



REPORT ON LAND DISPUTES

IN THE

ADANSI DIVISION, OBUASI DISTRICT,

ASHANTI

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Part I

Introduction

The history of the Adansi division is one of endless land disputes and bitter recriminations. Its present energies are dissipated in squabbles and bickerings which reflect little credit on the chiefs and elders concerned, and which effectively strangle at its inception any concerted effort at social and political development.

2. The majority of the most longstanding of these disputes have their origin in the history of the division before and after the Yaa Asantewah War of 1900. It is difficult therefore, to explain the present without reference to the past.

3. According to the Adansis, lands north of the Pra were left unoccupied when the Akims and Assins migrated south. Some time later, Osei Yaw (Asantehene, 1824 - 38) ordered all the Adansis remaining behind to drink Fetish that they would not also remove themselves from his allegiance. As an additional security he demanded that various of the Adansi royals should be sent as hostages to him at Kumasi.

4. The Adansis, being now the most southerly of the people owing allegiance to the Asantehene, were appointed "roadwatchers" or spys to keep watch and report the approach of any enemy from across the Pra. In return for these services the lands left vacant by these migrating peoples were divided by the Asantehene among the Adansi chiefs of Bodwesango, Dompasi, Edubiasi, Akrofuom, Akrokerri, Ayasi and Fomena. At this time these Chiefs were all independent and served the Asantehene directly.

5. At some stage, some of the Adansis themselves seem to have fled across the Pra after a "little war with the Bekwais". Whether it was this group or another, who acted as guides to the British column during the last Ashanti rising in 1900 (the Yaa Asantewah War) is uncertain, but there were in fact Adansi guides with the invading force.

6. After the rising had been suppressed it appears that the Government united in one Adansi division the various hitherto independent chiefs, giving the Fomena Chief, Kobina Foli, paramount rank in return for the services of his guides, and placing the other Adansi Chiefs under him as his Wing Chiefs. This meant that the latter, as Chiefs of a sub-division of the new Adansi division, now served Kobina Foli as Adansihene and, with the restoration of the Ashanti Confederacy, served the Asantehene, through him. Kobina Foli's position became therefore a dual one. He was the Paramount Chief of Adansi and Chief of the Fomena sub-division. The only land which he possessed however, would seem to be in his capacity as Chief of Fomena and not Adansihene. (But a "King of Adansi" signed the 1874 Treaty.)

7. Kobina Foli now wished to reward his Fomena elders and Gyase Chiefs by grants of land, and the Wing Chiefs allege that instead of dealing only with his own Fomena land, he gave away portions of their land as well.

8. Whether these grants were made to the Fomena elders "out and out" or as caretakers for the Adansi Stool is far from clear. At times the elders assert that the lands were given to them by the Asantehene after the early exodus referred to above (paras. 3 and 4), and that they were restored to them as their ancestral lands when they returned again North of the Pra in 1900; at other times they appear to take their stand on the grants made by Kobina Foli.

9. At one stage after the destoolment of Kobina Foli, the Adansihene elect, one Tabil Egyei signed a document undertaking to give back these lands so alienated by Kobina Foli, in return for his election. He did not do so however and subsequently in 1932 he repudiated his promise. (See the Asankori lands dispute p.18 paras. 108-109.)

10. Whatever actually happened, it is undisputed that these alleged grants made either in the nineteenth or early in the twentieth century, have been the cause of the majority of the Adansi land disputes and that they, in their turn have caused much bitterness, political unrest and disunity.

Nature of the Disputes

11. With such origins, these disputes involve, not unnaturally questions of historical fact, of might not right, conquest and defeat rather than Court decisions on legal principles. (This is probably the case in all such disputes between units larger than the family.) For this reason it has not proved possible to abstract from the material used, Office Files and Court Records, any general principles of Akan land tenure.

12. The following is a list of the disputes investigated. Each is examined and set out separately in Part II of this Report:-

- (i) Bodwesango Lands, between the Bodwesangohene, the Adansihene, and the Kusahene.
- (ii) Kojo Nkwanta Lands, between the Akrofuomhene, the Gyasehene, and the Abadiakyirehene.
- (iii) Ahinsan Lands, between the Adansihene, the Odikro of Ahinsan and Dompoasi farmers.
- (iv) Prekesseasi Lands, between the Adansihene and the Dompoasihene.
- (v) Kwao Land, between the Adansihene and the Dompoasihene (connected with (iv) above).
- (vi) Nkrabia Lands, between the Akrofuomhene, the Abadiakyirehene, Kwame Kwadu of Fomena, and Chief Sawu of Bobriasi.
- (vii) Asankori Lands, between Ayasihene and Odikro of Sibinisu.
- (viii) Sumuosu Lands, between the Edubiasihene, Chief Kofi Yeboah and Chief Kofi Anane.
- (ix) Abusu Land, between the Dompoasihene and the Edubiasihene.
- (x) Nyamiben Land, between the Adansihene, the Ayasihene, and the Kusahene.
- (xi) Land in the vicinity of Pomposo, between the Krontihene of Dompoasi and Odikro of Sibinisu.
- (xii) Ownership of village of Kwapia, between the Akrokerrihene and the Ayasihene.
- (xiii) Lands around Akrofuom, between the Akrokerrihene and the Akrofuomhene.
- (xiv) Atobiasi-Apagya Boundary dispute, between the Dompoasihene and the Ayasihene.
- (xv) Ownership of village of Hwiremoasi, between the Odikro of Hwiremoasi and the Kyidomhene of Adansi.
- (xvi) Land between Brofoyedru and Asokwa, between the Kyidomhene of Adansi and the Odikro of Brofoyedru.
- (xvii) Land between the Fum and Subi rivers, between the Ayasihene and Chief Brenya.
- (xviii) Land between the villages of Nkwansirem and Ayokowa - Brofoyedru, between the Abadiakyirehene and the Konahene.
- (xix) Nkontoase Lands, between the Adokwaihene (Adansi) and the Abodomhene (Adansi) and the Abodomhene.
- (xx) The Adokwai (Adansi) - Amoaful boundary dispute, between the Adokwaihene and the Amoafulhene.
- (xxi) Nsokote Lands, between the Adansihene, the Bankahene and the Odikro of Mronam.
- (xxii) Adansi-Mronam dispute, between the Adansihene and the Queen Mother of Mronam.

(xxiii) Nsese Lands, between the Adansihene and the Brenasihene.

(xxiv) Ochereso Land dispute, between the Adansihene and the Odikro of Ochereso.

(xxv) Fwidien Lands, between the Adansihene and the Omanhene of Assin Mansu.

13. In addition to these, lands in the following Forest Reserves are also in dispute between various Stools:-

- (a) Nyanebepo Reserve
- (b) Supuna Reserve
- (c) Nkrabia Reserve
- (d) Afia Shelterbelt Reserve
- (e) Kokotintin Reserve
- (f) Mirasa Hills Reserve
- (g) Nunia Forest Reserve.

In connection with these there is little information obtainable from files either in Obuasi or Fomena, other than statements by the District Commissioner at regular intervals that money grants paid by the Government in respect of these Reserves have been placed on deposit until the boundaries are settled.

14. The disputes set out in paragraphs 12 and 13 above fall into two classes, (i) internal and (ii) external; the former comprising not unnaturally the greater number. Some of these internal disputes are between the various wing chiefs and the Fomena elders, in many cases closely involving the Adansihene; others are between the various wing chiefs inter se; while a few concern wing chiefs and sub-chiefs of wing chiefs.

15. Those classified as external involve chiefs in the Bekwai district who are in the Kumasi division; the Bankahene of the Government created division of Banka; and chiefs in Akim Bosome, Akim Abuakwa and Assin Apeamanem in the Colony. These external disputes, though not so numerous as those in category (i) have nevertheless involved the division in endless and costly litigation which in several cases has dragged on for years without any final decision having been given. For example the Adansi-Ochereso dispute which began in 1922 has, in the course of twenty years been before the Circuit Judge, Ashanti; the Full Court, an Arbitrator, the West African Court of Appeal, the Privy Council, back to the West African Court of Appeal, on petition to the King, before the Divisional Court and the West African Court of Appeal again, which Court held that it must be deemed pending in the Court of the Chief Commissioner of the Northern Territories (see Appendix II p.44 para C). At this stage it was estimated that £8000 had been spent on its prosecution. Five years later when that Court ceased to have jurisdiction it was transferred, still unheard, to the Divisional Court in April 1946 (See p.33 para. 230).

16. The disputes listed above are of course not all of equal importance, nor are they all being actively contested. Those quiescent are however likely to break out again on slight provocation. It is abundantly clear from the files that the greatly increased demand during the war for timber, led to a flaring up of many hitherto dormant disputes, with in some cases a claim to an increased area of land.

17. For this reason it is difficult to estimate how many have in fact been finally settled. Appendix I, pp.39-41 shows in tabular form the court history and present position of each dispute. It will be seen from it that the majority of the more important cases have been before numerous courts as well as having been arbitrated e.g. the Kojo Nkwanta Lands dispute, No. (ii); the Ahinsan Lands Case, No. (iii); and the Ocheresco Case, No. (xxiv).

Settlement without Litigation

18. It would be unfair however, to give the impression that a real attempt has not been made by the Chiefs themselves and the District Commissioners concerned to reach a just and amicable settlement of the major disputes. For a number of years,

Quarterly and Annual Reports have referred repeatedly to efforts made in accordance with the direction from the Chief Commissioner that these differences must be settled by the parties themselves. But it is clear that out of a combination of history and present circumstances a situation has arisen with which the Chiefs are no longer capable of dealing, and which in fact, militates against such a solution.

19. The Adansi Divisional Council has deliberated more than once during the past few years on this whole problem. It was on the agenda again for their meeting in January 1946 but political dissension resulting in the destoolment of the Adansihene forestalled this. An attempt with unfortunate repercussions was made in 1935 to draw up a set of rules on land tenure. An effort at settlement by arbitration was made in 1941 after consultation with the Fetish Bonsam at Patakro. A charge of bribery quickly brought against one of the Chiefs appointed as arbitrator resulted however, in a complete break-down.

20. Settlement with the help of the District Commissioner has, with the exception of the Ahinsan Lands dispute, (see p.11; see also p.13 para. 88 for an attempt by counsel to upset this settlement) and probably the Prekesseasi Lands dispute (see p.16) had little success. This is by no means due to any lack of energy, infinite patience, and tact on the part of the officers concerned. It results rather from the lack of time, especially during the war years, needed to unravel the long and complicated history of each dispute, and from the unwillingness of the parties, even when they have agreed beforehand to do so, to accept any decision he may give.

21. This reluctance may be due to the fact that a District Commissioner has no jurisdiction in land cases, or merely to what amounts almost to an inability to accept any adverse decision without bringing an appeal. Whatever the reason, the Adokwai-Abodom dispute, over the Nkontoase Lands (See p.24, paras. 158-160) is a good illustration of what usually happens when cases are referred to the District Commissioner, and supports only too well the finding of the Havers Commission at p.26, para. 56 of the Report that "the usual result [of recourse to arbitration] is that an additional stage is added to litigation".

Settlement by Litigation

22. There remains the question as to whether these disputes have been more effectively dealt with by the Courts. Here again the results are far from encouraging and amply justify the statement in the Havers Report at p.34, para. 65 that "in practice it has not been found possible to determine finally boundary disputes by judicial decisions". Indeed it might be said, with some justification, that settlement by litigation becomes in the Adansi context a contradiction in terms.

23. "The law delays" take on a new meaning when a perusal is made of the inordinate time cases are before Native Courts of all grades without being heard. Delay in the Adansi Court has been due in no small measure to the political unrest which has been for so long the background in the division. The numerous and frequent destoolment investigations have not unnaturally hindered the hearing of cases, which as has been pointed out already, (see para. 10 above) concern in the main, political boundaries between chiefs.

24. In the Adansi-Brenasi dispute (see pp.30-31, paras. 211-213) the swearing of the oath was reported to the Asantehene on August 28 1936. Judgment in the oath case arising therefrom, was finally given in the Asantehene's 'A' Court, more than four years later on November 14 1940. A delay of such a length cannot be in the interest of justice.

25. The granting by Native Courts of endless and unnecessary adjournments is commented on adversely at p.15, para. 29 of the Report of the Havers Commission. The fifteen adjournments in the Banka-Mronam case (see p.28, para. 189) and the twenty six in the Kojo Nkwanta Lands dispute (see p.10, para. 67) granted in the Chief Commissioner's Court, admittedly on the application of counsel for the parties and not for the convenience of the Court, would seem to show however, that delay in this connection is not necessarily confined to the Native Courts.

26. But delay in hearing is not the only stumbling block in the way of settling these disputes by litigation. Another is the lack of finality of judgments in all land cases caused by the fact that such judgments do not bind persons who are not parties to the action. "In practice" as the Havers Commission observes at p.36, para. 68 of the Report "it is seldom possible in such cases to establish an estoppel based on res judicata".

27. This is all too apparent in Adansi. Not only will a decision be disputed by other claimants to the same land who have not been made parties, but any boundary laid down in one case will almost certainly encroach on boundaries in dispute in another. There is moreover the added difficulty that the alleged boundaries (generally "two empty gin bottles and Kofi Mensah's farm") are untraceable with any certainty on a map. (Cp. Adansi-Brenasi dispute p.30, para. 209, Nsokote Lands p.28, para. 193, and Kwao dispute p.17, para. 99).

28. But the most serious hindrance to final settlement by judicial decision is that all too often the real issue is never tried. In only two out of the eight actions which have reached the Chief Commissioner's or a higher Court on appeal has a decision been given on the merits of the case. Of the remainder, three were dismissed on the ground that the Court below had no jurisdiction; two have been transferred twice; and in one, the West African Court of Appeal side-stepped the issue by dissociating itself from the finding of the Lower Court as to the ownership of the land in question.

29. It should be mentioned here that certain Courts have no jurisdiction, original or appellate, to hear land cases, and that for the purposes of jurisdiction a land case is defined as one "relating to the ownership, possession or occupation of land". (For convenience, the relevant sections of the Ordinances which lay down the jurisdiction of the various Courts, are set out in Appendix II, pp.43-44.)

30. Failure to try the real issue has at times been "caused by the inability of the parties, Counsel and (I fear) some of Judges to appreciate the alteration in the law brought about by legislation" to quote from a minute by Doorly J. when commenting on "the most satisfactory settlement" by the District Commissioner of the Ahinsan Lands Dispute (see p.13, para. 87). The result, as he points out, is that cases are not immediately stopped and transferred to a competent court but "instead absolutely unnecessary costs are incurred". (For another instance of unnecessary costs see claims of counsel in the Adansi-Ochereso dispute pp.33-34, paras. 231-2.)

31. At other times despite the definition referred to in para. 29 above, the Courts have very often had great difficulty in deciding whether a case is or is not a land case. This has frequently been caused by the vagueness of the form in which the action was originally brought in the Native Court. The difficulties which this leads to have been commented on by Kingdon C. J. in *Fosu v. Turkson* 3 W.A.C.A.127. (Though this case concerns actions brought in Native Tribunals in the Colony, the Chief Justice's remarks apply with equal force to actions brought in Native Courts in Ashanti.) In his judgment he emphasized the need for closer control, by rule or otherwise, of the form of writs in Native Tribunals, and at p.139 pointed out that "clarity in the nature of a claim before a native tribunal is particularly important because it is necessary not only to enable a proper decision in the case to be given, but also to determine what tribunal had jurisdiction to hear the case and in which direction an appeal lies".

32. But the trouble has not been caused solely by the Native Courts. The following is an extract from the judgment of the Chief Commissioner's Court in *Kobina Foli of Adansi v. Frimpomah, Queen Mother of Mronan*. Appendix I, No. (xxii). "The District Commissioner had no jurisdiction to hear this case. I have no option but to allow the appeal. I do so with great regret as I have had considerable experience of the unfortunate effect on the minds of litigants in this country when a Court disposes of their claims to land on technical points of the English law of procedure and not on the merits of the case." The District Commissioner had asked that the case should be transferred to the Chief Commissioner's Court, stating that he did not wish his decision to be upset on the technical point of lack of jurisdiction. He was instructed that "the Chief Commissioner is of opinion that the case is within your jurisdiction". His decision was upset on appeal to the Chief Commissioner's Court on the ground quoted above. (See p.30, para. 206.)

33. In the Ahinsan Lands case (Appendix I, No. (iii)) an original writ was taken out in the Divisional Court. That Court stated "it is clear that the amount claimed is for arrears of rent and therefore the Court has jurisdiction". On appeal the West African Court of Appeal held that "the claim .. was for rent and/or tribute in respect of cocoa farms. It was clearly a suit relating to the occupation of land within the jurisdiction of the Adansi Native Court 'B' and therefore not within the Divisional Court's jurisdiction. "It is no doubt the duty of the Court to know the law" as Kingdon C. J. remarked in another Adansi case, *Kwesi Brentuo v. Adu Kofi*, (Nkontoase Lands dispute p.24).

34. It is clear therefore that the nature of the action determines the correct procedure for that action and the correct choice of procedure is vitally important because of the "obvious difficulty which courts experience in setting aside their rule of procedure in order to secure substantial justice" (Hailey, African Survey p.299). But to make "substantial justice" dependent on rules of procedure is a principle long abandoned by English law which recognised as early as the Middle Ages that justice means in this connection that "where there is a right there should be a remedy". Ubi ius ibi remedium not ubi remedium ibi ius.

35. There is moreover a further reason for a simple and smooth working Court procedure since as Lord Hailey has emphasized, (cp. cit. p.297), "judicial administration is a more important factor in earning respect for the law than the substance of the law itself". A system of procedure which can be used or misused to such an extent that, as happened in the Ahinsan case the Divisional Court is forced to give up any attempt at judicial solution does not command respect. There the Court was faced with having to try in an inter-pleader action the precise matter which had already been referred by the West African Court of Appeal back to the Adansi Native Court 'B' and not yet heard by that Court twenty months later apparently because both the District Commissioner and the Native Court seemed to be doubtful whether the latter Court had jurisdiction (see p.12, para. 82).

36. This case was finally settled by the District Commissioner out of Court, and by a clause in the general agreement all the parties agreed to forego their costs. This dispute has the distinction of being the only one in which a final settlement has been reached, (see p.4, para. 20, and p.41 Appendix I) but it nearly lost this claim to fame when one of the counsel objected to the "costs clause" being allowed to stand on the grounds that he had already assigned his expected fees (see para. 88, and cf. p.34, para. 232).

37. Kingdon C. J. in Fosu v. Turkson already referred to at p.5, para. 31 above has called for a "drastic amendment in a judicial system which makes possible such a multiplicity of proceedings". This was in 1936 in the Colony. The matter is no less urgent in Adansi in 1946.

Summary

38. To sum up:-

- (i) The Adansi boundary disputes turn not on legal principles of land tenure but on questions of fact and history.
- (ii) The following methods of settlement have been tried over a period of years.
 - (a) Arbitration by the Chiefs inter se.
 - (b) Settlement with the help of the District Commissioner.
 - (c) Litigation.
- (iii) None of those has been successful.

Possible Solutions

39. Though it is outside the terms of reference to recommend specific action, the need for action is so pressing that the following suggestions are offered as possible solutions to a difficult problem:-

I. The consent of the Adansi Chiefs might be sought to a full-scale extra judicial investigation of the disputed boundaries to Stool land in order to reach a complete and final settlement.

II. A Boundary Commission as contemplated by the Report of the Havers Commission in Chapter XII p.34 et seq might be set up.

40. With regard to proposal I, there is reason to believe that such an investigation would be acceptable. In April 1943, the Adansi Divisional Council recognized that any attempt at complete and final settlement would need to be conducted extra judicially, by disinterested arbitrators and without any right of appeal. The same opinion was freely expressed in the course of this present inquiry.

41. The question of surveys in connection with any complete investigation was also discussed by the Divisional Council in 1943 and it was considered that in nearly every case a survey would be necessary. If a full investigation is made, the Confederacy Council might be willing to subsidise the cost of such surveys.

42. The investigation proposed in para. 39, I, might be carried out by:-

(a) Three arbitrators appointed by the Asantehene; or

(b) A Political Officer sitting with two assessors appointed by the Asantehene. (With the memory of the failure at Patakro still strong, this panel might prove the more acceptable.)

43. The success of such an investigation as a means of obtaining a final settlement would depend on:-

(i) Adequate notice of the investigation being given to all parties with claims to the land in question;

(ii) the refusal of the arbitrators to allow any adjournments at the request of the parties, without the most cogent reasons;

(iii) the willingness of all such parties to sign an undertaking to accept the findings of such an investigation without appealing therefrom. Such an undertaking would obviate the difficulties referred to in para. 56 of the Report of the Havers Commission (See p.4, para. 21 above).

(iv) The careful drafting of wide terms of reference to prevent the complaint that the arbitrators had acted ultra fines compromissi.

44. A solution along these lines has the merit of requiring no legislation. Admittedly it is applicable only to internal disputes, though for this purpose disputes (xix) and (xx) might be considered "internal", since the non-Adansi parties thereto are chiefs in the Kumasi Division, which like the Adansi Division, is part of the Ashanti Confederacy. Moreover the settlement of the internal disputes could not fail to iron out many of the difficulties hindering the final settlement of the external disputes.

45. With regard to proposal II in para. 39, this method of solution has the advantage that it could be used to deal with external as well as internal disputes. But no such legislation as that recommended by the Havers Commission has yet been enacted.

I. BODWESANGO LANDS

46. The area affected is the land to a length of about a mile long the Jimi River going north from Brofoyedru and a considerable area to the west of the Anum River.

47. The question as to the ownership of these lands goes back to "the days of yore during the remote past" as one of the claimants puts it. As in many of the Adansi disputes, the background is the migration of the Akims, Assins and Denkyiras to the Colony and the allocation among the Adansis who stayed behind of those lands which were left unoccupied. Reference has already been made to the distribution of these lands and to the complications and confusions which resulted from further redistributions after the Yaa Asantewah rising (see p.1 para. 4 supra) and it need not be recapitulated here.

48. In 1912 as a result of a dispute between Adansi and Bodwesango the boundary between them was laid down by Captain Pott as follows:-

"Starting at a point where the Ajinkwa stream crosses the hammock road from Brofoyedru to Imbatiem and close to Ajinkwase the boundary follows that stream in a northerly direction to its source thence the Crest of the range of hills in which the Ajinkwa stream rises in a N. direction until the boundary of the Imbatiem Concession is reached, thence the boundary of the said concession to its most Western point, thence the Western boundary of the said concession until the Adansi - Assechere boundary is reached, thence the Adansi - Assechere boundary in an Easterly direction to the junction of the Funtum and Fwere stream, thence the Fwere stream to a point due North of the village of Betinko, thence a straight line due South to the village of Betinko, thence the path in a Southerly direction through the farm village of Agayekrom to Subireso.

From this point the boundary proceeds in a Southerly direction until the farm village of Yankumasi is reached and thence turns N.W. through Kokotsigaram to the village of Fumso (alias Aboabo) but this part of the boundary cannot be more particularly described until the land has been surveyed. It is however, understood by both parties that the Bonkrom lands and the farm village of Bonkrom fall to Adansi, and the Abankami Hill and Abankama River Concession fall to Bodwesango.

From the village of Aboabo or Fumso the boundary follows the direct path to Ajunkuaso - see sketch in Bodwesango-Adansi Boundary papers".

49. This became subsequently a validated executive decision (see page 312 of the Boundary Book). The sketch referred to appears from the files to be missing.

50. In June 1932, the Gyasehene of Fomena complained to the District Commission that the Bodwesangohene had "with gross insolence" made a claim to the whole of the Bonkrom lands.

51. In March 1940 he made a specific claim to Aokaa-Krome, Fumso, Aboabo No. 1, Buasiwa (Obuasiwa), Nkwatamu, (Nkwatam), Nsuta and Nyankumasi and demanded that the matter be dealt with by the Divisional Council. The Adansihene replied that these lands were allocated to the Adansi Stool by the 1912 decision and that he did not consider the Divisional Council had power to investigate as it was not a constitutional matter.

52. A year later it transpired that some of the lands in dispute had been sold outright by the Bodwesangohene to Akwapim purchasers in about 1935. A meeting was held at Fomena on April 5th, 1941 at which Panin Adjaye Kumah one of the purchasers and the Bodwesangohene were present. It seems to have been conducted in a spirit of animosity and with a lack of any sort of wish to come to an understanding which is characteristic of the great majority of meetings convened to discuss land troubles in this division.

53. The purchaser was told that the land sold was not Bodwesangohene's to dispose of but belonged to the Adansi Stool. The Bodwesangohene made the childish

reply that he was not the only one, and that other people had done the same thing. He alleged that various alienations were made during one of the numerous periods of political unrest in the Division which had not only not been sanctioned by the Adansi Paramount Stool but that the Divisional Council had decided that they should not receive such customary confirmation. He then walked out of the meeting.

54. The Adansihene denied that the Divisional Council had made any such decision but admitted that alienations of land had in fact been made during this period by the Stools of Ayasi, Edubiasi, Bodwesango and Adansi. The Ayasi Stool sold a very large area to Okyeame Manteau, Kwadjo Ayeko and Solomon Kwabena Oduro of Mamfe, all Akwapims for about £800. During the same period the Edubiasi Stool sold land for £975. This too received the approval of the Adansi Stool. (see Sumuosu Lands dispute p.24, para. 115. The two sales made by the Bodwesangohene took place at the same time as these others i.e. about 1935, but no reference was made to the Adansi Stool.

55. In the first sale, lands between Nyankumasi and Nsuta were sold to five Krobos' - Kwabena Edufudi, Kofi Wayo, Tee Kwame, Kwame Donkor and Lartey for £1,400. By 1941 £800 of this sum had been paid. The second sale comprised lands between Obuasiwa and Nsuta which were sold for £400 to the above-mentioned Panin Adjaye Kumah, an Akwapim.

56. The Adansihene cannot, one supposes, be expected to appreciate the equitable maxim that "you cannot blow hot and cold", but he at least knows how to quote "the scriptures" to his own purpose. He took his stand on the Confederacy Council ruling that not only was the practice of selling lands outright contrary to Native Custom but also as he puts it "exotic and inimical to the best interest of the nation". (Such a ruling however would appear to have value only as evidence, since the Confederacy Council had no power to make a declaration as to native law and custom until the coming into force of the Native Law and Custom Ordinance (No. 4 of 1940). He told Panin Adjaye Kumah to quit the land and the latter having refused to produce the agreement signed in his favour by the Bodwesangohene, left the meeting.

57. The question of the Bodwesango Stool lands was raised again at the Fetish meeting at Patakro in June 1941. There the Bodwesangohene stated that his boundary was from the River Jimi to the River Anum. This was disputed not only by Adansi but also by the Kusahene who laid claim to Nyemiben and "many other places". This latter claim appears to have been made against the Gyasehene.

58. The matter was not however, discussed further, though the Bodwesangohene appears to have agreed along with the other Chiefs to a settlement by arbitration as directed by the Fetish.

59. This dispute illustrates very clearly the situation referred to in paras. 8 and 27 supra. The Bodwesangohene is now threatening to litigate. This would be nothing but an organised waste of time - and money. Not only would any Court decision in an action between the Adansi Paramount Stool and the Bodwesangohene be challenged by the Kusahene but the Gyase Chiefs are a further complication. It will be remembered that the complaints against the Bodwesangohene made in 1932 were made by that "clan", but whether on their own behalf or as caretakers for the Adansi Stool is far from clear. It is obvious that clarification of their status and of the interests in the lands they claim is a prerequisite to any lasting settlement of land disputes in the division.

II. KOJO NKWANTA LANDS

Field Sheets 50, 86, 89

(also known as the Dampia Hill Boundaries and Nsutem lands. See also Chief Kwaku Prah of Fomena v. Osei, Akrofuomhene. Court File No. 35/34, Chief commissioner's Court.

60. The Kojo Nkwanta lands lie between the Dampia Ranges and the Fum River and cover an area of about 4 square miles. The dispute between the Gyasehene of Fomena and the Akrofuomhene as to their ownership is but one of the many which rise Phoenix-like from the ashes of the Yaa Asantewah war.

61. According to the Gyasehene, these lands were given to his "clan" (whatever he means by that) by the Asantehene after the Assin, Denkyira and Akim migration and the grant was reaffirmed by Kobina Foli after the 1900 rising. Soon after the latter's installation, this allocation was challenged by the then Akrofuomhene - one Akoto - and as a result of judgment being given against him by the Acting Chief Commissioner, Ashanti, Mr. A. J. Philbrick, he was destooled. An appeal by Ata Yao, successor to Akoto was dismissed. Later, part of this land - Opumi-Krome Aduposo - was leased by the Gyasehene to Yaa Kumaa, a subject of Akrofuom.

62. Then in 1932, complaints were made to the District Commissioner that the Akrofuomhene had entered the lands, driven off the caretaker, Kobina Kumi and replaced him by two of his own men - Buohene and Kwame Himin. He was also alleged to have set water traps in Opumi-Krome Aduposo, and to have employed Wassaw people to cut down trees and make canoes. He refused to hand over the one-third share of the proceeds which the Gyasehene demanded.

63. The Akrofuomhene's contention however, was that the lands in question were originally his, that they were wrongly taken by Kobina Foli and given to the Gyase clan, and that after the latter's destoolment, had subsequently been restored to him by the new Adansihene - Tabil Egya.

64. The dispute dragged on. An attempt by the Ayasihene to lay down a boundary came to nothing and in October 1933 litigation was started in the Adansi Native Court by Kofi Yeboa, "Sub-Gyasehene" acting on behalf of Kwaku Prah, Abadiakyirehene, his head Chief. Because several members of the tribunal were interested parties, the action was transferred in February, 1934 to the Assistant Chief Commissioner's Court.

65. The plaintiff's claim was as follows:-

- (i) A declaration of title to all that piece or parcel of land situate, lying and being at the village of Nsutem in the Adansi Division of the Obuasi District of Ashanti and bounded as follows:- from the Dampia Range thence by a boundary line through the Forest to the source of the Surabema stream to the confluence of the Blanpim or Botiri River, thence along the Blanpim River to the junction of the River Fum, thence along the River Fum to the junction of the Kyiraman stream, thence the boundary follows the Kyiraman up-stream, which piece of land is ancestral property and forms part of the Stool property of Abu Bonsra Stool, Inchin Paynin Stool and the Gyasehene of Adansi's Stool. Approximate value of the land - £250.
- (ii) £100 as damages for trespass by the defendants.
- (iii) Tolls collected amounting to £20 for two years (1930-32) by the defendants from the inhabitants of villages on the land.
- (iv) £80 being loss of profits from 40 canoe men, prospective settlers on the land for the purpose of carrying on a canoe industry in respect of which plaintiff would have been entitled to Abusa but which profits were lost because the defendant drove the settlers away.
- (v) Mesne profits £100, from the farms of Kobina Kumi who was driven away by duress for two seasons - 1931-32.
- (vi) An injunction to restrain the defendant from further trespass.

66. The parties were ordered by the Court to submit a plan of the boundary but before this was done, the Assistant Chief Commissioner's Court was abolished. After the re-organisation of the Courts which followed the restoration of the Ashanti Confederacy, a fresh summons was taken out and an application made for transference to the Chief Commissioner's Court. The necessary order was made on August 28th, 1935.

67. After no less than twenty-six adjournments for various reasons, the actual hearing was begun at Fomena in 1939. When it was part heard, both parties decided "that they were absolutely tired of this litigation" and asked to be allowed to withdraw in favour of a survey and arbitration by the Adansihene.

68. In 1940, the Adansihene reported that the survey and division of the land had been completed to the entire satisfaction of both parties; that the line started from where the Kyiraman stream joins the Fum River and that concrete pillars were to be set up along the boundary.

69. Four months later, however, the parties were again at loggerheads. The Akrofuomhene claimed Kojo Nkwanta and Anhwiasu both of which had been awarded to Kwaku Prah; the latter also objected to the boundary as laid down and cut a line from Kojo Nkwanta to Fumso "entirely inconsistent with native custom". Then they asked for the case to be relisted.

70. The claims of the Akrofuomhene to these lands (as well as his claim to the Nkrabia lands - see p.17 para. 103) were among those matters discussed at Patakro in June, 1941. Mutual recriminations and continued ill feeling were, as usual, the only results. No further attempt at settlement appears to have been made. The Akrofuomhene continues to make periodic complaints, but neither of the parties has as yet taken steps to have the case relisted in the Chief Commissioner's Court.

III. AHINSAN LANDS DISPUTE

ield Sheet 88

71. The land which was the subject of this dispute is situated approximately three miles South East of Dampoasi.

72. The facts which gave rise to the dispute are briefly these:- The Odikro of Ahinsan secured his nephew, James Wood, who was employed by Russells, a Firm in Akrokerri, for a large sum of money. The Omanhene Kobina Foli stood as joint surety. The nephew defaulted, the Omanhene and the Odikro were sued jointly and judgment given against them. Kobina Foli paid, but as he was not reimbursed by the Odikro, took action against him before the Circuit Judge and obtained judgment. Judgment and costs amounted to approximately £2,300, to satisfy which debt the Omanhene obtained a writ of Fi:Fa and sold these lands in May, 1923 to his nephew, Kwame Akowuah of Brofoyedru.

73. This purchaser obtained a certificate of title signed by the Circuit Judge, Ashanti. He then apparently treated the land as private property and taxed the people living on it. Up to 1926 the people paid but in that year they refused to do so on the grounds that Kwame Akowuah was not a Chief, and that the debt was not a stool debt. (If this is so it would appear that the land should not have been attached originally). Kwame Akowuah replied that if he were not allowed to tax the people he would sell the land.

74. There was considerable and continual friction and as a result of various meetings held by the District Commissioner throughout 1926, two agreements were entered into.

Agreement 'A' was a transfer of all rights etc. in the land by Kwame Akowuah to Kobina Foli on behalf of the Adansi Stool in consideration of the payment of £2,011. 15. Od.

Agreement 'B' was an arrangement by the Odikro of Ahinsan, Kobina Kumi, together with his elders of the one part and the Adansihene whereby the former on behalf of their people agreed to pay tax and tribute and all monies accruing from the land to the latter until the sum of £2,011. 15. Od. was paid off. The amount to be paid was to be not less than £400 per annum. On the payment of this sum of £2,011. 15. Od. all rights which the Ahinsan people enjoyed prior to the seizure and sale under the writ of Fi:Fa were to be restored. (For copies of these agreements, which were unstamped, see below, pages 13 and 14).

75. The District Commissioner undertook to keep the accounts and the rents of the Dokyeso Concession were also paid to the District Commissioner, he having been authorised by the Odikro of Ahinsan to receive them.

76. As a result of this trouble the Odikro was destooled in 1928 but the paying off of the debt proceeded satisfactorily until 1929 by which time a balance of approximately £605 remained to be paid.

77. Then in April 1929 a meeting was held at Fomena which had, to put it mildly, unfortunate repercussions. It was decided that it was not customarily legal for tribute to be collected from Adansi people farming on Adansi lands even if they were not subjects of the sub-divisional Stool on whose land they were farming. As a result of this meeting "bye-laws" to this effect were drawn up and signed by all the Chiefs. As this meant that only strangers would be taxed, the Adansihene agreed to reduce the yearly instalment due under Agreement 'B' to "£100 more or less, how much they will get from strangers farming on the land".

78. These bye-laws never became law but they had considerable moral effect. In consequence of them all the people residing on Ahinsan lands refused to pay any money or tribute towards the reduction of the debt on the grounds that they were natives of Adansi. Amongst those who refused to pay were the subjects of Dampoasi. (A copy of these bye-laws is appended below pp. 15-16).

79. Trouble continued over the collection of the money due under the agreement and the Odikro of Ahinsan and his elders on behalf of the Ahinsan Stool instituted the following actions in the Divisional Court, Kumasi against the Dampoasi farmers.

(a) Odikro Osafo Agyeman and others vs. Kwaku Iboagye and others.

(b) Odikro Osafo Agyeman and others vs. Kwame Panin and others.

What happened to case (a) cannot be traced from the files or from the records of the Divisional Court. It was apparently discontinued. Case (b) was proceeded with. The plaintiff's claim was "for £291. 13. 4d. being 7 years arrears of cocoa rent and for tribute due and owing to the plaintiff's Stool by defendants in respect of cocoa farms made and cocoa trees planted on plaintiff's Stool land".

80. The fact that under Agreement 'A' the land in question had been redeemed by the Adansihene and was not to be re-transferred to the Ahinsan Stool until all the money due under Agreement 'B' was paid does not appear to have been adverted to and judgment was given on July 7th 1939 for the plaintiffs for the amount claimed with costs on the grounds that the bye-laws pleaded in defence had never been gazetted and that the plea of no jurisdiction was bad. The Court stated "it is clear from evidence that the amount claimed is for arrears of rent and therefore the Court has jurisdiction".

81. The defendant appealed to the West African Court of Appeal and on February 16th, 1940 judgment was given as follows:- "The claim in this case was for rent and/or tribute in respect to cocoa farms. It was clearly a suit relating to the occupation of land within the jurisdiction of Adansi Native Court 'B' and that Court had jurisdiction to try it - see sections 6 and 7 of the First Schedule to the Native Courts (Confederacy) Order, Laws of the Gold Coast Vol. III p.395. That being so the Divisional Court should have acted as directed under section 35 of the Native Courts (Ashanti) Ordinance (Cap.80), namely, stopped the further progress of the cause before it and referred the parties to the competent Native Court.

The Appeal is accordingly allowed and all further proceedings...are stayed, the judgment of the lower Court being set aside including the order as to costs, the parties are referred to the competent Native Court, namely Adansi Court 'B'. Since the Appellant raised the question of jurisdiction at the commencement of the hearing in the Court below, he is awarded costs in this Court assessed at £43. 9. 5d. and costs in the Court below to be taxed".

82. In accordance with this judgment the Ahinsan Odikro applied on May 29th, 1940 to the Adansi Court for a summons to be issued against Kwame Panin claiming the same amount i.e. £291. 13. 4d. as arrears of cocoa rent and/or tribute. The Court doubted its jurisdiction to hear such a claim and refused to issue the summons. A request was made for the case to be transferred under sections 21-22 of Cap. 80 to the Divisional Council. The District Commissioner was instructed to inform the Adansihene that the direction of the West African Court of Appeal should be obeyed.

83. On September 3rd, 1940 Kwame Panin's lawyer wrote stating that an application had been made for a Writ of Fi:Fa to issue for £136. 2. 5d. being costs awarded to the defendant. The land to be attached was described as "all that piece or parcel of land lying, being and situate at Ahinsan in the Adansi Division, described as the Stool land of Ahinsan".

84. The Adansihene, contending that the land was no longer Ahinsan Stool land (having been sold to Kwame Akowuah in 1923, resold to the Adansi Stool in 1926 under Agreement 'A' and still unredeemed by the Ahinsan Odikro and elders under Agreement 'B'), threatened to interplead. On the advice of the District Commissioner that the matter should be settled out of court the whole affair was discussed by the Divisional Council. The Ahinsan Odikro refused to agree to the terms suggested, the lands were attached and the Adansihene interpleaded.

85. When this interpleader action came before the Divisional Court on October 23rd, 1941 the Court considered that a settlement out of court was the only satisfactory solution, as however the issue might be decided the effect would be to make 'confusion worse confounded' since "the Judgment Creditor was entitled by the judgment of the West African Court of Appeal to the payment of the sum for which he had attached the property; it was the Stool of Ahinsan which had started this litigation in the wrong Court and as it would appear, has still not proceeded to have the principal matter in issue between itself and the Judgment Creditor (defendant) decided in the Court having jurisdiction. Furthermore if the matter in issue were decided in favour of the Omanhene, it could not fail to have unfortunate repercussions that a subject of the Paramount Stool of Adansi as the Judgment Creditor is, should be the creditor of the Stool of Ahinsan, which is also subject to the Adansi Stool, by virtue of a decree of the highest Court in the land, and yet be denied the fruits of his judgment".

86. The matter was therefore referred back to the District Commissioner who pointed out to the Adansihene that a collection of tribute under the still valid Agreement 'B' for one year more would provide sufficient money to repay the balance still owing by Ahinsan under this Agreement, that Kwame Panin's liability for tribute might be set off against his judgment for costs as the original judgment against him was upset on a purely technical point; that the Adansi Stool was morally responsible for the whole of the litigation resulting from their ill advised attempt to enforce a set of bye-laws which had no legal effect.

87. As a result the Adansi Stool agreed to waive any costs due to them by the Ahinsans arising out of the interpleader action and to waive the balance of the amount due to them under Agreement 'B'. Kwame Panin for his part waived his claim to all costs still due to him by the Ahinsans. Agreement 'B' ceased therefore to have any legal validity and customary rights over the lands reverted to the Ahinsan Stool.

88. The attempt made by Counsel to upset this settlement has already been referred to p.6 para. 36 above. When the action was struck out by the Divisional Court in accordance with the agreements reached, Counsel for one of the parties swore an affidavit that his client was of unsound mind and appears to have threatened the Adansihene (who informed the Asantehene and the District Commissioner) that if the settlement were allowed to stand there were several young men who would stir up dissension and political unrest in the Division. The reason for this was that as his client had foregone his costs under the settlement he feared he would be unable to recover his own expenses from the former, which amount he had already assigned.

89. His conduct does not appear to have been censured by the Judge to whom the matter was referred. It was no doubt, a matter for the Bar Association, but as the 'Havers' Report states at p.22, para.45, "It is not clear that the various Bar Associations under their present organisation, can or in practice do, satisfactorily fulfil the function of a governing body undertaken by the Inns of Court in England". One of the functions of such Inns of Court is the maintenance of a high standard of professional etiquette.

AGREEMENT "A"

"In consideration of the sum of two thousand and eleven pounds fifteen shillings (£2,011. 15. 0) I, KWAME AKOWUAH of Brofoyedru in the Adansi division of Ashanti, hereby transfer the land, known as the Ahinsan land, and all my rights therein whatsoever to Omanhene KOBINA FOLI for him and on behalf of the Paramount Stool of Adansi; and I Omanhene KOBINA FOLI for and behalf of the Paramount Stool of Adansi, hereby agree to pay to the said Kwame Akowuah of Brofoyedru in the Adansi Division of Ashanti the sum of two thousand and eleven pounds, fifteen shillings (£2,011. 15. 0) in consideration of his transfer to me of the land known

as the Ahinsan land above-mentioned, bought by him under a Writ of Fieri Facias, during the month of May, 1923.

Witness our hands and seals this 13th day of July, 1926.

	His		His
Kobina Foli	X	Kwame Akowua	X
	Mark		Mark
Omanhene of Adansi			

Before me at Obuasi this 13th day of July, 1926.

(Sgd.) L. W. JUDD

District Commissioner.

I certify that the contents of this Agreement were read over and interpreted by me in Twi Language to the within-named signatories and they seemed perfectly to understand same before making their marks thereto in my presence.

(Sgd.) J. Atwereboanda.
Registrar, D.C.'s Court,
OBUASI."

AGREEMENT "B"

"In consideration of the debt on our Stool land known as the Ahinsan land to Kwame Akowuah having been liquidated by Omanhene Kobina Foli, WE, the undersigned Odikro and Elders of Ahinsan acting for and on behalf of ourselves and our people living on the said land hereby agree to collect and pay to the said Omanhene Kobina Foli 1d. per year for every cocoa tree in bearing on the said land and all other monies and tribute derived from the said land until the amount of two thousand and eleven pounds, fifteen shillings (£2,011. 15. 0) has been paid off. And further we hereby agree and guarantee that the annual tribute so collected and paid to Omanhene Kobina Foli shall in no case be less than Four hundred pounds (£400. 0. 0.) in any one year. And I the undersigned Omanhene Kobina Foli of Adansi hereby agree that as soon as the said amount of two thousand and eleven pounds, fifteen shillings (£2,011. 15. 0) has been paid to me I will restore to the Odikro, Elders and people all rights which they enjoyed prior to the seizure and sale of the said land in execution of a Writ of Fi:Fa.

Witness our hands and seals this 13th day of July, 1926.

	Their	
Kobina Kuni	X	Odikro
Kwesi Dame	X	Krontihene
Kwesi Bonda	X	Elder
	Marks	

	His
Kobina Foli	X
	Mark
Omanhene of Adansi	

Witness to marks

(Sgd.) Isaac B. Johnson."

BYE-LAWS

UNDER AND BY VIRTUE OF SECTION 23 AND 25 OF THE NATIVE JURISDICTION ORDINANCE, NO. 4 OF 1924, THE HEADCHIEF OF ADANSI DIVISION WITH THE CONCURRENCE OF THE CHIEFS, SUB-CHIEFS, HEADMEN AND OTHERS WHO BY NATIVE CUSTOMARY LAW ARE THE COUNCILLORS OF HIS STOOL SUBJECT TO THE APPROVAL OF THE GOVERNOR UNDER THE SECTIONS AFORESAID.

- | | |
|--|--|
| Short title | 1. The Bye-laws may be cited as the "prohibition" of the system which has been practised by chiefs, Adikros and others as power to levy especial tributes on the subjects of Adansi having farms on their lands for the payments of debts of their stool "Bye-laws" 1929. |
| Adansi customs proving illegality of levying tributes | 2. In these Bye-Laws Adansi customs prove that it is not customarily legal for a chief of a sub-division to levy a tribute on a subject of any other chief in Adansi having farms for the payment of his stool debt. |
| Power of all Adansi subjects wherever they like freely.
(Any part of Adansi lands) | 3. Any Adansi subject has on the strength of these Bye-Laws power to make farms on the land of a chief, Odikro and headman under or through whom is not directly serving Omanhene of Adansi (freely). |
| By whom the Stool debts of a chief payable | 4. Stool debts of any chief in Adansi are payable by his own subjects or his stool servants, though there be many other Adansi subjects farming on his lands.

5. For the validity of these Bye-Laws the Adansi Division is divided thus:- |
| Adansi Division divided into seven classes | "1. FOMENA Capital of Adansi (Division)
"2. Ayiasi Nifa, Adansi (Sub-Div.)
"3. Adubiasi 2nd Nifa, Adansi (Sub-Div.)
"4. Dompooasi 3rd Nifa, Adansi (Sub-Div.)
"5. Akrofuom Benkam, Adansi (Sub-Div.)
"6. Akrokerri 2nd Benkam, Adansi (Sub-Div.)
"7. Bodwisango "An Ohene, Adansi (Sub-Div.) |
| The seven classes meaning the whole Adansi; no reason to levy tribute on Adansi subjects | 6. The foregoing classes joining together become the whole Adansi. What power has one to levy a tribute on an Adansi subject farming on Adansi lands because he is not his direct subject? there is no reason at all and it is prohibited. |
| Debts payable by the whole subjects | 7. The stool debt of Omanhene of Adansi or any debt incurred by the whole Oman, that is debt incurred on litigations or land disputes should affect the whole Adansi subjects without exception. |

Offence.

8. Any Chief, Odikro or Headman contravening or failing to comply with any of the provisions contained in these Bye-Laws shall be liable to a fine not exceeding twenty five pounds, or in default of payment to imprisonment with or without hard labour for any term not exceeding three months.

Signed (or marked by the following at Fomena on the 3rd day of April, 1929, after it had been read over in the Tvi language to them by Daniel Bright Essel who understood perfectly.

	Their	
Nana Kobina Foli	X	Omanhene of Adansi
Kwame Abu	X	Krontihene, Fomena
Apenin Kweh	X	Nifahene, Adansi
Aasiama Yaw	X	2nd Nifahene, Adansi
Kwaku Gyakyi	X	3rd Nifahene, Adansi
Kofi Anokyi	X	Benkumhene, Adansi
Yaw Dakwa	X	2nd Benkumhene, Adansi
Kwame Kyireneh	X	Chief, Odumasi
Kobena Ninoh	X	" Bobriasi
Kwaku Anochon	X	" Kusa
Kwaku Soh	X	Gyasehene, Fomena
Owusu Gyakadi	X	Ohene, Bodwesango
Kwabena Kwadu	X	Akwumuhene, Fomena
Nana Abinoh Aniyiah	X	Adansihemba
Kobina Agrin	X	Krontihene, Akrokerri
Kwasi Akwatianin	X	Krontihene, Akrofoom
Kwame Abcagye	X	Sub-Chief, Fomena
Kobena Atiakosua	X	Councillor, Fomena
Kofi Tebush	X	" "

Marks

Writer, Interpreter & Witness to marks.
(Sgt.) D. B. Essel, Oman Secretary.

IV. PROKESSEASI LANDS

Field Sheet 53

90. This dispute between the Adansihene and the Domposihene concerned the Prokesseasi lands situated between Prasu and Fwidim, north of the river Pra and east of the Subin river, and was caused by the same alienation of land by the Adansihene to three Accra men as complicated the issue in the Fwidim lands dispute.

91. In 1930 the Domposihene instituted an action in the Fomena Native Court against Kwabena Kyei of Fwidim claiming ownership of these lands. Judgment was given by the Omanhene Kobina Foli against the plaintiff. This decision, clearly a wrong one, appears to have been one of the reasons for his subsequent destoolment.

92. On appeal to the District Commissioner's Court, Obuasi, the case was sent back for review by the new Adansihene, Tabil Egyei. In August, 1932 it was reviewed and judgment with costs given for the Domposihene in the absence of the defendant, who seems to have taken no further interest in the proceedings.

93. It then transpired that part of the land in question had been sold for £1666 in 1929 by Kobina Foli and his elders, without the consent or knowledge of the Domposihene, to Kwashie Lartei, Kwashie Muro and Tettey Kyere, all of Accra. The Odikro, Kwabena Kyei was a party to this alienation (see also the Fwidim Lands dispute - part of these lands were also included in the sale).

94. Periodic requests by the Domposihene for an enquiry were not unreasonably ignored by the Adansihene and his elders. In 1934 the charges brought against Kobina Foli, who was by then back on the Stool, included one of selling these lands.

95. Not a whit daunted by all this, in November 1938 the terms of the sale were reduced to writing, signed by Kobina Foli and his elders on behalf of the Adansi Stool as vendor, and registered as No. 142/1939 dated February 15th, 1939. It was then discovered that in 1934 Kobina Foli had purported to grant a Concession over part of the land. (See Fwidiem lands dispute p.35 paras. 242-4).

96. In 1940, with Kweku Nkansah 11 on the Stool, the Dompoasihene pressed against for an investigation. Urged repeatedly by the District Commissioner to come to some amicable settlement, this dispute formed one of the matters dealt with at Patakro in June, 1941. There it was agreed that the Dompoasihene had a genuine grievance and that as it was not practical to put him in possession of the lands he should be compensated. This was no small admission and the Adansihene was careful to point out that he and his elders had not been concerned personally in the original alienation nor had they received any share of the £1,666.

97. After further skirmishing the Dompoasihene agreed that he was not in fact claiming the whole of the alienated area and would therefore accept a proportionate amount as compensation. This was assessed in February 1942 as £666. 13. 4d. and recognised as a Stool debt.

With the help of the District Commissioner an amicable method of paying off this amount was worked out, - incorporated in an agreement signed by the parties and their elders in the presence of the District Commissioner.

98. By this agreement two debts totalling £152. 18. 4d. owing by the Dompoasi Stool to the Adansi Stool were set off as part payment, the remainder was to be paid off by allocating to the Dompoasi Stool the one third share due to the Adansi Stool of all monies accruing to the Dompoasi Stool from strangers' tribute, concession rent etc. These payments were made through the District Commissioner's Office and in a short time the whole debt was paid off with little fuss and no friction.

V. KWAO LAND

Field Sheet 53

99. This dispute would appear to be a sequel to the Prekesseasi dispute (see p. 20) and illustrates the impossibility in practice of effecting a final settlement without a clear definition of the boundaries of the land which is the subject matter of that settlement. (See also on this, p.5 para. 27).

100. In February 1944 the Dompoasihene signed a timber agreement with Briscoe & Co. concerning land at Kwao. It subsequently appeared that this land had already been sold in 1938 by the Adansihene. Apparently this area was part of a whole block of land sold by the Adansihene to three Accra men; the sale of which has already given rise to the Prekesseasi dispute (see p. 16, para. 93) and complicated the Fwidiem lands dispute (See p.35 para. 242).

101. The Dompoasihene has taken action in the Adansi Native Court against the Adansihene whose defence, not unnaturally, is that the former has already been compensated for the wrongful sale of this land under the terms of the Prekesseasi agreement. The case stands adjourned.

VI. NKRABIA LANDS

(See also Disputes in Forest Reserves, page 36 para. (c)).

Field Sheets 86, 89, 50

102. These lands, situated between the Nkrabia Hill and the River Offin are in dispute between the Akrofuomhene, the Abadiakyirehene, Chief Sawu of Bobriasi and Chief Kwame Kwadu of Fomena.

103. The Akrofuomhene claimed at Patakro in June 1941 that part of those lands known as 'Abuntusu', which he alleged had been sold by the Abadiakyirehene to some Akwapim farmers. He stated that his boundary was as follows:- "from Buakyikrom the boundary runs along the direction to climb over the hill to the

source of River Abuntusu, continuing along the direction to climb over Nkrabia Hill, to River Fum at Kwaye Bun, continuing here along the downward course of River Fum and River Subia, passing Ponkokrom - Ponkokrom is on Akrofuom land. From Ponkokrom the boundary moves on along the direction to River Offin at Hyedua Bun on River Offin all along this direction Akrofuom (land) lies at the right side, and Fomena Kwame Kwadu's land lies at the left side."

104. At the same meeting the Abadiakyirehene's boundary was said to be "from the confluence of Nkyiaman Stream with Fum River. From this confluence the Akrofuom Stool owns the land on the right hand side of Nkyiaman Stream up to Abuntusu Stream. Between Nkyiaman Stream and Abuntusu Stream the land is for the Akrofuomher. The lands between Abuntusu Stream and Offin River belong to Kwame Kwadu of Fomena. The Nkrabia Hill is owned by both the Akrofuom Stool and Sawu of Bobriasi". According to the Akrofuomher, the area sold falls within the area enclosed by this boundary described by the Abadiakyirehene.

105. The parties thereupon agreed that the land in question should be inspected along with the other disputed boundaries prior to an attempt at arbitration being made in accordance with the instructions of the Fetish at Patakro.

106. The failure of this full scale effort at settlement has already been referred to (see p.4 para. 19). Since then nothing further has been done.

VII. ASANKORI LANDS

Field Sheet 86

107. This area is in dispute between the Ayasihene and the Odikro of Sibinisu. As in the case of the Nyamiben Land dispute (see p.19) it has come to the fore recently because of a timber agreement.

108. In 1932 the Ayasihene refused to allow one of his minor chiefs who had sworn an oath which was responded to by the Odikro of Sibinisu to appear before the Adansi Native Court. He gave as his reason, the refusal of the newly enstooled Adansihene Tabil Egyei II to implement an alleged promise the latter had given before enstoolment, to restore on enstoolment all lands wrongfully taken by the ex-Omanhene Kobina Foli. The Ayasihene claimed that part of his lands were so taken by Kobina Foli. (This promise has already been referred to at p. 1 para. 9; for a copy of the agreement see below para. 111).

109. The Adansihene replied that such an undertaking was not "within the meaning of the promise I made". However that may be, this oath case appears to have been struck out in 1941 without the dispute having been settled.

110. In 1945 trouble arose again, this time over a timber agreement concerning this land which the Odikro of Sibinisu had made with J. B. Apprey & Co. Ten months later the Ayasihene claimed the land. The Odikro thereupon swore an affidavit in which he claimed "land lying situate and being at a stream called Brooma and on the west flows by stream called Adawumasu into Brooma and Brooma flows into Jimi River; that on the south bounded by Adampa Yaw Hill and on the east by Fomena Kyidomhene's land (the boundary to which is also disputed, see p.21 para. 140) by stream Nwunraasa flowing into stream called Sutei and this flows into the Jimi" - an attempted description of boundaries so vague as to be worthless.

111. The Ayasihene lost his action in the Fomena Court and appealed in November 1945 to the Asantehene's 'A' Court. As yet the case has only been part heard by this Court and at the present moment it again stands adjourned.

Copy of Agreement made by Tabil Egyei

Case No. 147/32.

6th Sept. 1932.

"Having been considered by the Elders of Adansi to be the Paramount Ruler of Adansi, as a guarantee of good faith I do hereby faithfully promise that from and after Yaah Asantewah's expeditionary war I will see that individual properties in connection with each stool have been reverted to their substantive positions after my position as the Omanhene of Adansi has been confirmed by the Government, subject to the investigation of the said property or land when things might systematically work for good according to old Native Custom.

Witness to mark
Robert K. Enchill

Kwasi Tabil
his mark x



VIII. SUMUOSU LANDS

(Also known as Sibriso Lands)

Hold Sheet 89, 90

112. The Sumuosu Lands are situated in the angle formed by the junction of the Subri and Pra rivers, and extend north to Subriso village on the Subri and to the village of Nsese on the Pra. The parties to this dispute are the Edubiasihene, Chief Kofi Yeboah "Sub-Gyasehene" of Fomena, and Chief Kofi Anane of Fomena.

113. On March 20th 1941 Kofi Yeboah took action against the Edubiasihene in the Adansi Native Court claiming the Subriso (Sumuosu) lands as bounded by Edubiasi Stool land, Ayasi Stool land and Chief Anane's land. He stated that in respect of those lands he had paid £300 in connection with the Afansi-Ochereso land dispute (for this dispute see p.32). This case has not yet been heard by the Court.

114. At Patakro in June 1941 claims were made against the Edubiasi Stool to part of those lands by both Kofi Yeboah and Kofi Anane. There the Edubiasihene claimed his boundary started "from Warakasieti up to Tasenburmu and thence to the Pra River". He claimed the following villages:- Ahudjo, Donir, Adienbra, Mpasem, Hyedua and Ndodoam, and alleged that they had been taken by Kofi Anane. Kofi Anane's representative stated that Ahudjo II belonged to Edubiasi, and Ahudjo I to Anane, but he could not define the boundary.

115. It then came to light that by an oral agreement, which was subsequently reduced to writing and dated October 30th 1937, the Edubiasihene had already sold part of these lands to one John Akotey for £975. The agreement described the land as "at Sumuosu and bounded as follows:- on the north by Kofi Anane's claim and measuring 4 miles, on the south by Edubiasi and Ayasi Stool lands and measuring $3\frac{1}{4}$ miles, on the east by the river Pra and measuring $3\frac{1}{2}$ miles and on the west by Fomena Gyase Stool lands and measuring $4\frac{1}{2}$ miles.

116. The written agreement stipulated that the balance of the purchase money (£875) should be paid by instalments and that after complete payment had been made the vendors were to execute a proper deed of conveyance. (There is a reference to this sale in the Bodwesango lands dispute at p.19 para. 54).

117. In an action in the Divisional Court for specific performance of this agreement, Fuad J. held, on April 10th 1941, that £100. 5. 0. was still owing and that when it had been paid a conveyance was to be executed. Akotey died a few days later but the money was paid by his successor Akotey Debeyetch direct to Edubiasi. The Adansihene then refused to sign the conveyance as confirming party on the ground that he had not received his one third share of this last instalment.

118. In December 1945 the Adansihene suggested that the sale should be rescinded and that the money should be refunded by both the Edubiasi and the Adansi Stools. The necessary funds were to be raised by granting a timber concession to Briscoe & Co. A week or two later the Adansihene admitted that he had in fact received £233. 6. 8d. as the share of the purchase money due to the Adansi Stool and he made no further complaint that he had not received the correct amount.

119. Payment appears to have been made to him sometime prior to his first destoolment in 1939 as he went on to state that he had used the money received to redeem stool paraphernalia pawned by the late Adansihene, Kobina Foli, and as a deposit to buy a car on hire purchase. After his destoolment in 1939 further instalments were not paid and the car was seized by the creditors.

120. The Adansihene has still not signed the conveyance and apparently refuses to do so. There is an action for trespass brought by Akotey against Kofi Sei as successor to Kofi Anane pending in the Divisional Court.

IX. ABUSU LAND DISPUTE

Field Sheet 88

121. The dispute between the Dompoasihene and Edubiasihene concerns a clay deposit between the Ntonsua stream and Manwubundu stream (a little to the west of a line between Edubiase and Dompoasi).

122. The Dompoasihene claimed his boundary was the Manwubundu stream while the Edubiasihene argued that it was Ntonsua. The Native Court viewed the land and come to the conclusion that both claims were vague. For this reason they took a middle course and laid down the boundary as the Abusu Stream which is larger than either of the other two and which divides the area in dispute. By this decision the clay deposit belongs to the Dompoasihene. The Edubiasihene's appeal to the Asantehene's 'A' Court was upheld. The Dompoasihene thereupon appealed to the Chief Commissioner's Court where the case is pending.

123. With the exception of several rough sketches indicating no more than the general location of the disputed land in two or three office files, this is the only dispute to the account of which, there is attached a sketch plan showing, by reference to roads and streams, the exact situation of the land in question and the boundary as laid down by the Court. It is refreshing to see this attempt at an accurate definition by the Fomena Native Court.

X. NYAMIBEN LAND

(See also Disputes in Forest Reserves, p. 36 para. (a)).

Field Sheets 89, 91

124. This dispute, between the Adansihene, the Ayasihene, and the Kusahene, is another the background to which is the alienations made by Kobina Foli after the 1900 Rising, and its immediate cause, the increased demand for timber during the war years.

125. The land in question is described with no more accuracy than usual as that "situated on the right side of Agyenkwasu to Abuabo, in boundary with the land belonging to the Bodwesangohene on the left".

126. According to the Kusahene, the land was granted to his ancestors by the Asantehene Osei Yaw, in return for "watching the road" and his boundaries were with "the Hwiremasihene, the Bodwesangohene, River Jimi and Asokwahene Ampatuakrom". At this time Kusa people were clearing the road down to the Jimi River on the main road to Cape Coast. After 1900 they were instructed to clear to a stream called Oworaa-Ansah between Bepoyasi and Brofoyedru. He states that the villages enclosed in the area are:- Asikantin, Nyamiben, Abadwiwa, Siwukyennu, Nyatadwan, Ahwidei, Asabrisu, Okrosu, Pipiisu, Adubuahene-Krome, Known as Nkasabwrasu, Bronkunsansu, Atuam, Bongusu, Kweku Wia-Krome and Kweku Asare-Krome.

127. The allocation of this land by Kobina Foli to the Gyasehene after 1900 is disputed by the Kusahene and the matter seems to have come to a head because timber was being sold from it by the Gyasehene and a sub-chief, Kojo Kusi, of Fomena.

128. The Kusahene's claims were discussed in 1944 at the abortive meeting at Patakro. In 1944 when the matter was referred to the Adansihene, the latter contended that the Kusahene was now enlarging on what he had claimed at Patakro were his boundaries, in an attempt to obtain revenue from the timber being sold. Being still unsatisfied the Kusahene brought an action against the Adansihene, the Gyasehene and Kojo Kusi of Fomena in the Adansi Native Court to establish his claim to this land. The case was transferred by an executive order dated January 16th 1946 to the Asantehene's "A" Court on the ground that the members of the Adansi Court were interested parties. The action has not yet been heard.

XI. POMPOSO LAND

Field Sheet 86

129. An area of about three square miles on the Cape Coast road in the vicinity of the village of Pomposo has been in dispute for some years before 1940, between the Krontihene of Dompoasi and the Odikro of Sibirisu. In 1944 an action was brought in the Adansi Native Court and the Adansihene ordered the boundary to be fixed.

130. At the moment the dispute is dormant but like so many of these Adansi cases, cannot be regarded as settled until a boundary is laid down which is defined with considerably more clarity than it is at present.

XII. THE OWNERSHIP OF THE VILLAGE OF KWAPIA

Field Sheet 88

131. The Ayasihene's claim to the ownership of this village is contested by the Akrokerrihene. The Odikro of the village is an Ayasi subject while the village appears to be on Akrokerrri land.

132. The dispute was to be investigated by the Adansi Divisional Council on April 30, 1945, but the Ayasihene stated that he wanted it settled out of Court.

The Odikro of Kwapia has since been destooled, one of the grounds for his removal being this dispute with Akrokerrri. The new Odikro has not yet raised the matter, which must however be regarded as quiescent rather than as settled.

XIII. THE AKROFUOM-AKROKERRI LAND DISPUTE

Field Sheets 50, 56

133. Lands round the town of Akrofuom and extending as far south as the Offin River have been the subject of a dispute for many years between the Akrokerrihene and the Akrofuomhene.

134. An oath case between the ex-Akrofuomhene and the late Akrokerrihene over these lands came before the Adansi Native Court in November 1936. Seven years later it was still pending and there is no record that it was tried.

135. The present Akrokerrihene states that there is no longer any friction over this matter and that it is settled. It would however, be rash to assume that because it is not at present being actively contested, there is no likelihood of it breaking out again.

XIV. ATOBIASI-APAGYA BOUNDARY DISPUTE

Field Sheets 53, 89

136. This dispute is between the Domoasihene and the Ayasihene and concerns land between Atobiasi and Apagya. They agreed in 1943 that the land should be viewed and the boundary demarcated. This was not done.

137. In 1944 the Domoasihene made allegations that the Ayasihene had entered into a timber agreement with George Grant & Co. concerning part of this land and that the Ayasihene had stated he was sending people to cut the boundary.

138. An action was thereupon started in the Adansi Native Court by the Domoasihene who alleged that the Ayasihene had trespassed. The case has not yet been heard nor has the land been viewed by the Court.

XV. THE OWNERSHIP OF THE VILLAGE OF HWIREMOASI

Field Sheet 89

(Also known as the Odikro of Hwiremoasi and Kyidomhene of Adansi Dispute).

139. This dispute concerns the ownership of Hwiremoasi and land to the south of that village.

140. In 1943 the Odikro of Hwiremoasi brought an action in the Adansi Court against the Odikro of Asokwa who serves the Kyidomhene of Adansi who he alleged had crossed the River Jimi (said to be their boundary) laid claim to half the village and to land to the south of it as far as the Kyirebo stream. The case was pending

in the Native Court at Fomena for over a year and early in 1945 the defendant complained that he had come to the Court no less than six times and that the case had been adjourned each time.

141. When it was heard in February 1945 the defendant submitted that it was for the Adansihene to take action as the boundary in question was his. The plaintiff appears to have admitted this and to have paid pacification to the Adansihene.

142. In April 1945 the case was handed over to the Adansihene for settlement by him out of Court. Nothing has been done and the Court Records show the action as still pending in the Adansi Court.

XVI. LAND BETWEEN BROFOYEDRU AND ASOKWA

Field Sheet 86, 91

143. In 1931 there was an oath case before the Adansi Native Court in connection with the ownership of land lying between the villages of Brofoyedru and Asokwa. The parties were the Kyidomhene of Adansi and the Odikro of Brofoyedru. Twelve years later it had still not been heard and does not appear to have been heard since.

144. The Adansihene appears to have intervened and to have fixed the boundary as the Apantudie River which so far the parties have accepted.

XVII. LAND BETWEEN THE FUM AND SUBI RIVERS

Field Sheet 89

145. Land between the rivers Fum and Subi near the Kunsima Forest Reserve, and between the rivers Fum and Pipi is the subject of a dispute between the Gyasehene and a sub-chief of the Krontihene of Adansi.

146. In 1939 this sub-chief (Chief Brenya) took action in respect of these lands before the Adansi Native Court. Chief Brenya has died and the action has not yet been heard.

XVIII. LAND BETWEEN NKWANSIREM AND AYOKOWA - BROFOYEDRU

Field Sheet 89

147. There is a dispute between the Abadiakyirehene and the Konahene over land between the villages of Nkwansirem and Ayokowa - Brofoyedru on the Prasu Road. The area extends about three miles on each side of the road.

148. The matter has never been litigated and at present is not being contested. It appears that Briscoe & Co. have a timber agreement covering the whole area.

XIX. NKONTOASE LANDS DISPUTE

Adansi (Adokwai) v Abodom.

Field Sheet 88

149. The question of the ownership of the Nkontoase lands, lying between the Dankrang and Agogo Rivers, has for many years been the subject matter of a dispute between Abodom in the Bekwai district and Adokwai. Adokwai serves Adansi; Abodom is in the Kumasi Division.

150. The dispute dates back to 1902. In that year the Omanhene of Abodom, as he then was, being independent, had a land dispute with the Chief of Assechere under Kokofu. Captain Armitage on August 20th, 1902 held a meeting at Esumeja at the boundary of the lands of Abodom and Assechere was laid down as follows:-
"The Kusa stream to the east of the road leading from Abodom to Ahuren. From its

source a path to Tchinkong stream. Then the Tchinkong stream to Boaben (which is an Assechere village). From Boaben, a path leading into the Abradjinasi Road thence to Abradjinasi road to the Dankrang River."

151. At this time the boundary question between Bekwai and Adansi had not cropped up in an acute form; Adokwai was in ruins and its Chief residing in Denkyira. In 1907 however, owing largely to the increasing value of land because of the arrival of prospectors, Captain Armitage laid down the western boundary between Bekwai and Adansi and the Chief Commissioner himself described and explained to the Chiefs of Bekwai and Adansi exactly how the boundary ran. In fixing the boundary the decision of 1902 appears to have been overlooked and the Nkontoase lands declared to belong to Adansi. This may have been due to the fact that in 1905 the Omanhene of Abodom had been placed under Bekwai thus losing his position as Headchief.

152. Trouble then arose over a mining concession granted by Abodom over these lands. The original agreement appears to have been granted in 1901, and to have been renewed sometime between 1907 and 1910. The dispute was investigated in 1910 by the Provincial Commissioner, Southern Province, Ashanti - Mr. C. D. Rew, and the question of compensation payable to Abodom was discussed. A settlement was reached on 17th March, 1911 on the following terms:-

"The lands of Ikontonase being situated in Adansi by the Bekwai-Adansi boundary decision in 1907 belong to Adansi (Adokwai). Compensation must be paid to Abodom to whom the land was confirmed by Captain Armitage in 1902.

The King of Adansi will pay as compensation to the Chief of Abodom £100 (this was paid and accepted).

The new consideration money for the concession is said to be £200, the retaining rent £12 per annum, and the mining rent £300 per annum. When the white man comes out he will be told that the land is not Abodom's to part with.

When any consideration money is paid for the concession Abodom will receive half that amount. This is to be paid through the Chief Commissioner of Ashanti.

If and when any mining rent (£300 per annum or whatever is agreed on) is paid owing to mining operations being actually started, the question of further compensation can be considered.

The Abodom people now having farms on this land are not to be dispossessed but they will pay the usual 1/3rd tribute of the produce to the Omanhene of Adansi". (Extracted from the Obuasi Record Book pp.18 et seq.)

153. At a further meeting arranged by the Commissioner, Southern Province, Ashanti, between the "Head Chief of Adansi, the Chief of Adokwai and the Chief of Abodom", it was agreed that the tribute to be paid by the Abodom farmers was to be 2/- each per annum. This meeting was evidently held in May 1911 to judge by an entry in the Record Book (page 51). The minute is undated. This settlement was validated under Cap. 120.

154. The dispute was reopened over the question of consideration money alleged to be due to Abodom by Adansi, being money received for the Adansi Option Concession, and over the amount of tribute to be paid by Abodom farmers, a number of whom was said to have started farming on these lands.

155. In March 1939 a long list was drawn up by the Adansi Registrar of people in arrears with their payment of cocoa tribute to the Adokwaihene. The Abodomhene then started an action in the Asantehene's 'A' Court claiming £65 as being his share of option fees paid by the G.C. Selection Trust Ltd.

156. In the proceedings leading up to the actual hearing of the case, the Adansihene does not seem to be very clear as to what his rights in the land in question are. In letter No. 997/36/36 dated December 21st, 1939 to the Registrar of the Asantehene's Court he stated that "there is no dispute as to the Abodomhene's interest in that particular piece of land known as Nkontoase I should emphasize that I do not challenge the plaintiff's interest and right in this

particular piece of land". In a letter No. 48/14/36 dated January 17th, 1940 he wrote that the Provincial Commissioner's order that Abodom farmers were not to be molested "clearly shows that your right in these lands is limited to compensation as set out under that order and that it does not in any circumstances extend to ownership of the lands"; and to the District Commissioner under the same date "the order expressly lays down that the ownership in the lands should be vested in the Adansihene".

157. This case was heard by the Asantehene's 'A' Court on February 1st, 1940 and the plaintiff was non-suited because he had not proved his claim against the defendant in a representative capacity. He was advised to bring a fresh action against the Adansi Stool.

158. Thereupon the Abodomhene petitioned the Chief Commissioner of Ashanti for a share of the £630 allegedly paid to the Adansi Stool by the G. C. Selection Trust Ltd., on March 26th, 1938 and for relief in the matter of cocoa tribute. The District Commissioners of Bekwai and Obuasi were instructed to try and effect a settlement out of court.

159. At a meeting between the parties it was pointed out that the Nkontoase lands are only a small proportion of the entire concession and a proposal was made that the Adansihene should agree to pay half that proportion of £630 which the Nkontoase lands bear to the whole concession; and that Abodom farmers should pay 2/- each year instead of a penny a tree cocoa tribute for those farms on the Nkontoase lands.

160. The Adansihene agreed to the first but insisted on his full tribute. Nevertheless he does not appear to have made any payment in respect of the concession money. In October, 1941 the Adokwaihene sued the Abodomhene for arrears of tribute and won in the Lower court and also on appeal to the Asantehene's 'A' Court (Kwabena Afriyie-defendant appellant v. Chief Kwasi Brantuo - plaintiff respondent; February 12th, 1942). This suit was founded on a promissory note for the arrears of tribute given by the Abodomhene whilst heir apparent. Abodom disputed the original judgment on the grounds that the note was given under a misapprehension as to the correct amount of tribute due, but he accepted the appeal judgment and satisfied the judgment debt. A few months later, the Adansihene, as overlord, started actions for arrears of tribute due since the making of this promissory note.

161. It is clear that there was considerable confusion at this stage as to exactly what Adokwai lands Abodom subjects were farming. The Adokwaihene argued that Nkontoase was only one piece of the whole land from which tribute was due and went so far as to say that Abodom was not farming on Nkontoase lands at all but on two adjacent areas called Duodema and Sensem, that the suit on the promissory note was in respect of tribute due from Duodema land, and that this present action was also in connection with this land. This interpretation was opposed by the Abodomhene who contended that Duodema and Sensem were parts of Nkontoase land and that Nkontoase is the general name for all that piece of land lying between the Agogo and Dankrang streams. It would seem however, that Abodom admitted that he owed tribute but submitted that the tribute was due at the rate of 2/- per farmer per annum in accordance with the minute appended to Mr. Rew's decision in 1911. (This must however apply only to those farms in existence at the time of this decision).

162. In February, 1943 the Adokwaihene sued one Adu Kofi in the Ashanti Divisional Court for £114 arrears. The defendant did not appear and judgment was given against him. From that judgment he appealed to the West African Court of Appeal on the technical ground that since it should have appeared to the Divisional Court that it was a suit "relating to ownership, possession or occupation of land" that Court had no jurisdiction.

163. The appeal was dismissed on the ground that a suit "relating to the ownership, possession or occupation of land must mean in this connection a suit in which some issue of fact or law is raised for the Court's decision as to the ownership, possession or occupation of land". This necessitates, the Court held, knowing not only what the plaintiff claims but also what the defence is. "As the defendant elected not to appear the nature of the defence did not "appear" to the Divisional Court. Indeed so far as the Court knew there was no defence and therefore it did not appear to the Divisional Court that the suit was one relating to ownership, possession or occupation of land".

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164. As a result of this case, demands for tribute were showered on other Adokwai farmers and an action started in the Fomena Native Court against one Kweku Abromneh for \$60 arrears. Another attempt by the District Commissioners concerned to reach a settlement came to nothing. As it was obvious that the Fomena Court would find for Adokwai and that backed by Abodom the defendant would appeal, the District Commissioner asked that the case be transferred to the Asantehene's 'A' Court by the Chief Commissioner in his executive capacity. It was however, referred back to Fomena on the ground that the 'A' Court has no jurisdiction in the first instance.

165. The case was heard on March 19th, 1945; judgment was given in favour of Adokwai and Abodom appealed. The Registrar of the 'A' Court referred the appeal back to the Magistrate's Court, Obuasi on the ground that it involved payment of cocoa tribute. There an order for transference to the 'A' Court was made under sec. 27 (i) (b) of Cap. 80; the Magistrate being of the opinion that the real point at issue was whether the farmers in question were part of the Nkontoase lands in which case tribute should be assessed at 2/- per head.

166. The Asantehene's 'A' Court allowed the appeal on the ground that the farms were on part of the Nkontoase lands; that they were in existence at the time of the decision given by Mr. Rew and that therefore tribute was due only at the rate of 2/-.

167. On May 3rd 1946 the Chief Commissioner's Court allowed the appeal of the Adokwaihene against this finding of fact; apparently under the impression that Adokwai was not obliged to allow existing farms to be continued at the rate of 2/-.

XX. NKWANTANAN LANDS

Field Sheet 88

Adansi (Adokwai) v Amoaful or
Kwesi Brantuo v Kwabena Poku

168. This case concerns the Adokwaihene who serves Adansi, and the Amoafulhene who is in the Kumasi division and in the district of Bekwai. The former swore the Great Oath that Amoaful subjects had encroached upon land known as Nkwantanana which he claimed as his stool property. The Amoafulhene replied to the oath claiming the land as his.

169. The case came before the Asantehene's 'A' Court on March 5, 1936. In the course of the hearing both parties admitted that the boundary between them had been laid down by Captain Armitage and was contained in a validated executive decision dated August 6th, 1907. The Court sent a deputation to inspect the boundary and to find out who had encroached on the other's land. To the report of the deputation which found that Amoaful had trespassed on Adokwai i.e. Adansi lands, Amoaful objected. The Court then called further evidence as to the demarcation of the boundary, all of which appeared to be conflicting, and finally found for the defendant "because it was satisfied that the defendant had not encroached on the boundary demarcated between Bekwai and Adansi since August 1907 by Sir Armitage".

170. On appeal, the Chief Commissioner's Court construed this as meaning that the Nkwantanana Lands belonged to Amoaful. This Court ordered a survey to be made during the making of which there was a disturbance between Amoaful and the Meduma people who thought encroachments were being made on their lands.

171. After inspecting the land, the Court found that it was in agreement with the report of the deputation sent out by the Court below (and not accepted by that Court) and consequently allowed the appeal, holding that the land belonged to Adokwai.

172. The West African Court of Appeal upheld this judgment on the ground that the Chief Commissioner's Court was correct in upsetting the finding of the Asantehene's 'A' Court. It referred to the well established principle (see *Abakah Nthah v. Anquah Bennieh* 2 W.A.C.A., 1. and *Christian Yao Kisiedu and ors. v. Djorbuah Dompreeh and ors.* 2 W.A.C.A. 281) that before an appellate court can reverse a finding of a native court on a question relating to native land, it must come to an affirmative conclusion that the finding is wrong, but it held that this case turned on an inference to be drawn from facts which were not in doubt and that the Native Court had drawn the wrong inference from those facts.

Field Sheets 89, 90, 91, 92

173. This dispute, longstanding even by Adansi standards, concerns the ownership of land to the west of the river Anum. The protagonists are the Adansihene, the Bankahene and the Odikro of Mronam who alleges he serves the Omanhene of Akim Abuakwa in the Colony.

174. In 1907 palavers were held at Banka and Amantia by Captain Soden at which the Chiefs of Bodwesango and Amantia were present and the boundaries of the Banka lands laid down as follows:-

- (i) The left bank of the Prah River from a point exactly opposite to the point where the Ankomisua River flows into the Prah River to a point on the left bank of the Prah River exactly opposite to where the Anum River flows into the Prah River.
- (ii) From thence a straight line to the confluence of the Anum River and Prah River.
- (iii) From thence the thalweg of the Anum River to the point where the Dei River flows into the Anum River.
- (iv) From thence the thalweg of Dei River to the point where the Atubo River flows into the Dei River.
- (v) From thence a straight line more or less defined by a range of Hills to the source of the Akwantaferi River.
- (vi) From thence to thalweg of the Akwantaferi River to the point where the Akwantaferi River flows into the Pimpumasi River.
- (vii) From thence a straight line to the source of Ankomisua River.
- (viii) From thence the thalweg of the Ankomisua River to the point where the Ankomisua River flows into the Prah River.
- (ix) From thence a straight line to a point on the left bank of the Prah River exactly opposite to the confluence of the Prah and Ankomisua Rivers.

175. Two years later in order to settle a dispute, which had even then been in existence for sometime, concerning an Akim claim to land on the Ashanti side of the Pra River, the Commissioners of the Central Province of the Colony and of the Eastern Province of Ashanti met with the Omanhene of Akim Bosome and his chiefs and elders at Brenasi. An agreement was drawn up whereby in consideration of the disputed area being taken over by the Government and of a present of £75 to the Omanhene of Bosome, the latter and his chiefs renounced all claims to lands and property on the right bank of the Pra. The lands taken over were bounded as follows:-, "on the north by the road from Anwiaso from the point where it crosses the Anum River to the point where after passing in an easterly direction through the villages of Jadanwa, Banka, Tokwe, and Kokobin, it crosses the Pra River to Akontonase, on the east by the Pra River, on the south by Pra River, on the west by the Anum River." (For the agreement made at the same time with the Brenasihene who serves Akim Abuakwa, see the Adansi-Brenasi dispute p.31 para. 214).

176. This land was then constituted a Government Reserve known as the Pra-Anum Forest Reserve and it was further agreed that (a) the headman and people in the Reserve were to choose within six months whether they would remain there or cross the Pra; all communication with Colony Chiefs by those who remained was to cease; (b) the people who remained would not be placed under any Ashanti Chief but would communicate with the Government through the Bankahene. In 1924 the Bankahene was made a Paramount Chief and he and the neighbouring villages placed under Banka, i.e. Mronam, Amantia and Gyadem, were to pay an annuity of £5 per annum to the Government for farming on that area.

177. The Omanhene of Akim Abuakwa has never accepted stipulations (a) and (b) above, despite the fact that he had been told at the meeting in 1909 that his claims to Mronam and Bankwa would not be entertained. Trouble arose in 1925 when he sent for the Chief of Banka over the anstoolment of the Odikro of Mronam. The matter appears to have been settled without undue friction.

178. On the restoration of the Ashanti Confederacy in 1935 however, Mronam and Amantia maintained that the Governor's speech at Kumasi permitted them to sever their connection with the Bankahene and return to their former overlords i.e. Akim Abuakwa and Akim Bosome. The Governor had said "Henceforth the ancient loyalties of the Ashanti Division are to be officially recognised and sanctioned; every man in the Division will enjoy the rights and render due service under the form of government familiar to his ancestors". - Such is the background of this dispute.

179. In 1932 there was litigation between Adansi and Mronam over alleged sales of part of those lands. (See the Adansi-Mronam dispute p.29). Four years later there were fresh complaints from the Bankahene that the Odikro of Mronam was again selling land to Akwapim people.

180. In 1940 the Odikro of Mronam took action in the Chief Commissioner of Ashanti's Court asking for a declaration of title to the Nsokote lands which he defined as "all that piece of land situate at Mronam and bounded on the north by the River Sepong and land belonging to the Stool of Jumakyi, on the south by the River Fra and lands belonging to Amantia and Brenasi Stools, on the east by Mronam Stool land and the Anum Forest Reserve and on the west by the River Apoa and the Mem Bepo and land belonging to Bodwesango Stool." The Bankahene in his evidence admitted that his position was that of caretaker of these lands for the Adansi Stool and further evidence clearly showed that since 1934 both factions had been busy putting people on the land.

181. The Court found that there was no evidence on the plaintiff's side to justify the granting of the declaration of title which he sought, but on the other hand it held that the ownership of the land had already been decided by a validated executive decision (Captain Soden's of 1907) and gave judgment for the defendant.

182. On appeal to the West African Court of Appeal this judgment was upheld in part only, the Court dissociating itself from the finding that the ownership of the lands had already been decided.

183. This finding was interpreted by Dr. J. B. Danquah, solicitor for Mronam, to mean that since both the claims of Adansi and Banka had failed, Mronam's claim based on "possession and ownership from time immemorial" was unchallenged. He therefore gave notice that any person dealing with the land without the consent of the Mronam Stool and their Paramount Chief Akim Abuakwa would do so at his own risk. There were repeated charges against Banka that alienations were being made and counter charges that revenue from timber was being paid to Kibi by Mronam. Later Mr. George Grant volunteered the information that he had in fact paid money over to Akim Abuakwa as Paramount Chief of Mronam.

184. This litigation had not unnaturally cost the Bankahene a considerable amount of money. In an endeavour to pay off this debt he raised a loan on the understanding that the Nsokote lands, or part of them, was the security. This he clearly had no right to do and he admitted again in April 1942 that his position was only that of caretaker. Despite this, two months later it was revealed that his creditors, Akims, had pressed for and received a document covering their loans and confirming their right to the land as security. Shortly afterwards it came to the notice of the District Commissioner and the Adansihene that part of the land had in fact been sold by the Bankahene to these three Akims for £1180. 10. 0., £607 of which had been paid over.

185. At a meeting between the Bankahene and these creditors, the District Commissioner explained the situation to the latter. A document was thereupon drawn up and signed by them which admitted Banka's indebtedness and repudiated their right to secure their debt by a claim against land to which their debtor had no title. It became apparent at this meeting that Banka had been forced into this position by the attitude adopted by Adansi. Banka had incurred all the expense of litigation the purpose of which was to safeguard the rights of both Adansi and Banka, yet the latter had received no help from the former and in desperation had pledged Adansi land to liquidate the debt.

186. In an attempt to deal with this situation a subsequent meeting was held between these two chiefs and an agreement drawn up between them. This document, while acknowledging that the Nsokote lands belonged to Adansi, purported to acquiesce in their sale by Banka despite the fact that this right to sell had already been renounced before the District Commissioner at a meeting with the creditors. There was no discussion about the real problem as to how the £607 was to be repaid to the Akims.

187. Meanwhile, in January 1942, a few months after the West African Court of Appeal judgment referred to above, (para. 182) the Bankahene brought an action in his own Court against Assa Kwame and Abraham K. Agyare who had been granted farming rights by Mronam.

188. The case against Agyare was called by the Banka Court. Evidence was given by the Bankahene and his witnesses and judgment given against Agyare by default. The two cases were then transferred by the Chief Commissioner, acting in his executive capacity, to the Chief Commissioner's Court, since the Bankahene could not be judge in his own cause. The case already heard in the Native Court was to be reviewed.

189. After being listed for hearing, these cases were adjourned no less than fifteen times - by far the greater number being made at the request of Counsel for the defendants. (This case has already been referred to at p.4 para. 25, above, in connection with delay in hearing caused by unnecessary adjournments.)

190. In September 1942 the Adansihene visited Banka. As a result of this, agreements were drawn up and signed by the defendants acknowledging the Adansihene as owner of the lands. At this stage of proceedings nine adjournments had been granted and the Court no doubt hoped the matter was now settled. It under-rated however, the pertinacity of Counsel for the defendants who immediately repudiated these agreements on their behalf and on behalf of the Mronam Stool alleging that they had been signed under duress. This the Adansihene emphatically denied.

191. Counsel for the defendants then continued to ask for adjournments at the same time "sincerely trusting that everything possible will be done to keep [a date] clear for these longstanding cases".

192. In February 1943 the Adansihene applied to be joined as co-plaintiff on the ground that the Bankahene's position was that of his caretaker. The case finally came up for hearing on April 3rd and was struck out by order of the Court for lack of jurisdiction. It held that since the joinder of the Adansihene the action became "one between a Head Chief of one Division and a person or persons subject to the jurisdiction of another Head Chief". The question of the ownership of these Nsokote lands was consequently never argued and as a result the validity or otherwise of the agreement between Adansi and Banka purporting to ratify their sale remained undecided.

193. There were fresh complaints in November of the same year from Akim Abuakwa alleging trespass and damage on Mronam land and continued friction between Adansi and Banka. In December, further farming agreements were made between the Adansihene and tenants from the Winneba District. There was no description of boundaries in these agreements except a vague phrase "a grant of part of the Nsokote lands" nor was the Bankahene mentioned therein as caretaker, an omission which called forth further complaint by the latter.

194. In October 1944 the Bankahene adopted an entirely new attitude. He repudiated any agreements and arrangements made with the Adansihene as to his caretakership and asserted a claim to the land in his own right. It appeared that he took this line because he alleged the latter had refused to carry out his side of the bargain and hand over the customary one-third of tribute and dues etc.

195. At a meeting at Obuasi in January 1945, called by the District Commissioner at which both parties were present, the Bankahene with considerable effrontery denied that he had ever admitted being caretaker, renewed his assertion that the land was his, and refused to make any further statement or take part in further discussions without first having consulted Kibi. It was apparent that strong pressure was being brought to bear on him to effect a reconciliation with Mronam - the reason for which also soon became apparent.

196. More truculent than ever after his return from Kibi in June, the Bankahene stated that the "Nsokote lands are definitely and positively property of the Stool of Banka," and he refused point blank to come to Obuasi and discuss with the District Commissioner whether or not any amicable settlement could be reached.

197. Meanwhile in January 1945, an application for a summons claiming those lands against the Adansihene was made by the Odikro of Mronam in the Court of the Chief Commissioner of the Northern Territories. The claim was the same as the earlier one except that now Banka had gone over to Mronam and, backed by Kibi, both were presenting a united front against Adansi. At the same time the District Commissioner was informed that the action was brought "to protect the Mronam people who are a small population of Abukwas surrounded by a number of hostile neighbours who are trying to use their political and judicial powers to seize Mronam lands by force". It would seem from the files that this "alleged hostility" was by no means confined to those accused of it.

198. The summons was not issued however, as there appeared to be some doubt as to the correct procedure under Sec. 67 (1) (b) of the Courts Ordinance 1935 (Cap. 4) and the matter was referred to the Colonial Secretary. A year later the Chief Commissioner of the Northern Territories' Court ceased to have jurisdiction by reason of the Courts (Amendment) (No. 2) Ordinance 1945 (No. 27 of 45) which came into force on December 31st 1945. (See Appendix II p.44 para. C). On making enquiries Counsel was then advised "to apply for a writ in the Judicial Division in which according to him the land lies".

199. There the matter rests. In view of the fact that the dispute is not yet pending before a Court of competent jurisdiction which can give a decision on the merits the remarks of the Chief Commissioner of Ashanti to the Colonial Secretary in letter No. M.P. 508/1905 dated 10th February 1909 that "I would venture to express my satisfaction at the solution of this long standing dispute" appear somewhat premature.

XXII. ADANSI - MRONAM LAND DISPUTE

(Also known as Kobina Foli
Omanhene of Adansi, Plaintiff
V. Frinpomah, Queen-Mother of
Mronam.

ield Sheet 89, 90, 91, 92

200. The land which was in dispute in this case is west of the river Anum and north of Nyankumasi. Though Court action did not go further than the Chief Commissioner of Ashanti's Court the matter is still unsettled and now appears to have merged into the larger Adansi-Banka-Mronam dispute. The background of the two disputes is the same and as it has been dealt with in connection with the more recent and still flourishing one, it has not been recapitulated here (see Adansi-Banka-Mronam dispute p. 26).

201. The facts were briefly these:- In 1928 the Queen-Mother, who was also Odikro of Mronam started selling land to the Akwapims. The Adansihene objected on the ground that the land was the property of the Adansi Stool and he took action in January 1929 in the District Commissioner's Court Obuasi. His claim was for "£50 damages for trespass on his land by crossing the River Anum and selling a portion of the land, (that river being the boundary between Akim and Adansi) to Akwapim people". The defendant did not deny the sales but contended she was not liable since the land in question belonged to her own Stool. The land is of considerable value; the purchase price of only a part of it was said to be £1,400.

202. In the course of argument the plaintiff claim that the Anum River was the boundary between the Banka people and the Adansis. The defendant stated that the Bonsarajuai, the Ahirasu and the Momi Rivers were in the middle of the land in dispute, that the Bankas had been farming west of the Anum for only three years and that there were no Adansis there. Reference was also made to the boundaries of the Banka lands as laid down by Captain Soden in 1907 in which the west boundary was said to be the Anum River.

203. The Court was of the opinion that it had no jurisdiction. The case was therefore adjourned and application made to the Commissioner, Eastern Province

to have the case transferred by the Chief Commissioner of Ashanti to his own Court. In reply, the Commissioner Eastern Province informed the District Commissioner that the Chief Commissioner of Ashanti's opinion was that the case was within the jurisdiction of his (the District Commissioner's) Court as Captain Soden's decision had decided the ownership of the land. (For a copy of this validated executive decision see the Adansi-Banka-Mronam dispute p.26).

204. The District Commissioner then proceeded to hear the case. Both parties admitted that the land in question was west of the River Anum. The Queen-Mother's linguist denied any knowledge of Captain Soden's decision and claimed that the Mronam boundary was with Bodwesango not Kobina Foli (Adansihene). He stated further "Ofori Atta (Omanhene of Akim Abuakwa) ... said we should stay on as his subjects. We used to serve Ofori Atta through the Ochereso Chief. Our village is in part of the land formed by Government into a forest reserve...Ofori Atta said Banka and Mronam were his subjects but...we should remain in Ashanti and serve Government. Anantia and Mronam were put under Banka to represent us".

205. Judgment was given for the plaintiffs on the grounds that Mronam land was part of the Banka division land, the boundary of which with Adansi had been laid down by Captain Soden in 1907 as the Anum River, land to the west belonging to Adansi and to the east to Banka.

206. The defendant appealed to the Provincial Commissioner's Court where the judgment of the lower Court was upheld. A further appeal to the Chief Commissioner of Ashanti's Court was heard in June 1932. The Court allowed the appeal holding that the case was one concerning the ownership of land and that consequently the District Commissioner had no jurisdiction to hear it.

207. Reference has been made to this case in connection with the problem created when land claims are disposed of on technical points of procedure and not on their merits (see p.5 para. 32).

XXIII. ADANSI - BRENASI LAND DISPUTE

Field Sheet 90

208. This dispute seems to have begun either in 1931 or 1932 when Brenasi people, who serve the Omanhene of Akim Bosome in the Colony, crossed the Pra to the south west of Brenasi and appropriated and sold some land. The land in question is situated a mile or so to the north of Nsese Kuma on the Pra river and to the north of the land in dispute between Adansi and Ochereso.

209. A bizarre touch was given to the quarrel by the finding by the Adansis of a scrap of paper in a bottle on the land appropriated. It is difficult to decipher but appears to read as follows:-

"Brenasi Stool land purchased by Kofi Blemano Native of G. C. Ningo now residing Adimedin Birim District".

Writer: J. K. Akuoku.

The Ohene of Brenasi alleged that he knew nothing about it.

210. In December, 1934 there was an attempt at arbitration and the Adansihene stated that his boundaries with Akim, Assin and Denkyira were:-

"Starting from the River Sapong, thence to the River Anum, thence to the junction of the River Offin, thence to the River Offina".

This attempt however, came to nothing as the Adansihene had by then to answer charges before the Divisional Council. His subsequent destoolment held up matters and trespass and friction continued.

211. Then in August 1936 the Great Oath was sworn by the Brenasihene at Nsese; the Odikro of Nsese responded, and the matter was reported to the Asantehene by the Brenasihene. The latter described the land in dispute as follows:- "The land on which the camp of Aframase (Ofremasi) is my ancestral land, and bounded on

the north by Mronam Stool land, on the south by Otwereso (Ochereso) Stool land, on the east by River Pra and on the west by Bodwesango Stool land and the said camp of Aframase is my Stool's".

212. The hearing in the Asantehene's 'A' Court was delayed for some time. In April 1937 the Adansihene asked the District Commissioner for documents and plans showing the boundaries of Brenasi-Adansi and Adansi-Kokofu territories. At the same time he stated that these matters were in dispute twenty four years ago and that Mr. Fuller, then Provincial Commissioner Kumasi, went to Brenasi with Kobina Foli, met the "Commissioners of Saltpond and the neighbouring districts, the Omanhene of Akim Bosome and the Brenasihene, and laid the boundary between Adansi and Brenasi".

213. A year later the case was still unheard and by now there were conflicting statements as to who had sworn the oath and who had responded. No effort was made to fix a hearing date and it was not until 14th November, 1940 that, after being repeatedly urged by the Chief Commissioner and the District Commissioner, the case was finished and judgment given for the Adansi Stool. The oath, it will be remembered, was reported as sworn in August, 1936.

214. The Brenasihene then appealed to the Chief Commissioner's Court. To assist him in preparing his case before this Court, the Adansihene asked to be supplied with a certified copy of an agreement; a copy of which he enclosed. (See below). This purports to be a renouncement by Kobina Fah, Ohene of Brenasi to any lands he might have possessed on the right bank of the Pra and appears to have been signed on February 1st 1909 before the Omanhene of Akim Bosome, the Chief of Amantia and the Head Linguist of Akim Bosome in the presence of the Commissioners of the Central Province of the Colony and the Southern Province of Ashanti. In reporting the results of this meeting to the Chief Commissioner of Ashanti, the Commissioners stated that it appeared to them "that the claims put forward by Kobina Foli to land on the right bank of the Pra were of the most shadowy description". (For the constitution, at the same meeting, of the Pra-Anum Forest Reserve see Adansi-Banka-Mronam dispute page 26). The original agreement however, cannot be traced in the offices of the Chief Commissioner, the District Commissioners of Obuasi and Oda, nor in that of the Provincial Commissioner Cape Coast.

215. The case came before the Chief Commissioner of Ashanti's Court on February 25th, 1941 when it was found that neither that Court nor the Asantehene's Court had jurisdiction since one party was a Head Chief in Ashanti and the other a Chief in the Colony. It was held that jurisdiction to try such cases was conferred on the Court of the Chief Commissioner of the Northern Territories by Sec. 67 of the Courts Ordinance (Cap. 4) and that an order for transfer must therefore be made by His Excellency the Governor under Sec. 67 (i) (b) of Cap. 4 on application by one of the parties.

216. Application was made by the Adansihene and the order made dated November 28th, 1941. Five years later it was still unheard and in April 1946 it was transferred to the Divisional Court in accordance with the provisions of the Courts (Amendment) (No. 2) Ordinance (27 of 45 (See Appendix II p. 44 para. C)).

Copy of Agreement referred to above

1.2.1909

I, KOBINA FAH, Chief of Beronase and nephew and successor of COFFEE BOOTOO, Plaintiff in Coffee Boontoe v: Pataquin and Quaw Mensah, Coram Smith J. and of Anno, defendant in John Daniel v: Anoo Coram Redwar J. and in Daniel v: Ando Corom Griffith, C. J., hereby declare that in consideration of a present of the sum of fifty pounds (£50) by the Government, I hereby renounce all claim to land and property on the right bank of the Prah River to which I may have been entitled under the above mentioned judgments as successor to Coffee Boontoe, and Anno or Andah.

HIS
KOBINA FAH X
MARK
CHIEF OF BERONASE.

Witness.

Kofi Ahinkora
(Omanhene of Soadro (Akim Bosome)

Kobina Ewura
(Chief of Amantia)

Kwesi Ewusi
Head Linguist of Akim Soadro) (Akim Bosome)

Witness to marks.

(Sgd.) A. B. JOSIAH JNR.
" W. B. DSANE

BEFORE US AT BERONASE THIS FIRST DAY OF FEBRUARY, 1909.

(Sgd.) E. C. ELIOT
C.C.P.

(Sgd.) C. H. ARMITAGE
Commissioner C. P. A.

XXIV. ADANSI - OCHERESO LAND DISPUTE

Field Sheets 89, 90, 53, 54

217. This dispute has had a long and complicated history and concerns land between Sumuosu and Prasu on the right bank of the Pra and Atobeasi, and the ownership of part of the river Pra.

218. As a result of considerable and continued friction between the Akims and the Adansis in connection with this land, the Adansihene, Kobina Foli, brought an action against Asanti, Odikro of Adibeasi and Ohene Obeng Adesse of Ochereso in the Chief Commissioner's Court. Both these chiefs serve the Omanhene of Akim Abuakwa in the Colony.

219. He claimed £500 and asked for a declaration that the left bank of the Pra from the Anum to the Offin was the boundary between Adansi and Akim and that the river and its right bank belonged to Adansi.

220. Subject to the correction that the river was mortgaged, not sold, both defendants admitted the acts complained of but said that the River Pra between the Numia (or thereabouts) and Ahudwi together with a semi-circular tract of land on the right bank were under Akim Abuakwa; that the fishing weir constituted a trespass of their land, and that what they had done was lawful and justified.

221. The Court found that the land in dispute was formerly occupied by the Akim people; that it was acquired from the Akims by conquest by the King of Ashanti; that it was granted by him to the Omanhene of Adansi; that the Akims have reasserted their claims to it and have even collected tribute, but only on isolated occasions; that the land is at present sparsely inhabited by a few members of both tribes; that in 1910 the plaintiff granted a concession over the land without opposition by the defendant or their Paramount Chief and that in 1915 the plaintiff's claim to adjoining land was admitted by the Government. As a result of these conclusions he held the land belonged to Adansi and awarded £50 damages for the destruction of the weir and collection of tribute.

222. He further held that neither party had proved its claim to the entire water rights and refused to make a declaration that the left bank of the Pra was the boundary of Adansi.

223. The Full Court was of the opinion that it could not decide the appeal on the evidence and findings before it and that first it must be determined whether the boundary between the parties was the river Pra and a survey made to show exactly what area was in dispute. With the consent of the parties, the judgment of the Lower Cou

was set aside and the matter referred to Hall J. as arbitrator. An award in favour of Ochereso was given in 1930.

224. Hall J. delivered an exhaustive judgment in the course of which he stated that the fact that the land in dispute is in Ashanti ... "has no virtue in it so far as the ownership of the land in question is concerned; there being nothing to show that the Pra was not merely a convenient boundary selected between Ashanti and the Colony". This point was also made by Gardiner Smith J. who said "the Government Boundary of Ashanti is a political one". (Reference might also be made on this question to *Buaten v. Amoako* 1927 F.C. '26 - '29 p.254).

225. He considered the relative evidentiary value of tradition and actual facts and analysed the evidence before him as to occupation and possession. (cp. *The Asamankese Arbitration* 1929, D.C.26-29). As a result he had a line drawn on the surveyed plan which divided the area in dispute in accordance with his findings and awarded land to the west of the line to Kobina Foli and that to the east to Ohene Obeng Akesse.

226. The Adansihene's next step was to apply to have the award set aside by the West African Court of Appeal which had come into existence in March 1930. This the Court refused to do. In a judgment read by Deane J. President, the Court laid down the general rule that when parties submit to arbitration they cannot, when the award is good on its face, object to the decision either on the law or the facts.

227. On appeal to the Privy Council however, the award was set aside and the matter remitted to the West African Court of Appeal to be heard 'de novo' (*Omanhene Kobina Foli v Obeng Adesse* 1934 A.C. p.340). For the Council Lord Thankerton said that, in their lordships' opinion, it was the duty of the arbitrator to ascertain a boundary existing as a matter of title, and not to lay down a new boundary however fair that it might be. "In questions of disputed ownership of land, occupation and possession of portion of the disputed area is not relevant evidence of title to the whole area unless it can be reasonably attributed to right to the whole area... Alternatively the occupation of a portion may be reasonably attributable to a right of ownership in a larger area... But the larger area must be defined; in other words it must be attributable to an existing boundary. There is no trace in the award of any such evidence or of any such question being considered by the learned arbitrator. We are therefore of the opinion that the learned arbitrator has misconceived his duty under reference... in that he has laid down a new boundary line based on the consideration of what would be a fair decision ... It follows that the award should be set aside on the grounds that he has acted 'ultra fines compromissi'."

228. In May 1935, the West African Court of Appeal remitted the case to the Court of the Circuit Judge in Kumasi for rehearing. In July 1935 the Courts Ordinance came into operation, the effect was that the suit was deemed pending before the Divisional Court, Kumasi, Kobina Foli was refused leave to appeal to the Privy Council against this order of the West African Court of Appeal on the ground that the matter was an interlocutory one. With a tenacity as misguided as it was persistent, a petition was then submitted to the King praying for leave to appeal. This petition was dismissed on January 31st, 1936.

229. The case then came before Fuad J. in August 1940. He held that as the suit was one between a Head Chief in Ashanti and a Chief in the Colony and related to the ownership, possession and occupation of land it was triable by the Court of the Chief Commissioner of the Northern Territories by virtue of Sec. 67, 1 (b) of the Courts Ordinance, Cap. 4; that under the provisions of Sec. 18 and 17(b) of the Ordinance the jurisdiction of the Supreme Court was ousted and in accordance with Sec.108(4) proceedings must be deemed pending before the Court of the Chief Commissioner of the Northern Territories. To save further waste of time and money he stated a case for the opinion of the West African Court of Appeal. His decision was upheld by that Court in November, 1940.

230. The Adansihene has apparently not complied with all the necessary formalities and the case was transferred in April 1946, unheard, to the Divisional Court in accordance with the Courts (Amendment) (No. 2) Ordinance, (27 of 45). (See Appendix II p. 44 para. C).

231. Reference has already been made (p.3. para. 15) to the money spent on litigating this dispute, and since this figure was calculated further expense has without doubt been incurred. The case illustrates in a most striking way not only

expense of litigation but more grave still, the fact that this high cost was, to a very great extent, caused by the exploitation of an illiterate people by lawyers.

232. It cannot be denied that the Adansis are in part to blame; they certainly need no encouragement to litigate and they not unnaturally subscribe to the general custom of the country that a man is paid before, not after he has done his work. Nevertheless there seems no justification for the demand by a lawyer for a £400 which the Adansis allege had to be paid before the negotiations concerning the taking up of the case even began. He is then said to have received £1,500 when he agreed at Fomena to take the case and subsequent payments of £1,300 and £450 were made to Counsel who argued the case before the Privy Council. The Adansihene and his elders resisted a demand for a further £450 allegedly due to Privy Council agents who they stated, had been engaged without reference to them, and this latter sum had not been approved as a stool debt. The claim for £450 still appears to be persisted in and at one stage, Counsel maintained that he had a lien on all the papers of the case in his possession.

233. The recent requirement that stool debts must be recognized and approved has already had a salutary effect on the fees demanded by the lawyer who took over the case from the previous one when the latter ceased to practice on being appointed a Magistrate, and no doubt the recommendations of the Report of the Havers Commission at 21 and 22 paras. 44 and 45, will, if they are implemented, lessen the abuses which this case makes manifest and which reflect little credit on the members of the Bar concerned.

XXV. FWIDIEM LANDS DISPUTE

(Also known as Kojo Kwadu and Hwidiem or Besiasi Land Dispute).

Field Sheet 53

234. The lands in question are situated on the right bank of the River Pra north of Koshea and are in dispute between the Adansihene and the Omanhene of Assin Mansu.

235. The Adansihene claims that the Besiasihene originally occupied these lands but he emigrated to Assin probably between 1824 - 38. Sometime later Kojo Kwadu, a relative of the Besiasihene and Anin-Agyei and others approached the Adansihene with a request that they should be allowed to settle on the land and owe allegiance to the Adansi Stool. The Besiasihene also promised to come and to bring his blackened stools. He did not do so however, It would appear that several people from Assin Besiasi, including Anin-Agyei were already farming on these lands and paying tribute to the Adansi Stool.

236. As a result of this request the Adansihene alleges that the following arrangements were made:- Anin-Agyei and the other farmers already on the lands were no longer obliged to pay cocoa tribute. Of the profit from the land, half was to go to the Adansi Stool and half to "the Abadiakyire and those people". These latter were made caretakers of Kojo Kwadu their leader.

237. The Omanhene of Assin Mansu contends, however,:- that the Omanhene of Ansa ruled over the Fwidiem lands; that Assin Apimanin migrated from Ansa over the Pra River during the reign of Osei Yaw; and that after the migration some of his subjects at Fwidiem stayed behind and continued to serve the Omanhene, Nana Gyebir, who had made Assin his new seat.

238. In support of his argument that the lands in dispute have always been recognised as belonging to Assin he cites the fact that the Adansis after a defeat by the Bekwais in the reign of King Osei Bonsu, fled to Assin and those refugees who stayed at Fwidiem were not molested. This statement in itself is, however, of little weight.

239. When the boundary between Ashanti and the Colony was laid down as the Pra River, the Fwidiem lands became separated from the Assin State. As a result the Omanhene of Assin alleges that the following was the arrangement made by the two Chiefs:- Revenue from the lands was to be divided equally between the

Adansihene and the Omanhene of Assin, and that "as the Fwidiem people were by means of the Territorial Boundary ruled by the Obuasi jurisdiction he (Kobina Foli, Adansihene) would protect the safety of these people and lands for the Assin Apimanim Omanhene". He states that this arrangement has been respected up to the time when the present dispute began.

240. So far the facts, though disputed, are at least intelligible; what follows can by no means be so described.

241. These Fwidiem lands are separated from the Prekesseasi lands (owned by the Dompasihene) by the river Subin. At one stage the Dompasihene claimed both these lands. In a letter dated January 6th, 1941 however, he no longer claimed the Fwidiem lands, but stated that "he has a boundary with these lands marked by a stream Subin flowing into the Pra".

242. In 1929 Kobina Foli and one Yaw Pepra, the then Abadiakyirehene apparently sold part of the Fwidiem lands (along with the Prekesseasi lands, a sale which gave rise to the Prekesseasi Lands Dispute) to three Accra men, Kwashie Lartei, Kwashie Muro and Tettey Kyere. This agreement was not put into writing until 1938 when an Indenture dated November 3rd, 1938 was drawn up. This appears to be in the possession of the Omanhene of Adansi and was registered as No. 142/1939 dated February 15th, 1939. From this document it would seem that the following sold the land:-

Amoaku Agyeman	-	late Adansihene		
Kwaku Prah	-	Abadiakyire of Fomena		
Kwasi Adae	-	Odehye	"	"
Kwadjo Kwadu	-	Okyeamehene	"	"
Kwaku Bafoe	-		"	"
Kofi Yeboah	-	Sub-Chief	"	"
Kofi Anani	-		"	"
Kwabena Kyei	-	Caretaker, Fomena Stool Lands		
Anin Agyei	-	Odikro of Fwidiem		

243. Taxed with this sale the Omanhene of Assin-Apimanim stated:- "It was my elder brother, Kobina Kyei of Fwidiem that fetched some Accra people from a Ga village called Kwaaba to purchase a certain piece of Fwidiem land during the reign of the late Nana Kobina Foli; and the proceeds were accordingly shared. The Accra people were fetched by the permission of the Omanhene of Assin Apimanim".

244. For good measure the Omanhene Kobina Foli and others then granted in July 1934, a concession known as the North Pra River Option over part of these lands which they had already sold. This concession No. C. E. 248 Ashanti would appear to be null and void.

245. Matters came to a head when Anin-Agyei, the Odikro of Fwidiem and some of his elders undertook to collaborate with the Omanhene of Assin Apimanim and a paper was signed dated August 6th, 1940 whereby they agreed to serve Assin and divide the revenue from the land (See p.36 for a copy of this agreement).

246. Three weeks later the Adansihene complained to the District Commissioner, Obuasi that a signatory of the above agreement - Kojo Kwadu, had been arrested at Fwidiem by the Omanhene of Assin and taken before the Manso Native Tribunal on a charge of failing to hand over to the Besiasihene - a chief in the Apimanim State, part of the money rent for the Fwidiem lands. The warrant was not sent to the Adansihene for endorsement in accordance with Sec. 3 (2) of Cap. 75., Assin Omanhene stating that the village is listed in the Chief's List as being in the Nifa Division of Assin Apimanim State. (See p.90, 1941 ed.) He was told by the District Commissioner, Cape Coast that he has no jurisdiction, territorial or otherwise, on lands situated on the right bank of the Pra, and the conviction was quashed.

247. In the meantime the Adansihene had retaliated by arresting Anin-Agyei, Kobina Kyei and Kwaku Badu (the other signatories) for refusing to attend to his call under S.7 of Cap. 79 and on a charge of attempting to withdraw allegiance from the Adansi Stool contrary to native custom. To secure bail they then signed a document purporting to hand over their farms and houses to one Yaw Foh, foster father of the Adansihene. He is alleged to have sold them.

In consideration of putting us at Bisihenasi and Fwidiem, in the Assin Apimanim State, Central Province of the Gold Coast, do hereby promise faithfully that, in event of anything will come out from the said land stated above, should be brought before Ohene Kwamin Ntredu Ababio of Assin Bisiasi after the two parts shared with Adansihene.

2. That if any proceeds demanded from Epusa people as "Land Rent" from their occupations should be brought before the stool of Assin Bisiasi after the two parts shared with the said Adansihene.

3. That if anything will come out from the land also at Fwidiem the Elders as follows, Kojo Kwadu, Kobina Aninagyei, Kobina Kyei and Kwaku Baidu should be one mind after the two parts shared with Adansihene, and should be brought before the Stool of Assin Bisiasi as stated above.

Dated at Assin Manso, this 6th day of August, 1940.

We are,
(mkd) Kojo Kwadu
" Kobina Aninagyei
" Kobina Kyei
" Kwaku Baidu

THE CARETAKERS.

WITNESSES

(mkd) Chief Kwami Anokyi
" (Acting President of Tribunal)
" Okyiami Kwami Abdagyei
" Kwaku Abokyi (Councillor)
(sgd) Joseph Gyenfi
W/W to marks
(sgd) Acquah
GRATIS.

DISPUTES IN FOREST RESERVES

(a) Nyamebepo Reserve

The land is in dispute between the Stools of Adansi, Kusa and Bodwesango. The Reserve was constituted in 1933 and as the dispute has not yet been settled the paying out of gratuities is held up. According to the Adansihene the Kusahene claims the whole area.

(b) Supuma Reserve

The dispute here is between Akrokerri and Akrofuom. The latter claims the entire area with the exception of a piece half a mile square which he says belongs to Akrokerri. There appears to have been an unsuccessful attempt in 1941, to define this portion. As a result the Akrofuomhene stated that "a good portion of the Reserve called Denyaw all is for Akrokerri Stool, and (of) the rest of the land Akrokerri has but about half a mile in it, and the remaining is for Akrofuom Stool". Also in 1941 the Akrokerrihene stated that he did not wish any gratuity to be paid to his Stool. He later changed his mind and asked to have the grants backdated to 1941. In 1943 the Adansihene asked both Stools to state their boundaries within the Reserve.

(c) Nkrabia Reserve

This dispute between the Akrofuomhene, the Abadiakyirehene, and Chief Sawu of Bobriasi appears to be part of a larger dispute concerning the whole of the Nkrabia Lands which has been dealt with at page 17.

(d) Afia Shelterbelt Reserve

The ownership of the land in this Reserve has been disputed by Adansi and Bodwesango since the creation of the Reserve in 1939. The Bodwesango claims the whole area and says that his Stool has boundaries with those of Brenasi and Ochereso. (The boundaries of these last two Stools are disputed by Adansi, see pp. 30 and 32).

(e) Kokotintin Reserve

The Dompasihene and the Ayasihene agreed that they would settle the dispute over land in this Reserve out of Court. They have not yet done so.

(f) Mirasa Hills Forest Reserve

There is a dispute which involves ownership of the village and lands of Kokoben and the area concerned extends to the Mirasa Reserve. An action between the Bodwesangohene and the Odikro of Tokwai, who is acting on behalf of the Dadiesuebhene of Kumasi, has been pending in the Asantehene's Court for about four years. It has not yet been heard and the file cannot now be found.

(g) Nunia Forest Reserve

The District Commissioner investigated this dispute which is between Ayasi, Edubiasi and Bobriasi but despite a prior agreement the Ayasihene and his elders now refuse to abide by his decision.

Area of Dispute	Dispute	Present state of Dispute
I. Bodwesango Lands	Adansi	Litigation threatened.
II. Kojo Nkwanta Lands	Akro Gya	1946. Still unsettled. Parties have not yet taken steps to have case relisted.
III. Ahinsan Lands	Odik Dom	No judgment ever given on the merits of the case. Settled.
IV. Prekeseasei Lands	Adansi	Settled? See No. V.
V. Kwao Land	Adansi	(Connected with Prekeseasei lands dispute) 1946 unsettled - case stands adjourned.
VI. Nkrabia Lands	Akro Chie	Unsettled.
VII. Asankori Lands	Ayas	1946. unsettled, case stands adjourned.
VIII. Sumuosu Lands.	Edubi Kofi	Unsettled; action in Adansi Native Court not yet heard; Adansihene still refuses to come to an agreement.
IX. Abusu Land	Domp	Unsettled.

Area of Dispute	Parties to Dispute	Approximate Date of Origin
X. Nyamiben Land	Gyasehene, Kusahene, Adansihene	1933
XI. Pomposo Lands.	Krontihene of Dampoasi and Odikro of Bibinisu	Prior to 1940
XII. Village of Kwapia	Ayasihene, Akrokerrihene	Prior to 1944
XIII. Akrofuom-Akrokerrri Lands	Akrofuomhene, Akrokerrihene	1932
XIV. Atobiasi-Apagya Boundary	Dampoasihene, Ayasihene	1940
XV. Village of Hwiremoasi	Odikro of Hwiremoasi, Kyidomhene of Adansi	Prior to 1943
XVI. Brofoyedru-Asokwa	Kyidomhene of Adansi and Odikro of Brofoyedru	Prior to 1930
XVII. Land between Fum-Subi Rivers	Gyasehene, sub-chief of Krontihene of Adansi	Prior to 1938
XVIII. Land between Nkwansirem and Ayokowa Brofoyedru	Adadiakyirehene and Konahene	1940
XIX. Nkontoase Lands	Adansihene, Abodomhere	1902
XX. Nkwantanan Lands	Adansihene vs. Amoafulhene	1930
XXI. Lands west of Anum River	Adansehene and Odikro of Ironom, Bankahene	Prior to 1907

Date of first litigation	Summary of History of Dispute	Present state of Dispute
-	1941 Discussed at Patakro. 1945 Action in Adansi Native Court. 1946 Transferred in January to Asantehene's 'A' Court.	Unsettled. Case not yet heard.
1944	1944 Action in Adansi Native Court.	Dormant.
-	1945 Before Divisional Council: Request for it to be settled out of Court.	Dormant.
1936	1936 Oath Case in Adansi Native Court. 1943 Still unheard. 1946 No record of its having been heard.	1946. Dormant.
-	1943 Agreement to demarcate- not done. 1944 Action brought in Adansi Native Court.	1946. Unsettled. Case not yet heard.
1944	1944 Before Adansi Native Court. 1945 Handed over to Adansihene for settlement.	1946. Unsettled.
1931	1931 Oath case in Adansi Native Court. 1943 Still unheard. 1946 No record of its having been heard.	Boundary fixed by Adansihene. 1946 apparently settled.
1939	1939 Action in Adansi Native Court. 1942 Death of Sub-chief.	Action not heard. 1946. Dormant; Action not yet heard.
-	1944 Land became subject matter of a timber agreement with Briscoe.	1946. Dormant.
1939	1902 Agreements drawn up by Captain Armitage. 1907 Boundary laid by Captain Armitage. 1910-11 Further agreements. 1939 Action in Asantehene's Court. 1940 Petition to Chief Commissioner of Ashanti. 1941 Action of Adansi Native Court. 1942 Appeal to Asantehene's 'A' Court. 1943 Action in Divisional Court. 1943 Appeal to W.A.C.A. 1945 Action in Adansi Native Court. 1945 Appeal to Asantehene's 'A' Court. 1946 Appeal to Chief Commissioner of Ashanti's Court upheld.	Litigation started 1939- Case not yet tried on merits.
1936	1936 Asantehene's 'A' Court. 1938 On Appeal to Chief Commissioner of Ashanti's Court. 1938 On appeal to W.A.C.A.	Apparently settled.
-	1907 Boundary settled. 1909 Banka Division Created. 1924 Bankahene made Paramount Chief. 1940 Action in Chief Commissioner of Ashanti's Court. 1941 Appeal to W.A.C.A. 1942 January. Action in Banka Native Court. 1942 February, Transferred to Chief Commissioner of Ashanti's Court. 1942 Agreement reached, repudiated by Council for Mronam. 1943 Action struck out in Chief Commissioner of Ashanti's Court, because no jurisdiction.	

Area in Dispute	Dispute	Present state of Dispute
XXI (Continued)	f Commissioner urt. ern Territories' ction.	1946 Unsettled.
XXII. Lands west of Anum River	Adansi rt application sioner's Court. of Ashanti's	Background as XXI above - into which it has now merged.
XXIII. Nsese Lands.	Adansi santehene. urt. of Ashanti' ioner of urt.	1946 Unsettled. Not yet tried.
XXIV. Lands between Sumuosu and Prasu	Adansi Ochere urt.	
XXV. Fwidiem Lands	Adansi Assin IV and V. nal quashed.	1946 Unsettled. 1946 Unsettled.

Date of first litigation	Summary of History of Dispute	Present state of Dispute
-	1941 Discussed at Patakro. 1945 Action in Adansi Native Court. 1946 Transferred in January to Asantehene's 'A' Court.	Unsettled. Case not yet heard.
1944	1944 Action in Adansi Native Court.	Dormant.
-	1945 Before Divisional Council: Request for it to be settled out of Court.	Dormant.
1936	1936 Oath Case in Adansi Native Court. 1943 Still unheard. 1946 No record of its having been heard.	1946. Dormant.
-	1943 Agreement to demarcate- not done. 1944 Action brought in Adansi Native Court.	1946. Unsettled. Case not yet heard.
1944	1944 Before Adansi Native Court. 1945 Handed over to Adansihene for settlement.	1946. Unsettled.
1931	1931 Oath case in Adansi Native Court. 1943 Still unheard. 1946 No record of its having been heard.	Boundary fixed by Adansihene. 1946 apparently settled.
1939	1939 Action in Adansi Native Court. 1942 Death of Sub-chief.	Action not heard. 1946. Dormant; Action not yet heard.
-	1944 Land became subject matter of a timber agreement with Briscoe.	1946. Dormant.
1939	1902 Agreements drawn up by Captain Armitage. 1907 Boundary laid by Captain Armitage. 1910-11 Further agreements. 1939 Action in Asantehene's Court. 1940 Petition to Chief Commissioner of Ashanti. 1941 Action of Adansi Native Court. 1942 Appeal to Asantehene's 'A' Court. 1943 Action in Divisional Court. 1943 Appeal to W.A.C.A. 1945 Action in Adansi Native Court. 1945 Appeal to Asantehene's 'A' Court. 1946 Appeal to Chief Commissioner of Ashanti's Court upheld.	Litigation started 1939- Case not yet tried on merits.
1936	1936 Asantehene's 'A' Court. 1938 On Appeal to Chief Commissioner of Ashanti's Court. 1938 On appeal to W.A.C.A.	Apparently settled.
-	1907 Boundary settled. 1909 Banka Division Created. 1924 Bankahene made Paramount Chief. 1940 Action in Chief Commissioner of Ashanti's Court. 1941 Appeal to W.A.C.A. 1942 January. Action in Banka Native Court. 1942 February, Transferred to Chief Commissioner of Ashanti's Court. 1942 Agreement reached, repudiated by Council for Mronam. 1943 Action struck out in Chief Commissioner of Ashanti's Court, because no jurisdiction.	

Area in Dispute	Parties to Dispute	Approximate Date of Origin
XXI (Continued)		
XXII. Lands west of Anum River	Adansihene, Odikro of Mronam.	1928
XXIII. Nsese Lands.	Adansihene vs. Brenasehene	1931
XXIV. Lands between Sumuosu and Prasu	Adansihene and Ohene of Ochereso.	Prior to 1920
XXV. Fwidiem Lands	Adansihene and Omanhene of Assin Manso	1929

(For disputes in Forest Reserves See

Date of first litigation	Summary of History of Dispute	Present state of Dispute
	1945 Summons applied for in Chief Commissioner of Northern Territories' Court.	
	1946 Chief Commissioner of Northern Territories' Court no longer has jurisdiction.	1946 Unsettled.
1929	1929 District Commissioner's Court application for transfer refused. 1932 Appeal to Provincial Commissioner's Court.	Background as XXI above - into which it has now merged.
	1932 Appeal to Chief Commissioner of Ashanti's Court upheld.	
1936	1934 Attempted Arbitration 1936 Oath sworn and reported to Asantehene. 1940 Heard by Asantehene's 'A' Court. 1941 Appeal to Chief Commissioner of Ashanti' Court. 1941 Transferred to Chief Commissioner of Northern Territories's Court. 1946 Transferred to Divisional Court.	1946 Unsettled. Not yet tried.
1923	1923 Circuit Judge's Court. 1927 Full Court. 1930 Arbitration by Hall J. 1930 W.A.C.A. 1934 Provincial Commissioner's Court. 1935 W.A.C.A. 1936 Petition to King. 1940 Divisional Court. 1940 W.A.C.A. 1940 Chief Commissioner of Northern Territories' Court. 1946 Retransferred to Divisional Court.	1946 Unsettled.
1940	1929 Sale by Adansihene - See Nos. IV and V. 1940 Action in Manso Native Tribunal quashed.	1946 Unsettled.

Original Jurisdiction in Land Cases under the Native Courts (Ashanti) Ordinance, 1935 (Chapter 80).

1. By Sec.3(1) the Governor may by order establish Native Courts, which except in so far as otherwise ordered) are four grades.

2. By the Asantehene's Court Order (No.4 of 1935) the Asantehene's Court was constituted an "A" grade Court, with the following jurisdiction:-

"S.6. The said Court shall be a Court of Appeal:-

(a) In cases relating to the ownership, possession, or occupation of land from all Grade "B" and Grade "C" Native Courts within the said Confederacy, and appeals in such cases from such Native Courts shall lie direct to the Asantehene's Court;

(b) To hear and determine appeals from Native Courts of Appeal situate within the Confederacy transferred to the Asantehene's Court under subsection (4) of section 24, of the Native Courts Ordinance."

3. The Native Courts (Confederacy) Order (No.5 of 1935) established the Adansi Divisional Native Court as a "B" grade Court with "the power and jurisdiction of a "B" ... grade Court."

S.7 of the Order confers "jurisdiction in all suits relating to the ownership, possession, or occupation of land situate" within the Division.

4. Other sections of Chapter 80 make this jurisdiction in land cases exclusive to Native Courts.

"S.24. "Magistrate's Court" means Magistrates Court constituted by a District Commissioner under the provisions of the Courts Ordinance.

"S.35. Whenever it shall appear to the Chief Commissioner's Court or the Divisional Court, or a Magistrate's Court that any civil cause or matter brought before it is one properly cognisable by a Native Court and that a Native Court with jurisdiction to try such civil cause or matter has been established under the provisions of this Ordinance, such Chief Commissioner's Court or Divisional Court or Magistrate's Court as the case may be shall stop the further progress of such civil cause or matter before it and refer the parties to a competent Native Court as the case may be; and the Court shall thereupon order such costs as it shall deem fit."

(There are six provisos to this section which exclude its operation where the competent Native Court is not functioning; where the case has been transferred under s.22; where the matter is a counterclaim to an action properly brought; where a contract between master and servant is in issue; and in two other now obsolete types of cases.)

Appellate Jurisdiction under Chapter 80 in Civil Cases.

S.24. (1) Any person aggrieved by any order or decision of Native Court of first instance given in any civil cause or matter other than one relating to the ownership, possession, or occupation of land, may within thirty days from the date of such order or decision appeal therefrom to the Native Court of Appeal, or if there be no Native Court of Appeal available to the Magistrate's Court.

(2) Any person aggrieved by any order or decision of a Native Court of first instance given in any civil cause or matter relating to the ownership, possession, or occupation of land situate within the Confederacy may within thirty days from the date of such order or decision appeal therefrom to the Asantehene's Court. Provided that if the Asantehene's Court is not by an order under section 23 of this Ordinance appointed to be a Court of Appeal such Appeal shall lie to the Chief Commissioner's Court.

(3) Any person aggrieved by any order or decision of a Native Court of first instance made or given in any civil cause or matter relating to the ownership, possession, or occupation of land situate outside the Confederacy may within thirty days from the date of such order or decision appeal therefrom to the Chief Commissioner's Court.

(4) Any person aggrieved by any order or decision of a Native Court of Appeal other than the Asantehene's Court given in a civil cause or matter may within thirty days from the date of such order or decision appeal therefrom to the Magistrate's Court. Provided that the Magistrate may transfer such appeal, if it is from a Native Court situate within the Confederacy, to the Asantehene's Court if the last-mentioned Court is by order under section 23 of this Ordinance given jurisdiction to hear and determine the same.

(5) Any person aggrieved by any order or decision of a Magistrate's Court made or given on appeal under subsection (1) or subsection (4) may within thirty days from the date of such order or decision appeal therefrom to the Chief Commissioner's Court.

(6) Any person aggrieved by any order or decision of the Asantehene's Court made or given under subsection (2) or the proviso to subsection (4) may within thirty days from the date of such order or decision appeal to the Chief Commissioner's Court.

(7) Any person aggrieved by any order or decision of the Chief Commissioner's Court made or given on appeal under subsection (2) or (3) or (6) may within thirty days from the date of such order or decision appeal therefrom to the West African Court of Appeal.

C. Jurisdiction in Land Cases where the parties are Chiefs in Ashanti and Chiefs in the Colony, under the Courts Ordinance 1935 (Chapter 4).

1. Until the coming into force on December 31, 1945 of the Courts (Amendment (No.2) Ordinance 1945 (No.27 of 1945), the Chief Commissioner's Court of the Northern Territories had jurisdiction by virtue of Sec.67(1)(b) of Chapter 4 which read as follows:-

For the hearing and determination of all suits relating to the ownership, possession, or occupation of lands arising between a Paramount Chief or Chief of the Colony and a Head Chief or Chief of Ashanti provided that such jurisdiction shall be exercisable in any such dispute only by Order of the Governor published in the Gazette. Such Order may prescribe any place in the Gold Coast for the hearing of such dispute.

2. This part of Chapter 4 was repealed by Sec.5 of the amending Ordinance, which further provides in Sec.6 that "Jurisdiction in all suits relating to the ownership, possession or occupation of lands between a Paramount Chief or Chief of the Colony and a Head Chief or Chief of Ashanti or between a Head Chief or Chief of Ashanti and a Head Chief or Chief of the Northern Territories, which are pending immediately prior to the commencement of this Ordinance, is hereby exclusively conferred upon the Supreme Court. The Court in which any such suit is pending shall forthwith cause the process and proceedings in such suit to be transmitted to the appropriate Divisional Court".

3. Sec.18A confers jurisdiction on the Supreme Court as follows:-

(a) All suits relating to the ownership, possession or occupation of lands arising between a Paramount Chief or Chief of the Colony and a Head Chief or Chief of Ashanti; and

(b) All suits relating to the ownership, possession or occupation of lands arising between a Head Chief or Chief of Ashanti and a Head Chief or Chief of the Northern Territories.



F.D.
1945