

EAST AFR. PROT

C.O. 42508

42508

Foreign Office

1917

25 May

Last previous Paper.

40021

Acquisition of land by Aliens

Submits claims as to advisability of proposed Regulation having regard to Berlin Act 1885. Enquiry re: Baron von B. Frencke and Consul J. Hamilton is being expedited.

Mr Bottomley, Mr Butler

Not a very helpful letter. The Foreign Office has concurred in the suggested Ordinance in 39060, but the reference to the Berlin Act of 1885 has evidently induced them to revise their opinion.

As has already been pointed out, it appears that so far as the acts of these particular Swedish subjects are concerned, if it can be established that there is hostile association on their part, we can take action on the lines suggested by the Board of Trade (38521). We do not know that there are any other cases in which neutrals sought to purchase land in East Africa at the present time, but it would obviously be very undesirable to rely on the possibility of taking action as in 38521 only and not to decide the matter once and for all, as would be the case if the suggested Ordinance were brought into force.

I think the only thing to do is to inform the Acting Governor fully as to the position i.e. that the

Board

Next subsequent Paper.

Copy re: to Berlin Act (1885) 23 274 (Success)

re 25 May 1917

40021

of Trade have suggested
the Foreign Office should make extensive enquiry
Stockholm as to the associations of the Swedes
concerned with a view to action being taken in this
direction. That the Foreign Office state as in this
letter (42508) with regard to the proposed Ordinance.
And that if the Governor thinks that the possibility
of action as suggested by the Board of Trade is
insufficient, the Secretary of State is prepared to
authorise him to enact the Ordinance in spite of the
international objections. And ask him to let us have
his views at the earliest possible date

Copy of telegram should go to the F.O.

L.F.

28/8/17

29/8/17

The F.O know all that we know.

Proceed as proposed.

slab

30.8.17

I agree. Even if we eventually
have to give way, we shall
probably have knocked their
enterprise on the head in the
interval.

30.8.17 S.S.

A.S.M. 30.8.

M.M.

1.12.17

In any further communication
on the subject, please quote

No. 163309/C/150.

and address—

The Under-Secretary of State,
Foreign Office,
London.

August 25th. 1917.

immediate.

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Sir:-

I am directed by Mr. Secretary Balfour to acknowledge the receipt of your letter No. 40321/1917 of the 20th. instant, with regard to the proposed enactment as a War measure of a special Ordinance in the East Africa Protectorate to prevent the transfer of lands to Aliens during the war.

2. It appears to Mr. Balfour that, as pointed out by the Attorney General of East Africa, the proposed legislation is inconsistent with Article 5 of the Berlin Act of 1885. It is also inconsistent with many of the British Commercial Treaties. Mr. Balfour however, presumes that there are substantial reasons in favour of the measure, and that the ordinance can be justified on the facts as a war measure.

3. If the purpose in view could be achieved by some other means, which would not raise objections on treaty grounds, it would undoubtedly be as well to avoid the latter. On the other hand if the measure is really required, there seems no other alternative but to ignore the treaty provisions and to make the best defence possible based on the temporary and transient character of the enactment in the event of any complaints being received from Foreign Governments.

The Under Secretary of State,
Colonial Office.

4. His Majesty's Minister at Stockholm has been instructed by telegraph, to expedite his enquiries in regard to Baron von Slixen Pinecke and Count Gustav Hamilton.

I am,

Sir,

Your most obedient,
humble servant,

Maurice de Munn

08/1917.

CS

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PARAPHRASE
TELEGRAM. From the Secretary of State for the Colonies to
The Officer Administering the Government of the
East Africa Protectorate.

(Sent 1.10 p.m. 4th September, 1917.)

4th September.

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(4032) With reference to your cypher telegram of 15th
August as to acquisition of land by aliens. Board of Trade
state that in similar case here they would be disposed to
enquire into associations of prospective purchasers and if
suspicion confirmed to warn any interested party in this
country that his engaging in the transaction might expose
him to penalties attaching to trading with the enemy.

Expeditious enquiry at Stockholm is being made by
Foreign Office as to associations of Swedish subjects concerned
with a view to action on lines suggested by the Board of
Trade being taken.

Copy to 4 Sept 1917 P.M.
As regards the proposed Ordinance Foreign Office
state that it is inconsistent with Article 5 of Berlin Act
and also with many British Commercial Treaties and that if
purpose could be achieved by other means it would be well to
avoid objections on treaty grounds, but that if measure is
really required there seems no alternative but to ignore
treaty provisions and in the event of any complaints being
received from Foreign Governments make best defence possible
based on the temporary and transient character of enactment.

If possibility of action as suggested by Board of
Trade is considered insufficient by you, I am prepared to
authorize enactment of Ordinance in spite of international
objections. Telegraph at earliest possible date what are your
views.

LONG.