

1954.

Kenya.

No. 23283.

SUBJECT

C0533/451

Imprisonment of British Subjects at Mogadiscio
by Italian Authorities.

Previous

Subsequent

57229/35.

1. Gov.'s Deputy Pillin 465.....14th Sept. '34.

C.I.
Imprisonment
of British
subjects etc.

Compensation
for imprison-
ment etc.

Reports the imprisonment of three British subjects at Mogadiscio by the Italian Somaliland Authorities; encls. copies of statements made by men concerned and claims for compensation. Suggests that F.O. should be requested to register a protest and present claims to Italian Government if such action is considered advisable.

The claims are made by Ali Sigara, a trader of Mandera, N.F. Province, Kenya,

Oma ba Sabra, Arab trader of Moyale, N.F. Province, and
Galam Hussein, Indian Contractor of Wajir Moslem, N.F. Province.

According to the statements these three people were put into prison at Mogadiscio (Italian Somaliland), detained for a considerable period and subsequently released without trial. It appears that they were accused of smuggling quantities of coffee and tobacco, (products of Kenya) from Abyssinia into Italian Somaliland.

The claimants say that the mistakes arose through their failure to understand the quantities inserted in the Abyssinian export permits.

Whether there were attempts to smuggle or not, the persons detained should have had a fair trial.

~~Will with officer
became a copy of
New to F.O. For
consider~~

! C.I. of No 1 enclosures
to do. for Comon

*Chosen with
9/10/34*

I think we might ask that, if F.O.
see no objection, representations may be
made in the same desired by Gov.

M. Danson

any comment?

Shreehan

10/10

Mr. Flood

No observations.

You will no doubt remember that some years ago there was a good deal of correspondence between the Foreign Office, an Embassy at Rome, and ourselves (regarding the arrest of some Iraqis by the Italian authorities), in which the question of the compensation payable under international law for unwarrantably depriving a foreigner of liberty was discussed (Iraq 78020/30 + 88040/31).

I agree with the action proposed by Mr. Freeston & Mr. Prossnitz

12/10/34

A. D. Cairns

Claims for unwarrantable arrest are one thing, but I am quite certain that there was abundant justification for the arrest of these heroes on the ground of smuggling or strong suspicion thereof. I remember various cases in which the Italian Government objected to the arrest of Italian subjects in British Colonies, but apart from the Iraq cases mentioned I don't recollect the reverse.

Action

Action as proposed and wait and see what comes of it.

J. E. W. Ford

at once

13.10.34.

2 To F.O. (Case 1) 6000 18/10/34

18

B. Foreign Office 30 Oct '34

Trans. copy of despatch to H. of Representatives, Home giving them instructions as to representations he should make to the Italian Govt.

? See copies of 2 x 3 Pencil to for Kenya of

C. Prossnitz 27/11/34

A. D. Cairns 2 at

A To Kenya 930 (w/co 205) A/11 8 NOV 1934
1 answer

18

A further reply to No 2 has not yet been received.

Done in 1 month
noted C. Prossnitz 27/11/34

1/12
Reg 204

Received, under minute of 5th Dec. 34.

Wait 1 month

Ch. Brown: 27/1/35
noted 1/2/35

R. 2.1.34
Reg 297.

Received, under minute above.

R. 2.2.35
Reg 297.

This report wait until the end of March. In the mean time the Italian Govt will have carried for a report from Italian Consuls.

Ch. Brown: 27/1/35

Brown
1/2 etc

Received, under minute above.

R. 4/4
Reg 297.

We might now ask to see what is expected of a reply to the Italian Govt from the Ambassador at Rome to be the responsibility of the Italian Govt (but to the Italian Govt).

Ch. Brown: 27/1/35
B. Brown: 5 etc

5 To F.O. 29. 1/16/35

6 Foreign Office

23 AM. 35

Trans. copy of Note to H.M. Ambassador, Rome requesting a reply from Italian Govt. may be secured.

P. 35

Copy to Kenya to keep them quiet

B. Brown: 27/1/35

7 To Kenya, 295 (w/c 6) A/I 29 APR 1935

GM

8 Foreign Office

29 May 35

Trans. copy of despatch from H.M. Representative Rome, enclosing copy of translation of Note Verbale from Italian Govt regarding the imprisonment of British natives at Mogadiscio, together with a letter from Mr. Thompson giving his views on the Italian reply.

This might wait a month or two in view of Mr. Thompson's so. Letter to the Embassy at Rome.

Mr. Thompson's letter.

Ch. Brown: 26/1/35

B. Brown

15

(The "ambassador" may have more than one most important duties)

9. G.H. Thompson (70) % 11th June 35

Encls. copy of reply from Mr. Nichols asks means as to whether the case is of sufficient importance to merit further action by the Home Embassy.

This is not very satisfactory from the point of view of Kenya. It seems however from the wording of the Governor's despatch that there is some doubt locally whether anything much would come of it, and the view taken by our Embassy in Rome is to the effect that it is highly doubtful whether the claim could be justified under Italian law, and Mr. Nichols' letter to Mr. Thompson takes the view that no claim for compensation would be entertained. This is quite probable, but at the same time, the question arises whether we should not continue to press it, although I do see some point in the arguments from our Embassy that to continue to press the claim might irritate the Italian Authorities. If statements quoted in our press are any guide the Italians are inclined to look with deep suspicion on ^{such a} ~~the~~ claim put forward on behalf of one Indian and two Arab traders who were arrested in Italian Somaliland, ^{but, although} ~~we~~ have got a long way from the days of Don Pacifico and the war of Jenkins's ear, ~~but~~ I do not think that we have yet got quite so far as to take this matter lying down.

It might be ^{best} ~~as well~~ to suggest to the Foreign Office that it would be as well to tell the Embassy at Rome to discuss matters further

/ on

5

on some suitable occasion, since to abandon the claim, which has admittedly some prima facie justification, on such a bald statement as that enclosed in No.8 hardly seems consonant with British prestige generally. And perhaps we should inform Kenya that an approach has been made to the Italian Government, ~~we~~ send a copy of the note enclosed with No.8 and of the memorandum enclosed in No.9, and say that an opportunity will be taken of pressing the claim further, ~~so~~ ^{but} that it does not appear hopeful that any satisfactory result will be attained, and that at the present moment it is difficult to press such matters on the notice of the Italian Government.

J.L.W. R.D.
18.6.

So proceed. Of course if the Embassy are convinced that to raise the matter again will not only be fruitless but will ^{endanger the friendly relations of the two Powers, they will be free to leave it alone.}
(If the Italian Govt condoned ~~the~~ ^{the} ~~case~~, we may find we need more evidence for Kenya.)

W.C.B. 18/6/35

10 To Mr. G.H. Thompson (70) % (9 and) 27/7/35

11 To Kenya, 480 _____ 2 JUL 1935
(w/co Note Verbale in & memo m.g.)

12. Foreign Office _____ 20 Aug 35

Trans. copy of letter to Mr. Nichols suggesting matter
should be further discussed with the Italian Govt.

? Out by
C. J. G. Smith
13/8/35

I. B. Weston
14 at once

13. Foreign Office _____ 26th Sept. 35

Trans. copy of letter from Mr. Jellb, Rome stating that
an aide-memoire was left with Count Lepke saying that we
trusted that the Italian Govt. might re-examine the question.

? Copy w/enc to Fr. Kenya
of ref. 11.

C. J. G. Smith
1/10/35

I. B. Weston
1/10 at once

14 To Kenya, 818 (w/c 13) A/1 _____ 7 OCT 1935



13⁶

In any further communication on this subject, please quote
No. J 2181/1432/66
and address—not to any person by name, but to—
"The Under-Secretary of State," Foreign Office, London, S.W. 1.

No duplicate

THE Under-Secretary of State for Foreign Affairs presents his
compliments to the Under Secretary of State for
the Colonies and, by direction of the Secretary of State,
transmits herewith copy of the under-mentioned paper.

Foreign Office,
September 26, 1935.

RECEIVED
27 SEP 1935
F.O. REC'D

Reference to previous correspondence.

C.O. letter No 23283/24 of April 11.

Description of Enclosure.

Name and Date.

Subject.

Copy to Manager (14)

From Mr. Gibb, Rome,
to Mr. Thompson
of Sept. 17.

Impressment of three British
Subjects by Italian Somaliland
authorities.

Similar letter sent to

Copy.

(J 2181/1432/66)

(141/14/35)

BRITISH EMBASSY,

ROME.

September 17th, 1935.

E.L. & N. 11

Dear Thompson,

Your letter J 2181/1432/66 of August 9th regarding the imprisonment of three British natives at Mogadiscio.

In the absence of Guarnaschelli, Noble recently left with Count Eoppi an aide-memoire on this question, setting out the case in brief and saying that we trusted that it would be possible for the Italian Government to re-examine the question with a view to meeting any legitimate claims of the three detained men.

Yours ever,

(sd.) Gladwin Jebb.

G. H. Thompson, Esq., C.M.G.,
Foreign Office.

Copy.

(J 2181/1432/66)

(141/14/30)

BRITISH EMBASSY,

ROME.

September 17th, 1935.

File 4 No 12

Dear Thompson,

Your letter J 2181/1432/66 of August 9th regarding the imprisonment of three British natives at Mogadiscio.

In the absence of Guarnaschelli, Noble recently left with Count Zoppi an aide-memoire on this question, setting out the case in brief and saying that we trusted that it would be possible for the Italian Government to re-examine the question with a view to meeting any legitimate claims of the three detained men.

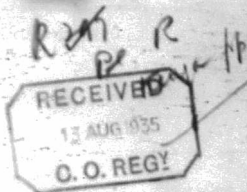
Yours ever,

(sd.) Gladwin Jebb.

G. H. Thompson, Esq., C.M.G.,
Foreign Office.

W
J2181/1432/66

12⁸



With Mr. G.H. Thompson's
compliments.

(Colonial Office ref.
No 29283/24 ... of April 11th)

Nos

FOREIGN OFFICE, S.W.1.

August 10th, 1935.

A.B. Cohen, Esq.,

FOREIGN OFFICE, S.W.1.

9th August, 1935.

2181/1432/86

My dear Phil

EL 6/8/35

Your letter No. 141/11/35 of the 31st May last, regarding the imprisonment of three British natives at Mogadiscio.

We agree with you that our case is by no means water-tight, but we cannot see the danger of discussing the matter informally with Guarnaschelli, nor are we clear why such action should add to Italian suspicions. We have consulted the Colonial Office on the matter and they agree with us that, as the claim has at least some prima facie justification, it would be for the best if you would discuss the matter further with the Italian Government on some suitable occasion, since to abandon the claim on such a bold statement as that contained in the Italian note verbale of the 10th April hardly seems consonant with British prestige generally.

Yours ever

C. O.

23285/54

10
11

Mr. Grossmith.

Mr.

Mr.

Sir C. Parkison.

Sir G. Tomlinson.

Sir C. Robinson.

Sir J. Skelton.

Foreign Office.

Foreign Office.

Secretary of State.

DOWNING STREET,

June, 1935.

2 JUL 1935

C.O.
26 JUN
D. 117

Sir,

DRAFT.

KNYA

NO. 480

O.A.G.

(107)

I have, etc., to refer to my predecessor's despatch No. 295 of the 29th of April, and to state that an approach has been made to the Italian Government with regard to the claims for compensation by Gulas Hussein, Omar ba Sabra, and Ahamed Aden Hertl, in respect of their imprisonment at Mogadiscio.

*Letter to the Italian Government
re: Hussein, Omar ba Sabra, and
Ahamed Aden Hertl (see memo 4/29/35)*

I enclose for information, a translation of a Note Verbale ~~is a copy of a letter from the Foreign Office and a copy of a subsequent memorandum by the legal adviser to His Majesty's Embassy at Rome. It is understood that an opportunity will be taken of pressing the claim further, but it does not appear hopeful that~~

FURTHER ACTION.

any

any satisfactory result will be attained.

It will be appreciated that, at the present moment, it is difficult to press such matters on the notice of the Italian Government.

I am, etc.,

(Sgd.) MALCOLM MacDONALD

C. O.

85285/54

Mr. Grossmith. ^{26/5/54}

Mr. Campbell ^{26/5}

Mr.

Sir C. Parkinson

Sir G. Tomlinson

Sir C. Doleman

Sir J. Shackleton

Form. U.S. of S.

Part. U.S. of S.

Secretary of State.

S.O. FOR MR. CAMPBELL'S SIGNATURE

DOWNING STREET,

2 July 1955.

Dear Roberts,

DRAFT.

W. St. C.H. ROBERTS, ESQ. M.C.,
(FOREIGN OFFICE)

Would you please refer to Thomson's letter to Cohen of the 11th of June, No. J 2181/1452/66 regarding the imprisonment of three British subjects from Kenya by the Italian Somaliland Authorities.

We suggest that it would be as well if the Embassy in Rome were asked to discuss matters further on some suitable occasion, since to abandon the claim, which has, admittedly, some prima facie justification, on such a ^{ad} ~~based~~ statement as that enclosed-in- ^{en}

FURTHER ACTION.

317 ^{the}

The Note Karbala of the 16th of April.

~~Sir Basil Drummond's despatch of the~~

~~26th of April, hardly seems com^{pre}sent~~

with British prestige generally.

Yours sincerely,

(Signed) S. H. CAMPBELL.

9 12
FOREIGN OFFICE, S.W.1.

11th June, 1935.

(J 2181/1432/66)



My dear Cohen,

Nos
On May 10th we sent the Colonial Office under our official reference J 1612/1432/66 copies of a despatch from the Embassy in Rome, and of a letter which I wrote after its receipt to Nichols in that Embassy, about the imprisonment of three British natives by the Italian Somaliland authorities.

W.P. memo to Kenya (11)
und (10)
I now enclose a copy of Nichols' reply, from which you will observe that the ball has been gracefully kicked back into our half of the field. Personally, I cannot see the danger of discussing this matter informally with Guarnaschelli nor am I clear why such action should add to Italian suspicions. But, since nothing has been done, we should perhaps consider whether the case is of sufficient importance to merit any further attempt on our part to persuade the Rome Embassy to return to the charge. The point

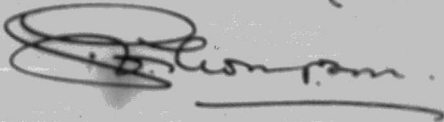
is

A. B. Cohen Esq.

13

is that we are apparently unlikely to extract any compensation from the Italian Government; in the circumstances, do we stand to gain anything by launching a minor attack which we know in advance is doomed to be repulsed?

As I am off on leave next week, may I ask you to reply at your leisure to Roberts?

Yours sincerely


COPY.

(J 81/1432/66)

(141/11/35)

BRITISH EMBASSY,

ROME,

May 31st, 1935.

My dear Tommy,

In my letter of the 14th May (141/7/35) I said that the Ambassador saw no harm whatever in your suggestion that we should discuss informally with Guarnaschelli the question of the imprisonment at Mogadiscio of three British natives.

Before taking this up with Guarnaschelli, however, we have once more reviewed as carefully as possible the whole case, and as a result have certain qualms about taking action. These qualms are increased by the views of our legal adviser (to whom we submitted the case) and are explained in the attached memorandum. What they really amount to is that we seem to be without sufficient evidence to show that the three natives concerned have suffered any grave injustice. We do not say that they have not; all we do say is that this can hardly be proved on the evidence at our disposal. The Italian statement of their position is admittedly rather bald and unconvincing, but the statements on the other side are equally full of obscurities. In any case it seems difficult to maintain that the Italian authorities, though they may have acted somewhat arbitrarily, had no grounds at all for suspicion or for arresting the men, and we feel pretty certain that no claims for compensation would be entertained by them.

In

G.H. Thompson, Esq., C.M.G.,

Foreign Office.

In these circumstances, and especially in view of the fact that we do not at the present moment wish to do anything which might unnecessarily irritate the Italian colonial authorities and increase their suspicion of British motives, we hope you will not mind if we return the case to you for re-examination in the light of the difficulties which we have mentioned.

Yours ever,

(Signed) Philip Nichols.

3c

MEMORANDUM.

It must be remembered that in Italy there is no law equivalent to our "Habess Corpus". Even in the Kingdom of Italy it is quite possible for a person to be detained in prison for a very considerable time without any charge being laid against him. - If it can later be shown that there were in fact no good grounds for suspicion, some compensation can, we understand, be claimed.

In the present instance there are really two separate cases, (1) the lorry of Gulas Hussein in which Omar Ba Sabra also travelled, and (2) the lorry of Ali Sigars driven by Ahmed Aden Herti Warsangeli.

Hussein apparently did not take his lorry to the Customs directly on his arrival at Mogadiacio on the 15th January, but waited till the morning of the 16th before doing so. This might perhaps amount to an offence of "simple contraband". It was then discovered that the goods in the lorry did not tally with the figures in the Abyssinian through voucher and as a result Hussein and Ba Sabra were arrested. The Italians may perhaps have been reluctant to accept Omar Ba Sabra's statement that he was unable to read the Amharic on the through voucher; they may have thought that any arab travelling that road regularly would have picked up enough to be able to decypher a voucher.

The case of Ahmed Aden Herti Warsangeli (Ali Sigars's lorry driver) is rather different and on the facts contained in his statement we are not very clear why he was arrested but imagine that it must have been on account of some suspicion that the goods in the lorry had come from Kenya and not from Abyssinia as stated in the voucher. We notice that Ali Sigars, the owner of the lorry, has not made a statement and the only evidence regarding the reason for Ahmed Aden's arrest is contained

17

contained in Gulem Hussein's statement in his own case that Ali Sigara had told him that the driver Ahmed Aden had been given the wrong voucher by mistake; and what Gulem Hussein says that Ali Sigara said is not evidence.

Apart from the above obscurities, there are some further points that do not seem to be covered by the statements.

(1) In the case of Ahmed Aden, when was it first proved that the wrong voucher had been given to the driver by mistake? See Gulem Hussein's statement: "He (Ali Sigara) then returned to Mandera and got the right one, but the Italian authorities would not consider nor accept it". They seem to have accepted it in the end, but we ought to know at what date Ali Sigara produced the right voucher.

(2) In Omar Ba Sabra's statement it is mentioned that after reporting to the "Residente" at Lugh, "The Abyssinian pass and the Kenya pass were both examined and we were told to proceed to Mogadiscio". Who examined the passes and who told them to proceed to Mogadiscio? The "Residente" at Lugh is presumably an Italian official. If he is, and if he really did issue passes, it seems to us that the subsequent action of the Italian authorities in arresting these men was less justifiable, since the fact that they had duly presented themselves at Lugh and that their passes had been examined there tended to establish their bona fides. Even if there had been justifiable suspicion of smuggling, there would not then have been so much justification for arresting these men on suspicion pending investigations.

Finally it appears that the three were released by order of a Judge, but it does not seem that there was any trial. We therefore presume that the order was the result of a decision taken

13
taken in chambers. We notice, however, that the claims put in by the Ali Sigara and Omar Ba Sabra include items for lawyers fees. The lawyers presumably did something for their money and it would be useful to know what.

British Embassy,

ROME.

May 30th, 1935.

In any further communication on this subject, please quote

No. *J 1612/1432/66*

and address—not to any person by name, but to—

"The Under-Secretary of State," Foreign Office, London, S.W. 1.

THE Under-Secretary of State for Foreign Affairs presents his compliments to *the Under Secretary of state for the Colonies* and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper.

Foreign Office,

May, 1935.

RECEIVED
13 MAY 1935
C.O. FILE

Reference to previous correspondence:

Colonial Office letter No. 23283/24 of 11th Apl 1935

Description of Enclosure.

No 5

Name and Date.

Subject.

From
H.M. Representative,
Rome,
no. 450: 22nd Apl. 1935
To
Mr. Nichols,
Rome
from Mr. Thompson
5th May 1935

Imprisonment of three
British subjects by Italian
Somaliland authorities

Similar letter sent to—

copy note Verbale to Kenya (1)

8
19

No 460.

(141/4/38)

British Embassy,

ROME.

22nd April, 1938.

Sir,

With reference to your despatch No. 923 (J. 2471/2471/36) of the 27th October last regarding the imprisonment at Mogadisciu in Italian Somaliland of certain British natives, I have the honour to transmit to you herewith a translation of a Note Verbale which I have received from the Italian Government.

It will be noted that, while the Italian Government do not specifically dispute any of the allegations made by the three persons concerned, they maintain that the action taken against them followed the usual course laid down in the appropriate regulations and that there was consequently no question of any unjustified arrest.

I should be grateful if I might be informed in due course whether you wish me to return any reply to the Italian Government's communication.

I have the honour to be, with the highest respect,

Sir,

Your most obedient, humble servant,

(Signed) ERIC DRUMMOND.

The Right Honourable
 Sir John Simon, G.C.S.I., K.C.V.O.,
 etc. etc. etc.

FURNISH OFFICE

Enclosure in Sir E. Drummond's despatch No. 480 (141/4/35) of
the 29th April, 1935.

TRANSLATION.

Ministry of Foreign Affairs.

No. 70877/Al.

NOTE VERBALE.

With reference to the Note Verbale No. 326 (139/12/34) of the 8th November, 1934, the Royal Ministry of Foreign Affairs have the honour to communicate the following to His Britannic Majesty's Embassy.

The British subjects Omar El Bahra, Ahmed Aden Herti and Gulam (H)Uassin Karis, were charged, on the accusation of the Customs Service Administration of the Colony of Italian Somaliland as being, the first two, guilty of contraband aggravated by falsification of documents, of having introduced into Somaliland coffee and tobacco without payment of frontier duties; the third of complicity in the above-mentioned offence, for having carried the contraband goods in his own lorry.

In regard to the accused, sentence was later given that the proceedings should not be pursued since they had not committed the acts attributed to them, and the charge was reduced to one of simply contraband.

The proceedings taken in regard to these men, according to the assurances of the Ministry of Colonies, are completely in conformity with the colonial regulations in force.

The Royal Ministry of Foreign Affairs accordingly have the honour to inform His Britannic Majesty's Embassy that there is no question on the side of the colonial authorities of any recourse to unjustified detention.

29th April, 1935.

COPY.

(J 1612/1432/66).

FOREIGN OFFICE, S.W.1.

8th May, 1935.

My dear Phil,

Rome despatch No.450 (141/4/35) enclosing a translation of a note verbale from Italian Government concerning the imprisonment at Mogadiscio of certain British natives.

2. This reply is clearly unsatisfactory and I would be very grateful, provided the Ambassador agrees, if you could discuss the matter informally with Guarnaschelli. You might say that we are very loth to confront the Colonial Office with an answer which evades the points at issue, emphasising at the same time that the three British natives concerned were imprisoned for twenty three days, two months six days and sixty days respectively without any charge being brought against them. It is really difficult to believe that such treatment can be in accordance with the Colonial regulations in force, as alleged in the Italian note verbale. In any event, a bald explanation of this kind will not be acceptable to His Majesty's Government.

For your own information. The situation, so far as the Italo-Ethiopian dispute is concerned, has, I am afraid deteriorated drastically since Stresa and Geneva. Unless something akin to a miracle occurs, we are in for fireworks at the end of the month when the Council assembles in ordinary session, while the

possibility

F.B.B.Nichols, Esq., M.C.

possibility of some direct attack on Ethiopia grows daily more real. It really is lamentable that Italy and ourselves should be confronted by these menacing absurdities at this moment. I gather from a reliable source that Aloisi sent a very nasty report from Geneva last month declaring that for their own reasons His Majesty's Government were determined to make things difficult for Italy in her attempts to solve the Ethiopian problem; and that this report caused a very unpleasant impression in Rome.

Yours ever,

(sd) G.H.THOMPSON.

6

In any further communication on this subject, please quote
No. 51432/1432/60
and address—and to any person by name, to
"The Under-Secretary of State," Foreign Office, London, S.W. 1.

THE Under-Secretary of State for Foreign Affairs presents his
compliments to the Under Secretary of State for the
Colonies and, by direction of the Secretary of State,
transmits herewith copy of the under-mentioned paper.

Foreign Office,
23 April, 1934

[Handwritten initials]

RECEIVED
24 APR 1935
C. O. RING

Reference to previous correspondence:

L.O. letter No. 23265/22

Description of Enclosure.

11 Apr. No 5

Name and Date.	Subject.
<p><i>[Handwritten:]</i> Mr. Representative Rome</p> <p><i>[Handwritten:]</i> 16 April</p>	<p><i>[Handwritten:]</i> Department of the Public Affairs by Missin Council</p> <p><i>[Handwritten:]</i> Ambassadors</p>

Similar letter sent to

[Handwritten:] Copy to Kempton

Copy.
No. 474.
(J 1432/1432/66)

15
FOREIGN OFFICE, S.W.1.

16th April, 1935.

Sir,

With reference to my despatch No. 923 of the 27th October, 1934, concerning the imprisonment of certain British natives at Mogadiscio, I shall be glad if Your Excellency will endeavour to secure a reply from the Italian Government.

I am, etc.,

(For Mr. Stanley Baldwin)

(Signed) Maurice Peterson.

His Excellency
The Right Honourable,
Sir Eric Drummond, G.C.M.G., C.B.,
etc., etc., etc.,
Rosa.

23285/20 Kenya

C.D.
R 9 APR
D 10 11
Part am

972
5
26

C. C.

- Mr. ~~Herold~~ 8/4
- Mr. Fleming 9/4/55
- Mr.
- Mr. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

see ad. up. for the lads.
presents his compliments to the U.S. of S.

for Foreign Affairs, and with
reference to his communication

(8) No. J 2041/2041/66 of the 30th of October,

1964, is directed to enquire
whether a reply may shortly be
expected from His Majesty's
Ambassador at Rome to the
Foreign Office despatch No. 923
of the 24th of October, regarding
the imprisonment, at Mogadiscio
in Italian Somaliland, of certain
British natives.

DRAFT. 3/4

(enc
15)

FURTHER ACTION.

11 April 1965.

In any further communication on this subject, please quote

No. *J2471/2471/66*

and address—*not to any person by name, but to—*

"The Under-Secretary of State," Foreign Office, London, S.W. 1.

3 27

NO DUPLICATE

THE Under-Secretary of State for Foreign Affairs presents his compliments to the Under Secretary of State for the Colonies and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper.

3c

Foreign Office,

30 October, 1934.

Reference to previous correspondence:

Colonial office letter No 23283/34 of 18 October

RECEIVED
31 OCT 1934
C. O. R.

NO 2

Description of Enclosure.

Name and Date.	Subject.
<p><i>To H. M. Representative</i> <i>Rome.</i> <i>No. 923.</i> <i>27 October</i></p>	<p><i>Imprisonment of 3 British subjects</i> <i>by Italian Somaliland authorities</i></p>

copy to Kampa (4)

Similar letter sent to

No. 908

FOREIGN OFFICE, S.V.1.

(S) 2471/2471/66

27th October, 1934.

Sir,

I transmit to Your Excellency herewith, copies of a letter from the Colonial Office and of its enclosures, relative to the imprisonment, at Mogadiscio in Italian Somaliland, of certain British natives.

2. I shall be glad if you will communicate to the Italian Government copies of the three sworn statements, which are enclosed in the despatch of 14th September from the Deputy Governor of Kenya, explaining that they contain serious accusations of wrongful detention of the persons and property of British subjects, and requesting the Italian Government to investigate upon these allegations and inform you of the result in due course.

3. With regard to Mr. Pilling's proposal that the financial claims of these persons should also be submitted to the Italian Government, I am advised that, if it be shown that these men were wrongfully detained, appropriate compensation could be claimed, but that if the Italian authorities acted upon reasonable suspicion, no Court could entertain a claim for compensation. In the circumstances you may prefer, as a matter of tactics, to leave the question of compensation to be raised later if circumstances so dictate.

I am, with great truth and respect,
Sir,
Your Excellency's obedient servant,
(For the Secretary of State)

His Excellency
The Right Honourable
Sir Eric Drummond, G.C.M.G., G.C.B.,
etc., etc., etc.
Rome.

C. O.

- Mr. Nicholls
- Mr. Jennings
- Mr.
- Mr. Parkinson
- Sir G. Tomkinson
- Sir C. Bottomley
- Sir J. Shackleton
- Pres. U.S. of S.
- Parly. U.S. of S.
- Secretary of State

Answers to Nos 1 & 2
 Answers to Nos 3 & 4

18

I am etc. to the amount

to you, for the consideration of Secretary Sir John Simon.

a copy of a despatch, and enclosures, from the Governor of Kenya regarding the imprisonment at Mombasa by the Indian Comandant authorities of certain British subjects.

I am to ask that, if Sir John Simon sees no objection, representations may be made as desired by the Governor.

L. S. D.

DRAFT.

The Secy of S.

Foreign Office



4 Gov. of Kenya (N.W.)
 (not encl.)

Copy to Kenya (4)

FURTHER ACTION.

KENYA

NO. 465



RECEIVED
- 4 OCT 1934
C. O. REGY

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

14th September, 1934.

Sir,

I have the honour to transmit copies of statements made by one Gulam Hussein, Omar ba Sabra and Ahamed Aden Hertti, British subjects, relative to their imprisonment at Mogadiscio by the Italian Somaliland Authorities.

Copies of claims for compensation which have been registered by Ali Sigara, the employer of Ahamed Aden, and by Omar ba Sabra and Gulam Hussein are also enclosed.

2. If these statements are to be credited, the treatment accorded to these persons while in prison custody, see statement of Ahamed Aden Hertti, their protracted detention followed by release without any trial and the retention of their lorries even after they themselves had been released constitute a grave miscarriage of justice on the part of the Italian Somaliland Authorities.

3. Should you see fit I shall be glad if you will request the Foreign Office to register a protest with the Royal Italian Government against the seemingly unjustified imprisonment without trial of British subjects, and to present the claims submitted by the persons concerned.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H. P. Lister
GOVERNOR'S DEPUTY.

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

Copy to F.O. 2 Annod (4)

Moyale.

12th March 1934

Gulam Hussein, Indian, of Wajir Moulou,

duly sworn states:-

I am a transport contractor. On 9th January 1934 I arranged at Moyale to take to Mogadiscio in my lorry some goods belonging to Omar ba Sabra, trader, of Moyale. On 15th January 1934 I arrived at Mogadiscio, having proceeded via Mandera and Lugh. There were in my lorry 170 frasilas of buni and 15 frasilas of tobacco. Omar ba Sabra himself was travelling in the lorry, together with a Somali named Jama Mohamed and two boys named Guyo Lobe and Erandu Keriembi. On the morning of the 16th January we took the lorry to the Customs shed. There was subsequently a dispute because the amount of the buni stated in the voucher obtained from the Abyssinian Customs Official at Moyale did not tally with the amount in the lorry. I was asked where the buni in my lorry came from and I stated that I was only a transport contractor and I had brought it from Moyale. Omar ba Sabra said that he could not read what the Abyssinian voucher said. He had not attempted to smuggle the buni. The Italian Officials told us that there was 50 frasilas more in the lorry than that mentioned in the Abyssinian voucher. On the evening of 19th January Omar ba Sabra and I were arrested. On 20th January we were put in the big prison. We were given meat to eat and salt water (which I believe was sea water) to drink. For three days Omar ba Sabra and I did not eat or drink anything.

5744/D
 Kicket

afterwards we were allowed to buy our food and have it sent in from outside. We were only allowed one meal every twentyfour hours.

We were in prison for 18 days before being brought before a Magistrate. On 10th February in the evening we were taken to the Magistrate's Court, but only Omar ba Sabra was allowed inside.

On the following day we were both taken again to the Court and I was asked all about the busi. The Magistrate told me that he had received a petition on my behalf from a "wakil" who had been paid by another Indian in Mogadiscio, Hussein Osman, to help me.

On the following day 12th February I was released from prison, where I had been 23 days. My lorry was still detained and Omar ba Sabra remained in prison.

When we were put in prison on 20th January, we found there also four men who had come to Mogadiscio two days before in the lorry of Ali Sigara, a Mandera trader. There was Ahmed Aden (a Somali), his driver; Islim bin Awad, his clerk; Iman a lorry "turn boy" and a Somali passenger. Ali Sigara's lorry was also detained in the Mogadiscio Customs shed. Mine was chained to it.

When I was released from prison I saw Ali Sigara at Mogadiscio. He said that his people had been arrested because he had given them by mistake the wrong Abyssinian voucher. Since he could not read Amharic he had taken the wrong

one from his papers. He then returned to Mandera and got the right one, but the Italian authorities would not consider nor accept it. Up till the time when I was released from prison Ali Sigara's people had not been taken (to the best of my knowledge and belief) before a Magistrate. They had been in prison then for 24 days and were made to work. They were in the same shed in the prison as myself and Omar Ba Sabra and we saw them every day.

After I was released from prison I stayed at Mogadiscio for about 10 days. I went every day to the Magistrate's Court and asked for the case to be settled so that I could get back my lorry. Only twice was I allowed to see the Magistrate, and then he said he could not do anything. After about 10 days, since I was ill and had no money I left Mogadiscio and came here to complain to the British Government. Omar Ba Sabra was still in prison when I left Mogadiscio. So were Ali Sigara's people.

sd/- Gulam Hussein

S.O.C.

sd/- HERALD HUNTER
1st Class Magistrate
Moyale

12th March 1934

34
COPY.

II CLASS COURT
HANDERA.

13/4/34

Qmar Ja Sahra Arab trader of Handera duly sworn states:- I am a trader of Moyale and Handera having duka in both places. At the beginning of this year I went to Moyale to get some loads of coffee from my duka. I arrived and the coffee was brought over from Abyssinia to my duka in exchange for cloths and hardware. On this particular occasion I loaded one hundred and seventy frasilas of coffee (buni) and twenty frasilas of tobacco on to my lorry. I obtained two passes for the coffee from the Abyssinian authorities one which I was informed showed 170 frasilas of coffee and the other 50 frasilas of coffee and ten frasilas of tobacco.

I then obtained a pass for the road from the District Commissioner Moyale at least he endorsed the pass I had already obtained at Handera.

Arriving at Handera I obtained a through S.F.P. pass to Hgadoisole via Lugh No. 7677 dated 13/1/34.

The lorry belonged to Gulan Hussain; I had hired it from him for the journey. Gulan Hussain had pass No. 7543 of 9/1/34 issued by the District Commissioner Moyale to Hgadoisole.

We left Handera on 15th January, myself - Jona Mohamed a Hertli Somali and Gulan Hussain the driver.

We arrived at Lugh and reported to the Residents there. I was given a pass to take the coffee and tobacco through to Hgadoisole as it had come from Abyssinia. The pass was for 170 frasilas buni and 10 frasilas tobacco.

The Abyssinian pass and the Kenya pass were both examined and we were ^{told} to proceed to Hgadoisole.

So.....

We arrived at Mogadiscio at the Customs where I was told that the first Abyssinian pass was only for 60 frasilas buni and not for 120 as I had stated. It was written in Amharic which I cannot read. The other Abyssinian pass was correct i.e. 50 frasilas of buni but 10 frasilas of tobacco were only shown and there were twenty frasilas on the lorry. I explained to him that I had loaded the other ten on the way from Moyale from a lorry which had broken down but that I had given the correct figures to the Residents at Lugh as shown on the pass which I had obtained there.

The customs officer there said we were cheating. I replied that had we been thieves we should hardly have brought the lorry straight to the customs shed.

He then arrested Gulian Hussein and me and we were incarcerated in the gaol. I was imprisoned for two months and six days. I was not made to work but just kept in prison. Then a letter came from the judge and I was released. I went to a Lawyer who appeared before the judge.

I then came to Mandera arriving here on the 15/4/34 exactly four months after leaving here.

R. O.C.
R. J. C. Howes.

Signal Quar De Sabra.

Court seal

36

COPY
II CLASS COURT
MANDERA.

3rd April, 1934.

Ahmed Aisa Herti Warsangali duly sworn states:-

I am employed as the driver of Ali Sigara's lorry. On 11/1/34, I left Mandera in the lorry, an International, bound for Mogadiscio with a load of coffee and tobacco. The coffee and the tobacco had come from Moyale previously. I had brought it to Mandera in the lorry. There was a lorry boy with me called Isan Hassan a Shabelle.

We went through Lugh and I showed N.P.D. Road Pass No. 7676 dated 11/1/34, issued at Mandera to the authorities there. They took the pass and gave me an Italian "Foglio de via" as far as Mogadiscio.

I was asked how much coffee and tobacco I was carrying and I said sixty frasilas of coffee and 50 frasilas of tobacco. I was given another paper embodying these figures. The Abyssinian pass for the coffee and tobacco in Transshipment which I had obtained at Moyale was also examined.

I was told to proceed with the papers to the Customs House at Mogadiscio. I went on and arrived at the Customs at Mogadiscio. I gave up all the papers, the Abyssinian pass - the Foglio de via and the other paper with the amount of goods carried.

The Officer at the customs house examined the papers and gave me permission to proceed. I went as far as Ali Sigara's store at Mogadiscio in order to unload the lorry.

Hardly had I stopped the lorry when a

- 2 -

Sub-inspector of Police - a Somali Aqid Jarsana came up and told us to get in the lorry and drive it, he got in as well. He made us go to the Police Station. It was about 4 p.m. I was told to wait until 4 p.m. We were made to go back to the Customs at 4 p.m.

The Officer at the Customs asked me where the coffee had come from also the tobacco. I told him I got them at Moyale. He then asked me if I could read Amharic writing on the Abyssinian pass. I said no. He then asked me what I had brought in the lorry. I said sixty frasilas of coffee and fifty frasilas of tobacco. He wrote down my replies. He took charge of the lorry and all the goods and told me to return next morning at 6 a.m.

In the morning he asked me who was the owner of the lorry and the goods on it. I told him that it all belonged to Ali Sigara a trader at Mandera. He then asked me who was the selling agent for the goods at Mogadiscio. I told him that the Agent's name was Islan Isad an Arab.

He then asked me to tell the truth and say where I had come from with the goods. He refused to believe me when I told him that we had come from Moyale and the goods from Abyssinia.

He then called up an askari and arrested me and Islan Isad who had arrived

and Isan Hassan....

Afterwards we were handcuffed and taken back to the prison. We slept there one night. Next morning at ten A.M. the Prison Officer called us up and told us that we would be released at 4 p.m. that day.

We were accordingly released. He had been in prison for sixty days exactly.

I then returned to Lugh in another lorry of Ali Sigera's lorry and came on in Hassan Said's lorry. I arrived at Mandera on 2nd April 1934.

R.O.C.

R. J. C. Howes.

Signature of
Ahmed Aden.

NO. 100001

Copy.

LIST OF DAMAGE INCURRED BY ME WHILE MY LORRY
GOODS, AND MY DRIVER ETC. RETAINED BY ITALIAN
GOVERNMENT AT MOGADISCIO FOR ABOUT FIFTY NINE
DAYS ARE AS UNDERMENTIONED.

Item.

1. Expended for food etc. to 4 my employees while they in the Jail for about 59 days @ 10 liras per day for both four men - Liras 590
2. Fee paid to Lawyer for above case - Liras 500
3. Wages for my driver for 4 months and twenty one days @ 500 liras per month. - Liras 1410
4. Wages for my clerk for 59 days @ 100 liras - Liras 196/90
5. Wages for Driver's assist. for 3 months @ 30 liras per month. - Liras 90
6. Wages for lorry's porter for 59 days @ 30 liras per month - Liras 79
7. Expended by me for food and for hire of a house waiting for the above case for about four months @ 15 liras - Liras 1800
8. Shortage of prices of Bani when retained the goods and when released were different of 10 liras per frasila - 60 frasila = 600
9. Interest of goods delayed in the Custos for about 6 months @ 90 liras per month - Liras 540
10. Cost of my lorry delayed in the Custos for about six months i.e. can travel 12 journeys @ 900 liras per 2 journeys - Liras 5400

Total amount Liras = 11185.90

Exchange of liras to shillings, 11185.90 Liras @ 3 liras per shillings = Total 2728.62

Sd. Ali Sigara

Sd. R. J. C. Howes
D.O.

Mandera N.F.D.
30th July, 1934.

LIST OF DAMAGE INCURRED BY ME WHILE MY LORRY, GOODS, AND MYSELF RETAINED BY ITALIAN GOVERNMENT AT MOGADISCIO FOR ABOUT TWO MONTHS AND SEVEN DAYS ARE AS UNDERMENTIONED.

Item		
1.	When my goods retained price of Buni were 70 lires per frasila. When the goods released I sold my Buni 170 frasila @ 43 lires per Frasila i.e. short of price 27 lires on a frasila.	- Lires 4560
2.	I expend for food etc. when I was in the Jail for two months & 7 days	- Lires 670
3.	Fee paid to the Lawyer on the above case	- Lires 500
4.	Wages of my employees at Moyale, Mandera, Rasu and Eil Wak because all my traders stoped as I am away	- Lires 270
5.	Interest of goods	- Lires 1507 1/2
6.	Expenses of my family	- Lires 670
Total amount		Lires 10679 1/2

Exchange of Lires to shillings.
 10679 1/2 lires @ 3/- Lires per a shilling = S. 3559/83

Mandera N.F.D.
 30th July, 1934.

Sd, Omar Ba Sabra.

Item	Particulars	Amount
	Brought forward	Rs. 4,905
5.	3 new inner tubes now useless. The rubber became rotten due to long stay @ 54/- per tube	102
6.	1 new battery now absolutely useless due to long stay and sea breeze or sun, etc.	65
7.	Minor damages to the lorry including cost of re-painting the lorry and loss of bolts and small parts, etc. (Repairs to dynamo and magnito, etc.)	250
		<u>Rs. 5,322</u>

STANDARD
AGENT

(Signed) GULAM HUSSEIN.

STANDARD