

12. Before that, however, it had been found that the M'Baraki wharf could be worked more cheaply than the Government Lighterage wharf at Kilindini, and the then Manager of the Uganda Railway ^{equalised} ~~reduced the charges~~ ^{at Kilindini} ~~equalising~~ the conditions by decreasing the charges at the Government ^{lighter} wharf and increasing the charges to Major Grogan for the service rendered by the Railway in moving his traffic to or from the Uganda Railway. This action has been ^{the} subject ~~of~~ bitter protest by Major Grogan, who, however, had been told that he would be liable for whatever charges for this service the General Manager considered necessary, and the lease of the African Wharfage Company ^{is subject} ~~was made with~~ this condition, although it appears that the Company did not know of this ~~expense~~ at the time.

13. Major Grogan and the Company which he formed have got into serious financial difficulty, and he is anxious to sell, but cannot afford to sell for a low price. If the Government will not buy at a suitable price he would prefer to be left alone to develop the estate as best he can, provided that he is not victimised by an extortionate haulage rate over the ^{sidings} ~~site~~ which he considers is not a ^{sidings} ~~site~~ at all, but a terminal of the railway system in the same way that the Railway connection of the Government ^{wharf} ~~site~~ at Kilindini is a terminal.

14. In the correspondence which has been proceeding over this matter for the last eighteen months ~~the~~ subsidiary

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14. In the correspondence which has been proceeding over this matter for the last eighteen months, a subsidiary

subsidiary difficulty has arisen over the question whether Major Grogan was given permission to build wharves along the whole of his frontage, or only along the part which falls within the ^{Crown Lease} ~~area~~ of 53 acres. The point was raised by Major Grogan in 1921, and, on the recommendation of the then Governor, and in view of the fact that the scheme which he had put to Lord Milner's Committee had covered the whole frontage, it was decided that the free hand which Lord Milner had given him on the advice of the Committee extended to the whole scheme. This was not clearly understood in Kenya, and they have argued that his rights are limited to the ^{Crown Lease} ~~area~~ area. After much consideration and legal advice on both sides, it has been ruled that the permission extended to the whole frontage, and was subject only to the settlement of details of agreement in respect of each site to be brought into ^{use} operation.

15. The position of the African Wharfage Company, (which has been pressed strongly by Lord Inchcape), is also of importance. They claim that they have continued the lease of the present wharf simply in order to ensure that Major Grogan should not sell it to a foreign company, (Dutch or German), before the Government had made up its mind as to the actual position of the land. They have said that if the Government requires the ground they are prepared to waive their option of purchase, provided that they have the monopoly of working the wharf, and are compensated for the loss which they have incurred in the past. *Not out of the question*

16. In the last two months the position has been *changed*

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16. In the last two months the position has been changed

changed to some extent by the admission of the Dutch and German Steamship Lines to the East African Conference. It is probable that the element of foreign competition is not now important in Lord Inchoape's mind, and that the position of the African Wharfage Company will depend chiefly on their desire to crush or absorb the other Lighterage Company, with which they are alternately ^{ely} in a state of war or co-operation.

17. The present General Manager of the Uganda Railway is faced with the fact that next year, (before the new wharf is ready), he will have to meet something like £70,000 a year debt charges on the cost of this construction, ^{the same} ~~which~~ in itself represents roughly the cost at which Major Grogan could handle the whole trade of the port. When the new wharf is ready it will not be cheaper to run, and it is inevitable that, unless an absolutely crushing charge were made upon the M'Baraki Harbour, the Kilindini ^{wharf} ~~wharf~~ cannot possibly pay for itself, and the burden must be spread out over the whole of the Railway traffic.

18. ^{Mr. Felling} He could not contemplate any crushing charge on M'Baraki, first, because he considers it improper, and only bare necessity could justify the action already taken by his predecessor; and secondly, because the facilities at M'Baraki are absolutely necessary for the working of the traffic now, and almost certainly (allowing for growth of the traffic), even when the deep water wharf is completed. Mr. Felling is by no means certain that the deep water wharf will serve ~~this~~ ^{the} purpose, and considers that steamers may prefer to lie

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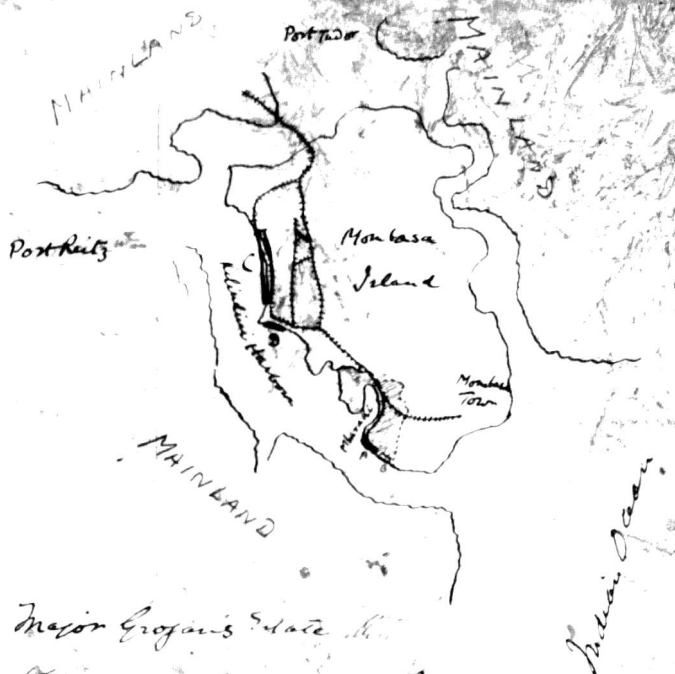
17. The present General Manager of the Uganda Railway is faced with the fact that next year, (before the new wharf is ready), he will have to meet something like 270,000 a year debt charges on the cost of this construction, ^{This sum} ~~which~~ in itself represents roughly the cost at which Major Grogan could handle the whole trade of the port. When the new wharf is ready it will not be cheap^{er} to run, and it is inevitable that, unless an absolutely crushing charge were made upon the M'Baraki Harbour, the Kilindini ^{wharf} ~~wharf~~ cannot possibly pay for itself, and the burden must be spread out over the whole of the Railway traffic.

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out in the harbour and be served by lighters, or, at all events that, if they lie alongside, lighters will be necessary as well, in order to ensure speedy despatch. On these grounds, and also because he wishes to secure the general control of the port, Mr. Felling is anxious that the M'Baraki estate should be acquired.

19. Apart from all consideration of the price at which we should buy, the position has been complicated by the fact that the estate includes a large area of land which will not be directly useful for port purposes. Consequently, discussion has varied between the purchase of the whole area and the purchase of the part most likely to be useful for port purposes, leaving Major Grogan to develop the rest for estate purposes. The conclusion arrived at on this point is that we ought to buy the whole if we can. In a comparatively short time we must expect that Mombasa Island will become too small for the work which it has to do, and any land which we can acquire must, it is hoped, greatly increase in value. Some acquisition of land by the Government in Mombasa Island was carried through in 1912, and there can be no doubt that if we could have afforded to buy more we should have saved the cost many times over.

W.C.A. 25/24 9 24



- Major Grogan's Estate
- Wharf under construction A
- " under construction B
- Government Wharf under construction C
- " Lighter Wharf D
- Uganda Railway



C.C.
43051

TELEGRAMS, CAPCAL
TELEPHONE 6497 KENSINGTON

52, DRAYCOTT PLACE,
S. W. 3.

September 9th 1924.

The Under Secretary of State
Colonial Office
London, S.W. 1.

Sir,

I have the honour to acknowledge receipt of your letter No. 37412/24 of the 8th instant and would point out that in respect of 1.(a) The Government so far has only made by Company an inacceptable offer, covered by a threat, for a portion of the M'Barani estate and I have been repeatedly informed that the Government only required this portion; and in respect of 1.(b) The Company, in reply to enquiries as to the price, which the whole estate could be acquired, has offered the following alternatives, namely:

- (1) Purchase at £400,000.
- (2) Perpetual lease to the Uganda Railway at £24,000 net per annum with the option to purchase at £400,000.
- (3) Purchase at £350,000 plus an alteration of my timber licence to a 99 years lease.
- (4) Purchase of a portion of the property at £300,000.
- (5) Arbitration as to the fair price to be paid for the land required by Government.

Whereas the Government has made no counter proposal or indeed official offer.

2. In the latter of the cases are first referred to, my attention will refer for its attention upon the letter of the Secretary of State No. 40133, 1921 of August 16th 1921 in conjunction with the letter to Mr. Trenchard dated by you and confirmed in your letter under No. 15. It would appear from the above letter and the contexture of correspondence that the only "terms and conditions" which await consideration are "order of sale on fair way" and "nominal price".

3. The essential principle of the above is left unaltered by your letter. In my general opinion dated 30/7/23, it was stated:
 " A. Grogan's contention is (1) that the Killindini Co. should be allowed a successful enjoyment of its property under the authority granted by Government; that the water-charge should be regarded as an integral part of the Port Terminal; that only the standard charge rate of the Port should be levied on goods imported in accordance with the spirit and intention of the Railways Ordinances; that, in fine, there should be no discrimination whatsoever between the ~~the~~ portion of the Port being developed by Government at the Public charge and the portion of the Port

" being developed by private enterprise under authority
 " granted by Government.
 " or (2) that Government, if it now wishes
 " to intervene, can only properly do so by acquiring
 " control of the Kilindini Company and operating under
 " that authority; or by purchasing or leasing from the
 " Company the lands and rights which the Government
 " wishes to control."

I understood that all parties had agreed that these were the proper alternatives and that effect would be given to one or other of them.

In fact your letter leaves the present position as follows:

- (a) The Railway is charging for services over the M'Baraki section of line, which it has not acquired and does not maintain, a higher rate than it charges over comparable sections of line, which it has acquired and does maintain; and openly admits that this penalization is imposed for the relief of the Government Wharf.
- (b) The Secretary of State, in the cable containing an offer to purchase 150 (approx) acres of land for a sum, £100,000, considerably less than the actual cost of the improvements effected on 8 of such acres, stated that the Railway in frank defiance of the Railways Ordinance would penalize the Company's developments of the land to the Company by the Government for the express purpose of such developments " not in order to kill private enterprise but in order to preserve Government Wharf from undue competition" - a terrible threat in view of the fact that the present charges over M'Baraki Pier, including agency storage and the existing penal Railway charge, are as low as 5/- per ton, whereas the officially estimated costs of operation of the Government Deep-water wharves (assuming a traffic twice as great as the maximum traffic hitherto achieved by the comparable berths of Port Sudan) amount to 27/6 per ton over and above agency and storage and Railway haulage.
- (c) The Company offers to sell the portion of the Estate required for Port and Railway purposes, extending to about 150 acres and including the existing pier which earns £12,000 per annum, for £300,000 representing a 4% investment for an estate the bulk of which is still in hand; that is to say (allowing £150,000 as the value of the pier earning £12,000 per annum) at a price less than one-tenth of the rate per acre at which Government has itself been selling land much inferior in economic quality; or alternatively to sell at value to be appraised by arbitration. The Company by request has offered other alternatives as above, but Government has made no alternative proposals and refuses arbitration admitted in belief that the arbitration award will be in excess of the price quoted.

Case 2

4. The above facts, read in conjunction and if they persist, can only be interpreted as an attempt by Government to force a sale under duress regardless of the fair value of the property - an iniquity so grievous that I can not believe it is intended. I have therefore to request that you will either,

- (a) make a firm offer bearing some relation to the acknowledged value of the property, which the Government now for the first time states to be its minimum requirement, and recognising that the price quoted, namely \$400,000, represents a net 3% investment with the bulk of the frontage and nearly all the land still in hand; or,
- (b) submit the price to arbitration; or,
- (c) give the necessary assurance that immediate effect will be given to the principles of the alternative of peaceful enjoyment and equal treatment cited above.

5. As Government wishes to obtain control of the property and the Company is severely handicapped by and finds no satisfaction in carrying on its developments in circumstances of duress, may I suggest that a final attempt be made to find a mutually satisfactory solution by my meeting some party authorised to act to that end.

I have the honour to be,
Sir,
your obedient servant,

W. S. S. S.

303
Handwritten notes and signatures
Handwritten notes and signatures
Handwritten notes and signatures

G. Kenya
43057

colld sent
2.55 pm 11.10.44 G.P. 346
CD

Copy to B.
28 OCT
2/2

Code tel.
DRAFT.

24 October 44

Should be glad to receive

Governor
Nairobi

2/2
506/70

an early reply to my tel. of

11 October - Grogan

pressing for decision

MINUTE.

- Mr. ~~Attorney~~
- Mr. 11.10.44
- Mr. alone
- Sir O. Davis.
- Sir G. Grindle.
- Sir H. Read.
- Sir J. Masterton Smith.
- Lord Arnold.
- Mr. Thomas.

(Miss Grogan
arrived again today
I promised to have
(2nd sent).
net

G Kenya

43051

Coded & sent
5.50 pm 347
Hun

C
R 13 OCT
D 13

Answer
50670

JC
11 October

11/10/44

(37412) My tel: of 26 August

Code tel
DRAFT.

MBARAKI Program has

Security Council

Minutes

MINUTE.

furnished figures showing that

actual commitments of

himself and company

amount to £346,000 0

Mr.

Mr.

Mr.

Sir G. Davis.

Sir G. Grindley.

Sir H. Hoar.

Sir J. Masterton Smith.

Lord Arnold.

Mr. Thomas.

Would you be disposed to

offer ^{up to} £400,000 and if so

from what sources would money
be found?

What are your views and
those of General Manager

on prospects of working new

Umburoni Sharp of Mbaraki

Agreed with
at length
this evening today.

not bought accordingly

~~if it is possible to~~

it is further developed or not

It should be understood that

a terminal charge ^{prolonged} at Aboradi

equivalent to the working cost

at Kibindui could not

be defended

These words
were not agreed
at the meeting

Leid