

EAST AFR. PROT.
 No. 25945

25945
 13 JUL 08

Governor. No.
 301
 1908
 27 June
 Last previous Paper

(Subject.)

Estate of the Teacher

Seeks report by H. G. ... with copies of proceedings & account to date

(Minute.)

W. Kisher

670 24 July

To R. A. G. ...
 Received Conf 31 July

W. Kisher

With regard to the receipt of ...
 it appears that the ...
 appointed ... of the ...
 dated 31 January 1908.
 appointed ...
 to administer it, which ...
 entitled to do under ... of the ...
 Act 25 of 1888. ...
 that they ...
 account ...
 or comply with the order that he ...
 the Court with a report on the ...
 within ...
 the Court ...
 to inform the ...
 ... of the Act)

Next subsequent Paper

In the words of page 9 of rec'd on 2152, there does not appear to have been any expenses by the court of the major part of the children's of the ...

The final account was supplied or supplementary to that on 2509/06. There wd appear to be small inaccuracies in this & to be left uncorrected.

The total value of the cash was about Rs. 8500 and under on costs Rs. 770.

There is a number of copies of the balance sheet which receipt but unclear and the final account. At the same time returning less copy of the final account attached to 2152.

? They sometimes conf. to Court as to the amount of ^{part of} ~~part of~~ ^{part of} the Court to enforce order of the Court.

2152
37/17

W. J. ...

In the words of page 9 of the draft of the case, there does not appear to have been any interference by the court with the exercise of the discretion of the trustee.

The first account was supplied as supplementary to that on 25/9/06. There it appears to be small inaccuracies in items 18 to 21 but these we cannot check.

The total value of the estate was about Rs. 2500 and the value of the 770.

There is a copy of the account of the trustee, a schedule except for the trustee and the first account. At the same time returning the copy of the first account attached to 3152.

3. The same thing was done to the effect of the trustee of the estate to the effect of the trustee of the estate to the effect of the trustee of the estate.

15/11
37/11

Governor's office,
Mombasa,
June 23rd 1908.

EAST AFRICA PROTECTORATE.

No. 301.

(Incl. 5.)

25045
18 JUL 08

My Lord,

As desired in Lord Elgin's despatch No. 176 of the 21st April last I have the honour to submit a report of the Acting Crown Advocate on the points raised which I trust will be found to contain the explanations required.

2. Copies of the whole proceedings in the case of the Administration of this estate, together with a copy of the account up to date, in which Mr. Fawkes is given credit for the Rs. 3000/- referred to are also enclosed.

3. The facts connected with Mr. Fawkes's lands were explained in the Land Officer's minute of the 13th September last, and are further explained in the Acting Crown Advocate's minute above referred to. Mr.

Clutterbuck

M. Principal Secretary of State
for the Colonies,
Downing Street,
LONDON, S. W.

Handed by Acting
Crown Advocate
Proceedings
Account

Glutterbuck in reality had no right to sell the properties, but as he was acting with the acquiescence of Mr. Fawkes's brother, and Mr. Fawkes had merely a claim and no title to the lands it was considered to be in the interests of the estate that these properties should be disposed of.

4. Further in September 1906 Mr. Fawkes appears to have closed his local bank account.

5. Each step in the procedure taken is shown in the proceedings now submitted.

I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,

Henry Fawkes

In Despatch No. 10000 dated 18th July 1908

MINUTE.

25845

REC
18 JUL 08

WITH REFERENCE to C.O. despatch re Mr. R.A.H. ...
land at Kau and Kianbur.

On the 15th of January 1908 Mr. ... was ...
 after the inquiry declared under Indian Act 35 of
 1898 by Judge Cator. On the 15th January 1908 Judge Cator
 appointed the Administrator General (Judge ...)
 guardian of the person and manager of the property of
 Mr. ... On the 21st January 1908 the Administrator
 General ... in the office ...
 shortly be the only Judge in the Protectorate who could
 make it undesirable that he should administer Mr. ...
 estate and recommend that Mr. Clatterbuck ... was a friend
 of Mr. ... should be appointed which was done on the 31st
 January 1908. Similarly Mr. Clatterbuck appointed the firm
 of ... and ... to act for him. On 15th March 1908 an
 account of the ... in Mr. ... estate
 rendered. In December 1908 as Judge ...
 ... Mr. ... in ...
 ... Mr. ...
 estate ...
 ...
 ... statement of the intro-
 ... in the estate up to the beginning of this year.
 In this further statement the manner in which the Rs. 3000
 mentioned in the C.O. despatch has been dealt with is shown.
 These accounts will be audited early next month. It
 appears that at the time when Mr. ... means that
 he had not paid the purchase price for the 640 acre farm
 which had to be paid for out of his estate. This amounted
 to Rs. 1280 and the property realized Rs. 3000 which left a

profit to the estate of Rs. 1720 and considering the large amount of debts due by the estate if W&H in the interest of Mr. Fawkes that this property should have been sold.

As regards para 1 of the O.C. dated I have already explained that Mead & Co were appointed to act as law agent for Mr. Clutterbuck and when Mr. Fawkes' brother was here last year he saw and spoke to Mr. Harrison and never took any objection to him so acting. He also called on Judge Hamilton and did not express dissatisfaction with anything that had been done but enquired only as to a sum belonging to his brother. As to which enquiries were attended to. As regards para 3 of the O.C. dated I may mention that Judge Hamilton who was then Administrator General was appointed in his absence to be manager to Mr. Fawkes' estate that he did not accept the appointment and at once on finding out the position had the order cancelled and Mr. Clutterbuck appointed in his place, under Indian Act (35) of 1880.

I am enclosing copies of the proceedings which have taken place.

10/10/1905

Copy.

25345

NOTICE

Whereas the said R.H.Fawkes has been ordered to be confined as a wandering and dangerous lunatic under the provisions of the Lunatic Asylums Act 1858 (Act No. 36 of 1858) by a warrant dated the 14th day of January 1905 issued by Donald Donald Esq. Town Magistrate of Nairobi in the East Africa Protectorate. Now therefore notice is hereby given to the said R.H.Fawkes that the District Court for the said East Africa Protectorate will hold an enquiry on the 18th day of January 1905 at 10.30 o'clock in the forenoon under the provisions of the Lunacy (District Courts) Act 1858 (Act 36 of 1858) for the purpose of ascertaining whether the said R.H.Fawkes is or is not of unsound mind and incapable of managing his affairs.

Sd/- R.B.P. Cator
Judge of the High Court
&
District Magistrate.

Nairobi
The 18th day of January 1905.

Having read the report of Dr. Radford and having seen the above named E. H. H. Pawkes who is now confined in irons in the Nairobi Prison and having heard oral statements as to his condition from the Police Magistrate of Nairobi and the Warden I am satisfied that personal service of this notice on the alleged accused will be useless and accordingly direct a substituted service thereon at the Jail of the Nairobi Prison.

Sd/- R. L. P. Cator

H. M. Judge

15th January 1905.

Nairobi,

January 17th 1905.

Sir,

I, the undersigned William John Eastwood, M.R.C.S., England, L.R.S.P. London, Medical Officer, East Africa Protectorate, hereby certify that I on the 14th day of January 1905 at about 11.0 p.m. examined Mr. ^{R.H.H.} Fawkes at the residence of A. Linton Esq., Director of Agriculture, East Africa Protectorate, and that the said ^{R.H.H.} Fawkes is a person to be taken in charge of, and retained under care and treatment; and that I have formed this opinion on the following grounds:-

1. That he considers that acts proved to have been committed by a person 6 years ago, have been alleged by sundry persons unknown, to have been committed by him within the last three days; - also, he states that I have attempted to poison him by the administration of one sleeping draught, whereas I have seen him but twice within the last 12 months, and am a comparative stranger to him, and that the two letters written and directed to me by him in explanation of his refusal to take the draught in question contain matter quite irrelevant, and couched in disconnected and pedantic language; also he has threatened me with a loaded revolver;

and all facts indicating insanity communicated to me by:- H. Eastwood, Esq., Chief Accountant Uganda Railway, whom he accused of want of hospitality when detained by him at dinner, he was violent on this occasion and was ejected from the house;

A.A. Arncliffe, Esq., Paymaster, 3rd K.A. Rifles, whom

... threatened with a loaded revolver
 if he did not promise to say he was "not mad". Mr.
 Armitstead has never met Mr. Fawkes before.

J. J. Sturdy, Esq., Chief Veterinary Officer, E.A. Protectors,
 ... assaulted without warning in the Nairobi
 Club, and threw under the billiard table.

W. H. Clinton, Esq., Director of Agriculture, who wrote to me
 on the night in question that "Fawkes is mad" and helped
 to restrain him until he was placed under certified
 restraint.

E. Conant Esq., Assistant Collector and **Mr. Stocker**, Survey
 Department, who disarmed him when he threatened all the
 guests at a dinner party with a loaded revolver on the
 11th instant.

E. Waring, Esq., Assistant Chief Surveyor, who assisted in
 restraining him on the 11th instant.

Mr. Soldrinch settler reported to me that Mr. Fawkes sat
 up during the night of the 10th instant with a loaded
 revolver, and carried on an animated conversation with
 some supposed person. Mr. Fawkes was alone that night.

A. Bréner, Esq., Assistant Loco. Superintendent, has also
 the statement regarding Mr. Fawkes' strangeness of
 behaviour.

Many of the above have known Fawkes for 5 years.

Sd/- **William J. Bayford, M.R.C.S.**

**Medical Officer, Nairobi,
 E.A.P.**

On the night of the 14th January Dr. Radford gave me a certificate that Mr. Fawkes was in his opinion a dangerous Lunatic and I ordered his arrest and to be kept in confinement under Medical Observation (Act. XXV of 1858) I personally witnessed the conduct of Mr. Fawkes on that night.

Sd/- S. Small

JOHN MAGISTRATE

Nairobi,

January 17th 1905.

COPY.

13th March 1905.

On the application of Mr. F. Fawkes to be
appointed Guardian of the person of his brother

R. H. Fawkes supported by Affidavit sworn this day

Order accordingly subject to the filing of Mr.

Clutterbuck's consent.

Wm. R. Hamilton

13 March 1905.

Copy.

Njoro,
8th June 1908.

Sir,

In reply to your letter of May 29th I consent
to Mr. Frederick H. Fawkes taking charge of the person
of my brother F. H. H. Fawkes.

Sd/- C. Clutterbuck.

Copy.

September 27th 1906.

59

Dear Sir,

I shall be glad to have the over draft
standing in my name at your Bank transferred to
the London Office.

S/- R. H. H. Farnes

The Manager,

H. B. Of India, Ltd.,

Bombay.

In the matter of R. H. H. Fawkes a lunatic,

Civil Case 1 of 1903.

District Court Nairobi.

I Robert William Hamilton, Administrator General
East Africa Protectorate, make oath and say as follows:-

- (1) I have had several interviews with Mr. C. B. Clutterbuck and made enquiries concerning him and am satisfied that he is acquainted with Mr. Fawkes' affairs, and is a fit and proper person to be entrusted with their management.
- (2) Mr. Fawkes regards him with confidence and desires that he should be appointed to look after his interests.
- (3) I shall shortly be only entrusted with the duties of Judge in this Protectorate, which makes it desirable that I should be relieved of the duty of acting as guardian and manager to Mr. Fawkes.
- (4) Mr. Fawkes' credit balance at the National Bank of India is Rupees 2000-1-0, and his outstanding bills amount to upwards of Rupees 1000.
- (5) His other property consists of interests in land which Mr. Clutterbuck is peculiarly fitted to supervise.
- (6) The Bank certificate of Mr. Fawkes' account at this date is attached herewith and marked A.
- (7) Dr. Bedford, Medical Officer, has today reported to me that steps should be taken to send Mr. Fawkes to England under care of an attendant at the earliest

opportunity, he having this day examined him.

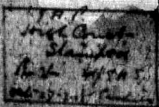
(Sgd.) R. W. Hamilton

Before me

(Sgd.) John Ainsworth

Sub-Commissioner

this 31 day of June 1905



East Africa Protectorate
District Court Nairobi,
Civil Case 1/1905.

In the matter of R. H. R. Fawkes a lunatic.

WHEREAS by an order of the Court dated the 16th January 1905 R. H. R. Fawkes was declared of unsound mind and incapable of managing his affairs and the Administrator General was temporarily appointed guardian of his person and manager of his estate, AND WHEREAS it appears desirable to vary the said appointment and to make other provision IT IS NOW THEREFORE ORDERED that Charles Baldwin Clutterbuck Esquire be appointed guardian of the lunatic's person and manager of his estate, that the said guardian do take steps to provide for the lunatic's return to England at the earliest opportunity, and that he furnish the Court with a report on the lunatic's affairs in this Protectorate within 2 months of the date of this order.

(Sgd.) R. B. P. Gator

21. 1. 06.

In the matter of R. A. H. Fawkes a lunatic.

I Frederick Hawksworth Fawkes make oath and say as follows - I am the elder brother of R. A. H. Fawkes I am anxious to take charge of his person and to take him out of the country.

Dr. Milne has advised me that it would be a good thing for my brother to leave the country at the earliest opportunity.

To this end I have made arrangements for taking him to Natal by the Austrian Lloyd boat leaving Mombasa on the 17th instant.

I have already spoken to Mr. Clutterbuck and he agrees to my taking charge of my brother and will furnish the Court with his consent in writing.

I have further agreed with Mr. Clutterbuck that he shall remain in charge of my brother's property.

(Sgd.) Frederick H. Fawkes.

Sworn

Before me

(Sgd.) R. W. Hamilton

Judge High Court.

13 March 1905.

Nairobi

18th January 1905.

On the application of the Crown Advocate and after reading the report of Dr. Radford on the state of health of the alleged lunatic Mr. R. H. H. Fawkes and having this day seen the said R. H. H. Fawkes who is in restraint in the Nairobi Prison.

I hereby declare that the said W. I. Fawkes is of unsound mind and incapable of managing his affairs.

And I appoint the Administrator General to be guardian of the person and manager of the property of the said lunatic.

And I direct that until further order the said lunatic be detained in the Nairobi Prison under such restraint as the Medical Officer in charge of his case may deem to be necessary.

(Sgd.) R. B. E. Cater

H. M. Judge

18. 1. 05.

31 January 1905.

On reading the affidavit of Mr. Clutterbuck dated 30. 1. 05 and of the Administrator General of the 31st January 1905 filed in this case.

ORDER that Charles Baldwin Clutterbuck be appointed guardian of the lunatic's person and manager of his estate:

that the said guardian do take steps to provide for the lunatic's return to England at the earliest opportunity, and that he furnish the Court with a report on the lunatic's affairs in this Protectorate within two months of the date of this order.

(Sgd.) R. E. P. Cator

31. 1. 05.

IN THE MATTER OF R.H.N. FAWKES A LUNATIC.

Civil Case 1 of 1905.
District Court Nairobi.

~~Exhibits~~

I Charles Baldwin Clutterbuck of Ashwell Oakham Rutland England and Njoro East Africa make oath and say as follows:-

I am a personal friend of R.H.Fawkes whom I knew formerly in England.

I am managing Lord Hindlip's property at Njoro, I have a dairy on Lord Delamare's property and I have an equal share in 8000 acres leasehold land which I taken up with R.H.Fawkes.

I am ready and willing to undertake the management of Mr.Fawkes'affairs in East Africa & the care of his person & to arrange for his return to England.

Before me
Sd.R.W.Hamilton.

Sd. Charles B.Clutterbuck.

Judge of High Court.
30-1-05.

E.A.P.
High Court
Stamped
~~Rs.3/-~~
Rs.3/-
Sd.E.H.S.
Date 27-2-05.Cashier.

3
3rd June 23, 08

67

Re Mr. R.A.H.Fawkes Civil Case No.2

Statement showing
of R.A.H.Fawkes'

Receipts.

Jul 17	By sale of the 4000 acres-leasehold land on the Thika River for what it had cost upto date.		
	Surgey fees	490-00-00	
	2 years' rent	272- 8-00	
	Cost of deeds	44-00-00	806 80
23	Received from Mr. Byles for 2 months option to purchase the 640 acres at Rs.3000/-		75 --
6th	By sale of Corn crushing mill to R.W.B. Eustace.		15 --
21st	From Smith Mackenzie & Co for sale of assayers outfit less storage charges.		98 --
17	By sale of the 640 acres of land on the Kisa River.		3000 --
12	Received from Mr. J.Scott on promissory note given to Mr. R.A.H.Fawkes.		

Rs. 4441 50

of 1906 (Lunacy Jurisdiction).
Receipts & Expenditure.
Estate since April 1906.

Expenditure.

1906.	Balance due to Head & Co. on last account.		144 19
May 2nd	Payment to Mr. B.M. Byles being refund of moneys he had spent out of his own pocket at Lamu.		570 --
Nov 3rd	To Lana Office for cost of the 640 acres farm at Rs. 2/- per acre.		1280 --
	Registration Office for cost of deeds registration and stamps.		52 --
1907	Feb 24th C.B. Clutterbuck refund of private monies spent by him on estate business.		294 87
Apl 19	Mr. O. Tenks on behalf of Messrs. Denhardt & Co's claim of Rs.2904/75		1266 59
June 12	J. Scott paid his extra account on recovering Rs. 450/- due from him to the estate on promissory note.		16 --
1908	Jan 10 Mr. O. Tenks on behalf of Messrs. Denhardt & Co being the final balance in our hands		463 78
	Messrs. Head & Co's doct.		354 --

Rs. 4441 50

Final account.

(Signed.) Charles E. Clutterbuck.
Guardian & Manager of Estate.

3
 3rd June 20.08.

Re Mr. R.A.H.Fawkes Civil Case No.2

Statement showing
 of R.A.H.Fawkes'

Receipts.

17	By sale of the 4000 acres-leasehold land on the Thika River for what it had cost up to date.		
	Survey fees	490-00-00	
	2 years' rent	272- 8-00	
	Cost of deeds	44-00-00	806 50
23	Received from Mr. Byles for 2 months option to purchase the 640 acres at Rs.3000/-		75 --
21st	By sale of Corn crushing mill to R.W.B. Eustace.		15 --
21st	From Smith Mackenzie & Co for sale of assayers' outfit less storage charges.		95 --
17	By sale of the 640 acres of land on the Kio River.		3000 --
12	Received from Mr. J.Scott on promissory note given to Mr. R.A.H.Fawkes.		430 --

Rs. 4441 50

of 1905 (Lunacy Jurisdiction).
 Receipts & Expenditure.
 Estate since April 1906.

Expenditure.

1906.	Balance due to Messrs. H. & Co. on last account.		144 19
May 2nd	Payment to Mr. B.M. Byles being refund of moneys he had spent out of his own pocket at Last.		378 --
Nov. 3rd	To Land Office for cost of the 640 acres farm at Rs. 2/- per acre.		1280 --
	Registration Office for cost of deeds registration and stamps.		52 --
1907	Feb 8th C.E.Clutterbuck refund of private monies spent by him on estate business.		294 87
Apr 19	Mr. O.Tenks on behalf of Messrs. Denhardt & Co's claim of Rs.2904/18		1266 59
June 12	J.Scott paid his extra account on recovering Rs. 450/- due from him to the estate on promissory note.		10 --
1908	Jan 16 Mr. O.Tenks on behalf of Messrs. Denhardt & Co being the final balance in our hands.		430 86
	Messrs. Head & Co's costs.		154 --

Rs. 4441 50

Final account.

(Signed.) Charles E. Clutterbuck.

Guardian & Manager of Estate.

2 drafts

Sw
25545
E.A.P.

31
68

DRAFT

R. A. A. Fawkes Esq

MINUTE

- Mr Jones 28
- Mr Husley 28
- Mr Head 28
- Mr [unclear]
- Mr [unclear]
- Sir C. Lucas
- Sir F. Hopwood
- Mr [unclear]
- Mr [unclear]

So, both of the letters
 from the Earl of the [unclear]
 respecting your estate in the
 East Africa Protectorate, have
 been [unclear] the Earl of [unclear] to
 forward, for your [unclear], a copy
 of a report of the [unclear] [unclear]
 advocate on the subject, together
 with a copy of the [unclear] of the
 receipts [unclear] [unclear] [unclear]

April 1506

Enclosures
3 in 289

original sent
returned

keeping copy
to be used for [unclear] in [unclear]

Draft How
noted

2. The account enclosed
 in your letter of the 27th Jan
 is returned herewith
 (60) No. 89

I have the honor to
 acknowledge the receipt of your letter
 No. 23rd June and
 to state that I have forwarded
 to W. R. A. H. Fowler Esq
 of the receipt of the
 same Advocate of the
 account entered in your
 book-keeping
 with regard to
 your business carried on by
 the Receiver of the said No. 176 of
 the said office, to which
 regard to your letter that
 I have as
 the manager of

W. R. A. H. Fowler
 Esq. of the
 Advocate

28
 W. R. A. H. Fowler
 Esq. of the

W. R. A. H. Fowler's estate & No. 176 of the
 Court dated 31st Jan. 1855 and
 had he then appointed
 head & (2^d) Administrators, his agents
 & Administrators of the said
 advised to me with respect to do
 in the Dec. 14th of the last year
 No. 35 of 1858. It does not however
 appear that they or he furnished
 the Inventory or annual accounts
 required by the 15th of that Act
 or complied with the Order of the
 Court that he should furnish the
 Court with a report on the business
 affairs within 2 months from the
 date, i.e. of 31st March 1855
 nor does the Court seem to have
 taken steps to enforce the delivery
 of that Report or the Inventory
 or accounts.

of the 1st of Feb 1858
I have to inform
you that the
order of the 23rd Jan and
the order that I have promised
to Mr. A. H. Parker of the
committee of the
Commons Advocate of the
account enclosed in your
despatch
with regard to the
usual questions raised during
the session of the 17th of
the report, the proceedings
of the committee of the
Commons on your order that
the committee should
be called upon to
submit a report on
the subject of the
order of the 23rd Jan

E. A. P. Clerk
to the J. S. Clerk

CO 26
L. M. G.
to read 25

Mr. Parker's report of the
Committee dated 31st Jan 1858 and
had to then appointed a
committee of the
House of Commons for a
committee of the
House of Commons to
investigate the
conduct of the
House of Commons
in 1858. It does not however
appear that they or he furnished
the necessary or annual accounts
required by the House of Commons
or supplied with the order of the
Committee to the House of Commons
Committee in a report on the Committee
affairs within 2 months from the
date, i.e. 31st March 1858
Does the Court seem please
to take steps to enforce the delivery
of that Report or the accounts
or accounts.

The first time I have

the new increased length

between that time does

not appear to have been any

information of the public

the management of W. W. W. W.

is not