

1929

Kenya

No. 15540

SUBJECT

C0533/384

Native Lands Trust Bill

(Reserves)

Previous

5027/28

Subsequent

600/30

2 Sub. File A.

(Kinjatha)

3. See 15540/6/29

DESTROYED UNDER STATUTE

Reports that the Kikuyu Central Association desire to send their Secretary to London on the alleged ground of putting their views before the S. of S. as the Native Lands Trust Bill. Will report date of departure

to Jackson

Discussed with [unclear]

The summary of views to which the O.A.G. refers is, presumably, the report of the evidence given by the President and Secretary of the Kikuyu Central Association before the Select Committee of the Legislative Council in June 1928 (marked with a red flag in enclosures to No. 53 of 1928/29).

The O.A.G. is no doubt correct in his view that it would be impolitic, even if possible, to refuse leave to Kinyatta to come to this country; but, as the O.A.G. points out, the Colonial Government does not recognise the claim of this Association to represent the Kikuyu tribes, and if one section is to be specially heard by the S. of S., other sections may complain that they have been misrepresented.

Reply to the effect that, if the Association wishes to send Kinyatta to this country at ^{his} own expense, the Government should not attempt to prevent it; but that, if the views to which the O.A.G. refers are those mentioned at "X" above, the Association should be ^{informed} that those views are already before the S. of S., and that unless the Association can satisfy the Colonial Government as to their claim to represent the ^{whole} Kikuyu tribes, the S. of S. would not feel able to grant Kinyatta an interview even if it should be decided to send him to England.

W. Allen

21/1/29

Yes: we cannot well try to insert an African voice from

concerning the proposed...
the Dept. can...
refuse to grant an interview...
to a native who represents...
only one section of the...
tribe... and in other...
cases, the Dept. thinks...
that no interview will be...
granted.

As proposed

I think this body
appears to the
following persons:
I think thought L.C.S. 21.1.24.

Acc. Parkman
21.1.24

in...
Sec of State

I think that we can but
telegram as proposed

B.H.B.

24.1.24

agree
21/25/24

SMV

2. Tell to you (No 1 and) 20/Jan/24.

DESTROYED UNDER STATUTE

D.A.G. TELEGRAM. 6 FEBRUARY 1929.
Does not consider Kikuyu Central Assoc. represents
the whole of the Kikuyu tribe and has informed
Kenya that S.B. is therefore unable to grant him
an interview. Nevertheless he intends to sail from
Mombasa on the 17th February.

DESTROYED UNDER STATUTE

and by

W. H. H. H.

7/2/24

[It is pretty certain that the
Aboriginal Protection Society
will take up his case for
him, as apparently they
propose to do on behalf
of B. H. H.]

Acc. Parkman

21/2/24

27.7.24

in...
B.H.B.

base

B.H.B.

22.2.24

see...

Public Dept

11.2.24

at...

200

not for

4. Secretariat, 15th Feb. 29.

Forwards copies on the matter of Johnston Kenyatta, and encloses a copy of a letter from the Native Affairs Department, in this connection.

5. C.A.A. Burth, 16th Feb. 29.

States that by the 1st. December 1928, 900 miles of native reserve boundaries had been clearly demarcated by trenches, cairns of stones and by other means, and comments on the carrying out of this work.

That that Kenyatta has crossed into area by in which with the P.O. 1929

No 4. ? put 4.

No 5. This is the result of the purchase in No 18 of the last file 'C'. It was asked for not later than the end of the first week in Feb, but I am afraid there have been no purchases in the meantime.

? ask to make in another report as the purchase in six months time (presumably the work will not be through before then)

J.M.K.
21/3/29

It was kind of the Director to give Kenyatta a personal letter addressed to myself. I became head of Kenyatta

3
I should not refer to
the name
can only do
I think
I should not refer to
the name
can only do
I think

W. J. ...
A. B. ...

I agree with you as to 4 -
I shall hold a letter to you there
is no choice
action on no. 5, which has
been done - you will see later, &
proposed.

Wed 21.3.29

To Sec. 216-5 and 9 Com. 80 p. 229
DESTROYED UNDER STATUTE

754
W. J. ...
See minute of 24.2.29 on 15027 p. 13
on 15.11.29
No action required now
W. J. ...
No action for discussion
W. J. ...
Wed 29.4.29

7. Kekaya National Union Jul. 25 May 29
I thought sent to represent yourselves.
Send first reports to their holding meeting
Kindly give sympathetic consideration to
representation.

Spoke to the National
off to O.K. in case

William
5/27/29

100 Prussia
28.1.29
I'll send. As usual said
422 of Kungsten was approached
this 11

called 20-24

and

To Sam - 400 - 4/20/29 3 Aug
E O MAY 1929

May 29
the 29 May 29
the 29 May 29
the 29 May 29

William

Clearly there is nothing to be done
as any such message
will come through the O.K.
to be sent to the unit been
referred to H.P.?

This report of the meeting -

P.S. Only write
in the corner
if you want communication
in the corner
need

and the further east
May. Dutton when he call
to name?

Prussia

5/27/29

May Dutton was so inf. when
he called today.

Paul was he happened on
upward Kungsten than the next
lines of. He has had a
interview with Mr. Gigg, a
acc. to May. Dutton the 29.
the 29 Gigg have discussed
the matter.

Also, all
to May. Dutton, - Kungsten
has some letter from Kungsten
wh. appears to give him
a status - quite at
variance with our info
from Kungsten (see 11/24)

As you please, there
are really opportunity of
asking the 29. whether he
has any recollection of talks
with Mr. Gigg about
Kungsten? and you
could confirm that the
29 has not been
approached personally

by Koryatta through the
help of anyone, describe the
office, the office
number, as represented to
Koryatta in Nairobi
that the post and that great
telegraphical one with a link
to him, for the reasons set
out in the note to HQ

[I can tell you more about
Koryatta, really, if you
wish, as we have certain
info. on other activities]

Albarkham
31.5.23

As

Do you see by Koryatta I have no
record of a meeting

of you do. I am sure you would know about this
Albarkham

From the signal to HQ on 2.7.23
+ Nairobi on 1.8.23

W. H. H. H.

Free. allp
3.6.23

for most secret records

Patty

CRS 36.23

Mr. J. Snigg probably mentioned to
Koryatta he was interested
to know what Koryatta
might be interviewed at
Co. We told Mr. J. Snigg
that Koryatta had a letter
to myself, but had not
approached the Co.

Mr. J. Snigg said he
had read in a note of the
interview with him himself
had had here with
Koryatta.

[Mr. J. Snigg was interviewing
with a man that there is
an opinion whether regarding
the fact, begging
the fact to be brought to
see the Kikuyu section]

Wait, a record in

2 weeks

allp
15.6.23
above

18. BTO.

to Kinyatta

An interesting note -
No action is required against
I think, and I believe it
that there is no question of
Kinyatta being invited
to call here with the
Dy. or any permanent
official here, seeing that
he was definitely informed
before leaving Kenya
that the Dy. would be
made the interview time
as at the view of the
Kikuyu Central Association
was already known to the
Dy. & (b) that Association
is an unofficial body
which cannot be regarded
as representative of the
Kikuyu tribe.

As to the 2 main
subjects dealt with in
this note of Sir E. Grigg's
interview, pp. 2 to the
Native Land Trust Bill
have gone on to the Dy.
& a separate file on

Harry Thacker

Patry

19/07/49

It is not clear or understood that the Dy.
will come here in order to be on
behalf of Kinyatta.

Several of the points on the
development here must have been
to Grigg and Sir Webb yesterday.
I should rather like to see the
the water question in taking a visit to a
country of very wide spread population.

Sir E. Grigg remarks might be
considered as meaning that however land
might be leased in order to cover land
charges. If Kinyatta has got that
impression he shall have word of it.

Patry 19.7.49

P.T.O.

11. MAJOR E.A.T. DUTTON (S.O.) 20 JUNE 1929
Presents that there would be no objection
to a précis of Sir E. Grigg's interview with
Johnstone Kenyatta being sent to him.

12. SIR E. GRIGG (S.O.) 20 JUNE 1929
Sends copy Police Report from Scotland Yard on
Johnstone Kenyatta. Requests engagement on next
Tuesday be altered to 11.30 instead of at
11 o'clock.

Mr. Bottomley

No. 12. There is really nothing new
in this

You will wish to order a copy
that we will keep. But otherwise there
is no objection to your going to see
him.

I understand that Sir E. Grigg is
proceeding on his visit to you later
he is long, so evidence that Sir
apples. Call at 10.45 a.m., when
may be later than 11.50.]

No. 11. In a way this is justified
by the fact that there is no letter
from Sir E. Grigg, so no objection
sending a copy to Kenyatta
anxious. If Major Dutton
promised Kenyatta a précis
of the interview, he must
send it & we can let
Major Dutton have the
copy below (10) for all purposes.
And I suppose that it is not
for us to attempt to "ret"
the précis.

Call Major Dutton that
Sir E. Grigg handed in the
letter from him on the subject

and as to the interview say that as an undertaking
has been given to K. that he should have a précis
of the interview, this must clearly be fulfilled,
and if Sir E. Grigg is satisfied that the record
which he handed in (and of which a spare copy is
enclosed) sets out what he said, Major Dutton will
no doubt send to K. a copy of that précis.

A. C. C. Parkinson
2.6.29

So proceed. There is no earthly reason why
we should object, but I shall await the results with
interest.

W.C.B.
21.6.29.
at once.

- 13. To Major Dutton (20/6 ahd.)
(w. copy)
- 14. " Sir Edward Grigg (12/6 ahd.)
- 15. Major E.A.T. Dutton to Mr. Bottomley 2nd July 1929
Encloses letter from Mr. Johnstone Kenyatta and states
Sir Ed. Grigg is anxious to have advice as to whether
he should see him again.
Mr. Bottomley.

27th June 1929.

(1) Johnstone Kenyatta came to England as
a representative of the "Kikuyu Central Association"
a self-appointed body of the younger Kikuyu who are
generally opposed to the older, less sophisticated
Kikuyu in the local Native Council.

Then

When Kenyatta wished to come to England, the O.A.G. consulted the S. of S. (see No.1) and he was informed that if the Association wished to send Kenyatta to England at their expense, the O.A.G. should not attempt to prevent it, but that if the views which the Association wished to put before the S. of S. were those already set forth in Kenya last year before a Select Committee of the Legislative Council, the Association should be warned that the S. of S. had already had those views before him and that unless they could satisfy the O.A.G. as to their claim to represent the whole Kikuyu tribe, the S. of S. would not feel able to grant an interview to Kenyatta (No.2).

The O.A.G. replied that he did not consider that the Association represents the whole tribe and that he had informed Kenyatta that the S. of S. would not be able to grant him an interview if he came to England.

Kenyatta arrived in England some time ago, and there is no doubt that he has got into communication with persons who hold what are known as "extreme" views. Sir Edward Brigg has received a letter from Scotland Yard on the subject (see encl. to No.12) and it is to be said that Major Dutton in his present letter refers

Sir Edward

Sir Edward Brigg has already had one interview over here with Kenyatta and there would seem to be no reason why he should not grant a second interview, if he can find the time.

But the question of an interview with the Secretary of State is rather more difficult. Kenyatta came here after receiving a letter from the Colonial Government telling him that as the views of the President and Secretary of the Kikuyu Central Association given before the Select Committee of the Legislative Council were before the S. of S., and as the Association is an unofficial body which cannot be regarded as representative of the whole Kikuyu tribe, the S. of S. would be unable to grant him an interview.

It would be a serious blow to the prestige of the Colonial Government if, in face of such a statement (which was made with the authority of the S. of S.), Kenyatta should after all obtain an interview with the S. of S. It is not even as if there were anything new for Kenyatta to say, if he were seen by the S. of S.

In the ordinary way no doubt the S. of S. would be willing to receive a native who was truly a representative of a tribe, and wished to state a case relating to the tribe's affairs; but it is difficult to treat the present request 'in vacuo' and to ignore all the antecedent history. In the circumstances

... it is suggested that Mr. Dutton should be asked to inform Kenyatta that the S. of S., for reasons already made known to him before he left Kenya, feels unable to grant him an interview.

All Parkman

1. We cannot advise Sir E. Grigg as to his action, but he must naturally feel that what he says to Kenyatta is determined by other not necessarily connected with Kenya and that in returning to him Kenyatta would be offering merely as a mouthpiece.
? Say that the S. of S. cannot & have to decide - that the service objection to him being Kenyatta of our but would not accept his position in the other sense.
2. As to the interview with the S. of S., I can only suppose that Commission's suggestion. Native Councils were started in Kenya in order to give the younger & more advanced members of a tribe the opportunity to lead

heard in its affairs, which had been too much in the hands of the elders. To receive a representative of a sectional association would be a rebuff to the Native Councils - not merely to the central government or the old men.

W.C.B.
5.7.29.

Secretary of State.

I agree. You should certainly not see Kenyatta.

S.H.W.
11.7.29.

P.
12.7.

16 To Major Dutton (15 ansd. encl. returned) 13.7.29.
17 Johnstone Kenyatta 23 July '29

Enquires when petition is likely to receive attention. Requests interview.

Mr. Bottomley

The petitions are annexed to a letter to Sir E. Grigg - see in envelope below No. 10. The main petition covers almost every conceivable subject; the second relates to Harry Thuku - see file 15688/29. The petitions have never been formally submitted to the S. of S.; nor could they have been, as Sir E. Grigg while in this country, was not administering the Govt. of Kenya. It is quite clear that these like other petitions should come to the S. of S. through the Kenya Government with the observations of the O.A.G. (or, as will now be the case, if he refer it out, the opinions of the Governor).

7 (1) ask No. 17 - say that all petitions relating to matters in a Colony must come to the S. of S. through the Government of the Colony concerned - that, in the circumstances, the petitions which Sir E. Grigg recently handed in at the C.O. are being sent to Nairobi in order that the views of the Govt. of Kenya upon the various points raised may be reported to the S. of S. - and as to an interview, say that it is understood that Sir E. Grigg's Private Secretary, after reference to the C.O. informed Mr. Kenyatta that for reasons already made known to him before he left Kenya, an interview cannot be granted.

7 (2) refer No. (3) sent to O.A.G. the original petitions (with 2 copies of each, and keeping copies here) together with copy of 17 and reply - explain that after an interview with Kenyatta of which a record is enclosed for convenience of reference (i.e. No. 10) Sir E. Grigg handed in at the C.O. the petitions with a letter to himself from Kenyatta, of which also a copy ~~should be~~ enclosed; that Sir E. Grigg offered no observations upon the petitions, but that as regards Harry Thuku Sir E. Grigg had correspondence with the C.O. while he was in this country - and then go on to ask for comments upon the various matters dealt with in the petitions.

attached 10/10/29

Copy of 17 sent to Mr. Kenyatta
16/10/29

all papers
16.7.29

6.10.29
16.7.29

to Kenyatta (17 and) AUG 1929

to Mr. G. B. 3 and 4 of petitions in original
3 copies (and 5 10)
30/10 9 Copies 18.17.18, 10.7.20 & 20.10.29
S. of S. (1929)

10 AUG 1929

fid / Cono

20. GOVERNOR CONFIDENTIAL: Mr. Kenyatta's revised draft of the Bill, indicating precisely the alterations proposed and requesting approval by telegram. Deals serially with points raised in No. 91 in 15027/28 Part 3.

Mr. Allen

20th

We discussed this, and I attach a note showing the points which appear to emerge. Those which were thought most important are marked with a cross. The references, unless it is otherwise stated, are in each case to the paragraphs of the Secretary of State's despatch of the 1st August, which are in every case referred to by the Governor in his despatch of the 10th September.

No. 91 on 15027/28, ~~Part III~~
Part III.

Can. Caff

W. H. H. H. H. H.

See typed schedule numbered

20th

20 B

all papers

As that is an open point I am not sure if it is necessary to discuss it

6/11/29
11.10.29

It is difficult to draft a telegram authorising the Gov. to say that the Bill is approved when he gives so little time. All we can do today is to authorise him to say that the Bill as amended ~~perhaps~~ will be approved. But that various amendments in detail will be required as to which a further telegram shall be sent to him this week - and then prepare such second telegram P. info

21 To Gov Kanya tel (No. 20) 10 Oct 1929

22 Tel. No. 4 for Kya — 21 Oct 1929

Mr Parkinson

No further action seems to be indicated but I send on again in case it may be thought desirable to send a confirming despatch

H. Ashworth

No. 10 in leave this 25/10/29

of 2. P. info

23. GOVERNOR/CONFIDENTIAL 311 28 October, 1929. States clauses specified are being amended as directed and gives draft amendment to Clause XVI (ii) Trusts to receive immediate sanction by telegraph to complete it at the present session of the Legislative Council.

24. GOVERNOR TEL. PRIV. AND PERSNL. 29 October, 1929. Trusts that final approval to Bill will now be given and in view of danger of delaying it has accepted amendment to Clause XVI (ii) though believes it will necessitate amendment of Ordinance in the near future.

Mr. Parkinson

No. 23.

The new Clause XVI (ii), as proposed in this telegram, appears to meet the Secretary of State's directions in No. 22 (second page). It may be noted that no provision is made as regards the Secretary of State's (1) "suitable arrangements for establishment of natives concerned in their new homes"; but this would appear to be a matter for administrative action rather than for incorporation in an Ordinance.

As regards Clause XVI (3) - The Secretary of State laid down certain specific amendments which were to be made, while leaving it to the Governor to make any necessary arrangements for expediting the land required for roads or railways from the provisions of this clause. The Governor makes no mention of this point in his present telegram to make sure that it is not neglected (which might give rise to trouble in the future), so we might in replying say that it is presumed that the Governor is also making the necessary provision as regards this point.

As regards the last paragraph of the Governor's telegram, it was not intended to hold up the Bill

pending

x i.e. that dealing with necessary minor adjustments in the boundaries of the Reserves.

pending the completion of this Committee's labours. Subject therefore, to approval of the revised form of Clause XVI (2) I propose to telegraph to Governor asking him to proceed with the Bill, adding a sentence as at p. above.

C.A.L. Cliffe:
29.10.29.

See also p. and p. telegram, which amplifies the difficulty felt by the Governor in connection with the new Clause 16 (2). But the Secretary of State's instructions on the subject were definite, and we assume that the Secretary of State will not wish to depart from them. It would seem however that the Governor has gone rather further than His instructions. Secretary of State's telegram said that compensation must in all cases include (a) equal area for persons actually displaced if possible, but in any case equal area added to the Reserve.... The Gov's new clause 16. (2) omits the "if possible" as applied to the ^{the} ~~area~~ of the new area? and it would meet the Gov's difficulty, at any rate in part, if the clause ran "where any land is excluded from a native reserve under this Section any natives actually dispossessed shall if practicable be given the use and occupation of an area equal in extent and as far as possible equal in value to the area excluded..

But I am not sure that the new clause 16(2) in Gov's form or as above - now fits in with our new clause 16 (3). It seems to me that the two

ought

ought to be re-arranged, putting 16 (3) first as that is the really essential thing; 16 (2) Where any land is excluded from a Native Reserve under this Section the Governor shall by notice in the Gazette add to such Native Reserve from suitable, and if possible contiguous, unalienated and unreserved Crown land an area equal in extent and as far as possible equal in value to the area excluded, and any area so added shall be deemed for the purposes of this Ordinance to be part of such Native Reserve: provided that where land is excluded for the track of a road or a railway or merely for the site of a building no such addition of land need be made.

16 (3) So far as may be practicable, when any land is excluded from a Native Reserve under this Section, the natives actually dispossessed shall be given the use and occupation of the area which is added to the Native Reserve in accordance with the preceding subsection of this Section, and such natives shall also be entitled to receive compensation in money in respect of any building or crops destroyed or damaged or in respect of any difference in value between the area which is excluded and the area which is added and in respect of any disturbance or other loss or expense to such natives caused by such exclusion".

I do not pretend to be a legal draftsman, but I feel that an attempt must be made to re-arrange 16 (2) and 16 (3); and if you think my text is on the right lines, you might wish to refer ~~same~~ to Mr. Bush.

In

*In determination
of 16(2)
I shall
attach, as
per Mr. Bush's
note, with
out factory
equal form*

10-10-29

Sec of State

I would like to see
prepared by Mr. Bottomley including
that part marked A

8/16

30.10.29

Yes (It is vital to
insist that the
total area of the
Reserves shall not
be lessened. It is
always open to a
Woods-bc Commissioner
to purchase the
necessary amount
of land)

P 21/10

25. Tel to Mr. Kenya (No 23 dated) 11 Nov 1929

J. KENYATTA,
31 OCTOBER, 1929.
No other desp. has been received
regarding their petition and re-applies for
personal interview. Attaches copy letter from
Chief Native Commissioner stating no objection
to proceeding to London with view to placing
representations before the Secretary of State.

PARLIAMENTARY QUESTION BY MR DANSEY GORE
FOR ORAL REPLY 6th NOVEMBER, 1929.

SEE No. 11. ON SUB FILE "A" (P. 25)

Mr. Bottomley

14

See Nos. 18 and 19 and the
minutes on No. 15 which the
Govt. agreed that he would
not give an interview to
Kenya.

In No. 18 we said that petition
must come through the
Government, not the Governor.
Kenya is under the same
administration as so many
other people here, viz. that
when the Governor of Kenya
is in England he is still
in charge of the Government
of Kenya.

As to the 32 page of Kenya's
letter the letter of 29 Jan. with
the enclosure was the first letter
sent from the Kenyan Government
before the Govt. had the Sign's
Tel. of 29 Jan. in No. 2. On
receipt of No. 2, Kenya's Govt.
was inf. (No. 3) that the
Sign's will not grant them
an interview; but nevertheless
he intended to come to
England. See Mr. Gore's
letter in Nov. of 1929.
A copy of the letter sent to

One of the Kenyatta
Associates on the
8 Feb. meeting at
Kisumu. The
day was not spent
near Kisumu.

Quite apart from the
fact that the Kikuyu
Central Association is not
recognized by the Gov of
Kenya as representative
of the Kikuyu, the more
we hear about Kenyatta
here, the less satisfactory
a person he is. The
W. of Students (W.S.)
are now at Lagard
with him and we understand
that there also had not
tried to help him over
here, are disappointed
& disappointed in him.

In all the circumstances,
I believe para 3 of our
letter to be a deliberate
misstatement.

As the advertisement with
the logs will adhere to
his decision upon

over. All Parkers 15
11-29
12-29

Yafce
P.H.
4.11.29

S.P.S. I hope you will consider
this matter carefully before
finally deciding not to
see him W.H. 5.11.29

Parliamentary Question by Col Wedgwood for
oral reply on 15-11-29. see No. 5. on P.Q. file.

11

NOTE:
All correspondence and relevant minutes relating
to JOHNSTONE KENYATTA have been extracted and
placed on sub-file "A" (Johnstone Kenyatta).
W.N. 14-11-29.

27. To. Gov. Tel. 6th. Nov. 29.

Parliamentary question by Col Wedgwood for
oral reply on 20th. November 1929 see
No. 5. on P.Q. file.

As the Kenyatta matter is being
concerned in the new report,
no further action now required
on this file.

Put to
all
11-11-29
above

States has been requested by European Electe
Members of the Council to telegraph letter
addressed to Gov. to-day - gives obsans on the
letter and asks for instructions as to the
provision in para 1.

I am only to reduce the text
of number of Council I am a
26 etc.

H. Miller

3/10/25

The clause to which the
electio resembles fall exceptio
as XVI (a) - as revised
by the Sec. of State, the
clause in this form has package
marked in red in C.O. vol.
of 1 Nov - No 25 in file
tabbed in red.

Mr Miller's memorandum
sets out the possible courses
of action. As the S. of
definitely instructed the
alteration of the clause
with its present words being
form - see his minute
of 16.10.29 on page tabbed
in green - it is difficult
for the Dept. to make
any alternative suggestion
but as the Pres. Sec.
asks for the views of the
Dept. I feel myself
that there is much to be

Signed
E. L. G.

... in favour of course B
in Mr Miller's memorandum 16
(Note: if it should be decided
to proceed as in course B,
we shall refer to the Board
as to the actual phrasing
of the next provision)

The one thing to be avoided
if possible, is an amendment
of the Bill once it is in the
Statute Book; and if, as seems
not unlikely, there is prospect
of a strong demand for
amendment of clause XVI (2)
being made in the course
of a year or two, it may be
thought better to alter the
clause at once in a method
such as appears on the
Sops considers proper.

See Parliament

I think that the S. of H. has fully
appreciated the fact that the Commission
might take out services of proba-
bility in some cases - for example,
a much used water utility involving
the appropriation of a large catchment
area. Such cases would I think
be rare, and I think it would
be better to maintain the principle
having

Many questions arise to
be raised not by small
old^d which would lay
down the arrangements to
be made for a mitigation
of particular cases. In this
way it would be possible to
prevent a practice growing
up.

[The Hon. Sec. of State claims
that the land of a tribe under
title is on the same footing
as the land of an individual
not under title is not
inferior; and the Governor
fails to realize that if he
is hampered by the fact that
his views are not well known,
so is the S. of S.]

Wash. 3.12.29.

Sec. of State
(through D. Shals)

I was at first inclined to
agree with the particular in
thinking that there was much

to be said in favour of clause B
in Mr. Allen's memorandum, as
it got over the difficulty of having
to use the official majority now
in order to pass a bill which
contains a clause which the
Governor and his Executive Council
consider will prove unworkable.

It has, however, been discussed with
Mr. Battenley, and I think he is
right in not wanting to leave
a loophole for the exceptional
cases to be made the rule. I think,
therefore, that it is better to take the
bill by the house now and proceed
by the proper process. References
will have to be authorized to
explain that the course being taken
is specially devised by you
and to use the argument that

Exceptional cases will have to
be dealt with by special
Ordinance.

P.M.
5.12.19.

I strongly approve Mr. Bottomley's
suggestion that the present Bill should
maintain the position as laid down
by the Secy. of State in the event
of special circumstances arising.
In connection with some special
land, in connection with some special
public utility scheme, if it will be
quite possible and preferable to have
a special Ordinance.

T.D.S. 11/12.

Mr. Bottomley } After speaking to you, I
submit Draft Ordinance herewith. Three points
- it requires a little explanation
The words "section of a" have been
added before "land" (at the bottom
of page 1 & in the fourth line of
page 2) in order to leave no
doubt for any suggestion that
the S.P.S. contemplated was equivalent
area of land, in respect of an
area abstracted for a Reserve
being added to the lease of an

different case & is assumed that,
if an area were abstracted for
the lease of "land A", an equivalent
area even if it were reserved for
lease A & compared to the lease
of a "land B", would still belong to
"land A" & not "land B".

18

(2) As Clauses 16 (1) & (2) are stand,
where land is abstracted for a
lease for public purposes (such as,
e.g., the needs of a municipality)
the equivalent area added must be
for unabstracted and unreserved
land. The last sentence of the
first part of the draft has therefore
been framed so as to try and give
effect to the S.P.S. instruction that
it should be in the circumstances
to find the land in these cases
& was not thought desirable to
introduce yet a further amendment
to Clause 16 for any purpose beyond
the reference to the conditions of
the concession, which means that
the lease will automatically be
made up to its full aggregate area
as the provision of Clause 16 (1)
and not be limited.

*Order of a
Bottomley C.

It will be convenient
at this stage to ask
S.P.S. to consider whether
it can possibly
be avoided. See
last

5/12

Exceptional cases will have to
be dealt with by special
ordinance.

B.M.

5.12.19.

I strongly approve Mr. Bottomley's
suggestion that the present Bill should
maintain the position as laid down
by the Secy. of State. In the event
of special circumstances arising
later, in connection with some special
public utility scheme, eg. it will be
quite possible and preferable to have
a special ordinance.

T.D.S. 11/12.

Mr. Bottomley } After speaking to you, I
submit draft clauses herewith. These paragraphs
in it require a little explanation.
The words "section of a house" have been
added before "the" (at the bottom
of page 1 & in the fourth line of
page 2) in order to leave no
doubt for any suggestion that
the S.O.S. contemplated was equivalent
with land, & respects to an
area abstracted for a Reserve,
being added to the Reserve of a

different parts of a house, that
if an area were abstracted from
the Reserve of "table A", an equivalent
area even if it were reserved for
Reserve A & contiguous to the Reserve
of a table B, would still belong to
table A & not table B.

18

(2) As Clauses 16 (1) & (2) are amended,
where land is abstracted from a
Reserve for public purposes (including,
e.g., the needs of a municipality)
an equivalent area added must be
from unalienated and unenclosed

Common land. The last sentence of the
first part of the draft has therefore
been framed so as to try and give
effect to the S.O.S.'s instruction that

it should be on the understanding
to find the land in these cases
to not not thought desirable to
introduce yet a further amendment

to Clause 16 for this purpose, but
the reference to the conditions of
the concession, which means that
the Reserve will automatically be
made up to its full aggregate area,
as the provision of Clause 16 (2),
and not be worked

*Words of a
Bottomley C?

It will be convenient
at this stage to ask
S.O.S. to consider whether
if it can possibly
be words, each
word

50

(3) The last sentence has been
added to meet the last sentence
of the Governor's telegram - see
S. S. Wilson's minutes of 12/2/29

Ch. Cliffe
12.21.29

acceptance
12.22.29

Point (1) is a matter of
preventing local misunderstanding

Point (2) is the of maintenance
I think the suggestion made does
eliminate the necessity for
amending the lease (16(1)) -
as the lease would not be
renewed in areas with franchise
obligation to supply food the
reduction could be made.

Ch. Cliffe 12.22.29

(I have been asked to read this
in order because of technical
nature of work)

See of plate
(through Dr. White)

I think your draft telegraph
is in draft

J.H.C.
12.22.29
3 copies
208 1/2/29
P. 4/12

30 To Gov. Tel. Personal (28 Ausd.) 16 Dec. 29.

- 31. A. J. Cash and Sons. 2nd. Decr. 29.
Enquiry -
- 32. To. Cash and Sons (S1 and) 9th. Decr. 29.
- 33. Cutting from the East African Standard
dated 29th. October, 1929.
- 34. Gov. Grigg. Tel. 22nd. Novr. 29.

Reports further on the subject of the
Demarcation of the Boundaries of the Native Reserves.

? ask for a report on the
territories at the end of each 1930
thereafter copy in months until
the work is completed

Ch. Cliffe
12/22/29

adding that it is the desire
of the S. G. that every effort
will be made to expedite
this work?

Ch. Cliffe
12.22.29

This work should not be hung up simply
because things are done in January
Staff in 1922. On the other hand, it may
be that the outstanding boundaries are
in places which have significance in
past days & times.
I should like to see that as a condition

of land sitting on an
undeniable boundary should
be expedited with the fact of
the boundary has been demonstrated -
I only suggest that the work should
be expedited by the expenditure of
private moneys - at the expense
of general revenue (which it is as
much a matter of fencing in
as fencing out)

L.L. 20/1/29

Sec of State
(through Dr Shields)

In view of the importance of
the question I certainly think that
you should object to the presence
the necessity for expediting
the completion of the work.

J.M.
11.12.29

Japheth M. B...
Suffolk, ...
Nov 1929

States as to the attitude of the Elected
Members in connection with the proposed
amendment - has adjourned discussion until next
Council.

The text of statement to Council

to Secretary

The file was received
from Dr Thiele, who has not
yet seen the minutes on Nos 35,
in order to deal with Nos 35, 36 & 37.
I annex a typed note which
Walker and I have prepared.
Presumably the matter will
be discussed with the Sgts. &
we have not proposed
action to be taken, but
we have written the note
on the assumption that
the Sgts. will not vary his
decision in regard to
clause XVI of the Bill

Seen now
17/12/29
37/29

All Richardson
21.12.29

I am disappointed in the attitude
members; they do not really consider that the
ratios are in the same position as
manipulate, and they had much

See nos: 54 and 55
with briefs for 100

The European's determined to make
room for the Northern Russia in
the enlarged Southern Russia
of 1870 (and 80%)
predominance) out of the old
Northern Russia. (The circumstances
are of course different). Their
real fear is that there will be
less land for European settlement.

I am disappointed in the
Governor too, as the one of the
official majority would have
shown that people here that
the Elected Members do not
get things all their own way.

I regard legislation by Order
in Council as the last resource
in a matter of this kind - to be
adopted only if the Governor
shows good reason for not coming
to official majority.

W. C. 24.12.29

Sec of State
(through Dr. Shale)

I think that in view of your
instructions the Governor should
have used the official majority.

that the fact of his not doing
shows weakness on his part
I think that it is better now to
await his despatch and then to
make it quite clear that you
are not prepared to be misled
by his decision.

J. G. G.

30.12.29

I agree I think the Governor might have
realized that the line he took would be
his critics with announcement by Order in
Council of the same. I think of the White Settlement. As
for him, his attitude of course and that in the
past has been such as to give the impression
that he has been just as usual. I think
at the time too when they should have been
their best behavior pending the Governor's
decision. There is a reference in the Report
that a passing reference might have been
made there to the above saying the point is
specifically dealt with in the Correspondence.
The despatch of course will be the full statement
about what it is, but it would be possible to
anticipate that by mentioning the Governor's
hesitation to announce it in a certain setting
of the Council and to use his official majority
in the light of that.

C. D. 20.12.29

Sec of State.

I am afraid that I was under
a misapprehension in thinking

that a despatch from the Governor
was on its way: as we have
apparently had no promise of
anything except a communication
on the Rules.

I have spoken to Mr. B. B. B. B.
& Mr. P. P. P. P. who point out to
me that the whole position is
~~settled~~ settled and cannot now
be altered in view of the official
letter to the Governor which definitely
stated that "equal area" will
be secured. In the circumstances

I suggest that you should now
communicate with the Governor,
as proposed by Mr. B. B. B. B. This
should be that you are not
prepared to re-consider your
decision and that the final

opportunity should be taken to
persuade the Governor through the
Council, making use of the
official majority if necessary.
Mr. L. J. J. will be very
upset, but I don't know what
else you can do.

P. H. H.
7/1/30

I think the Governor should
be courteous enough to
explain the position by a
despatch. Wait arrival
of two mails; and then write
as proposed if nothing further
has come. P 7/1

Mr. H. H.

Asks in No. 34 has not yet been
taken. The minutes are not at
all. I submit 4/6 for
work. I think a day or two

of no less independently of
action in the subsequent numbers.

Chas Cliffe)

8/30

J.H. Miller

11/30

For the above from the Remembrance
file that the 1st. volume was
discontinued with the previous
one

See Parkman

P. 1. 30

Box 9. 1. 30.

(Return to be taken)

38 To Gov 34 (37 bound) - boxes - 11 JAN 1830

House of Commons by Mr. Grimsby-Gore for oral reply
on Wednesday 22nd January, 1830.
see No. 4. on P.Q. file.

- 29. Cutting from the "The Times" of January, 1st, 1830.
- 40. Mr. A.C. Wilson. to the S. of S. 6th. Jan. 30.
Writes on behalf of the Society of Friends.
- 41. Mr. W.H. Ayles, M.P. S/O. 9th. Jan. 30.
- 42. To Mr. Ayles. S/O. (41 anad.) 10th. Jan. 30.

UNDER STATUTE

95 on case independently of
action in the subsequent number.

CAL Cliffs

8.1.30

JMKlen

8/1/30

You will want from the Kemigallo
file that the Jpts. under the
circumstances work to be passed
on.

see Parkinson

P. 1. 30

W.D. 9.1.30.

still

Action to be taken

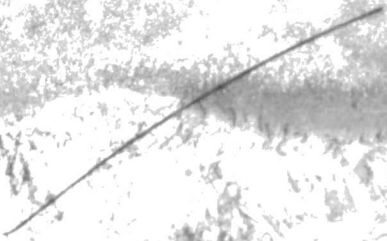
see for file
of draft (36)

38 To: Gov 34 (34 know) - 11 JAN 1930

House of Commons by Mr. Ormsby-Gore for oral reply
on Wednesday 22nd January, 1930.
see No. 4. on P.Q. file.

- 39. Cutting from the "The Times" of January, 1st, 1930.
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Writes on behalf of the Society of Friends.
- 41. Mr. W.H. Ayles, M.P. S/O. 9th. Jan. 30.
- 42. To: Mr. Ayles. S/O. (41 aned.) 10th. Jan. 30.

UNDER STATUTE



23 41

RECEIVED
COL. OFFICE

Per 1/30

January, 9th. 1830.

Dear Lord Passfield,

You have, I understand, received a letter from the Friends
Committee on Slavery and Native Races dealing with the Native Land
Trust Bill of Seny Colonay which has been referred back to you.

May I say that I very heartily support the point that they
take with regard to the substitution of other lands when Trust Lands
are taken from the Natives.

Yours sincerely,

Walter D. Lyell

The Rt. Hon. Lord Passfield,
Secretary of State,
Examiners Office,
Downing St.,
S.W.1.

Ans. 10 Jan 30

(No. 40)

2B 41

RECEIVED
COL. OFFICE

Parl/30

January, 9th. 1930.

Dear Lord Passfield,

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Yours sincerely,

Walter D. Byrd

The Rt. Hon. Lord Passfield,
Secretary of State,
Dominions Office,
Downing St.,
S.W.1.

(No. 40)
Ans. 10 Jan 30

24 40

Friends' House,
Ruston Road,
S.W.1.
January 6th, 1930.

RECEIVED
JAN 9 1930
C.O.L. OFFICE

The Rt. Hon. Lord Passfield,
Secretary of State for Colonies,
Downing Street, S.W.1.

My Lord,

The religious Society of Friends Committee on Slavery and Native Races has learned with surprise that the Native Land Trust Bill of Kenya Colony has been referred back to the Colonial Secretary. We understand that the Unofficial members object to the section of the Bill which provides that when trust lands are taken from the Natives, other lands, equal in quality and quantity, shall be added to the reserved areas.

Our Committee hopes that the Colonial Secretary will adhere firmly to this equitable feature of the Bill.

In behalf and at the request of the Committee,

I am,

Yours faithfully,

Alexander C Wilson

R 24 40
RECEIVED
JAN 1930
COL OFFICE

Friends' House,
Easton Road,
S.W.1.
January 6th, 1930.

The Rt. Hon. Lord Passfield,
Secretary of State for Colonies,
Downing Street, S.W.1.

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Our Committee hopes that the Colonial Secretary will adhere firmly to this equitable feature of the Bill.

In belief and at the request of the Committee,

Yours faithfully,

Alexander C Wilson

Express says "THE TIMES" 25 39
of January 1962

Imperial and Foreign News

NATIVE LANDS IN KENYA

THE TRUST BILL

Lord Passfield's amendments to the Native Lands Trust Bill have been so unpopular to the elected members of the Kenya Council that further progress in passing the Bill is to be delayed. The Bill has long been one of the major preoccupations of the Kenya Government. It is based upon proposals which Sir Edward Grigg, the Governor, made to Mr. Amery, an Secretary of State for the Colonies, in January, 1961, nearly three years ago. At that time, the Bill was found to be of some urgency before then.

Ever since a judgment of the Courts in 1921 found that, legally, the natives in Kenya are only tenants-at-will, it has been recognized that a change must be made in the law. The natives, who have witnessed the steady accession of land grants to Europeans and have upon occasion been forcibly removed from one part of the Colony to another, are uneasy about the future. The Government has recently been reassured that the natives, notwithstanding the fact that they can hold no continued undisturbed possession of their lands is the chief source of unrest. In 1961 the franchise of the natives was marked out, and the plan was to create a trust with fixed terms, so that the various tribes would be legally protected against disturbance; 50,000 square miles was accordingly set aside, a fifth of the total area of the Colony. The difficulty of securing enough land did not, however, arise in Kenya as in South Africa, for there were not wanting tribes, both at home and in the Colony, to urge that the limit set aside, while adequate for a present population of 2,500,000, took no adequate account of possible increases in population, and that so much of the land was worthless that the gross figure gave a misleading impression.

CONTROVERSIAL PROVISIONS

But the real controversy arose over the terms of the trust. The larger the area set aside for the natives and the richer the land, the more important did it become not to lock it up, regardless of future contingencies, but to provide legal methods whereby it could be made available for cultivation. The representative board of trustees—officials and natives—was empowered to deal with the lands held in trust for the natives in a number of ways, subject to the approval of the Colonial Office. Some such machinery was plainly necessary. No one can tell today which tribes will increase and give impetus for agriculture, and provisions were inserted to enable tribes to lease land to each other. Public works of value to the whole Colony might be raised and schemes it was largely possible for the Government to obtain native lands which might be necessary for the schemes.

The most controversial provision of the Native Lands Trust Bill was that allowing Europeans to obtain leases of native lands. This provision and the fact that the natives were to be present as members of the board of trustees deciding on the leases, led to a widespread cry that the natives would feel no more secure than before. Native leaders, the Kenya United Association, and representatives of missionary bodies made strong representations, and when the Bill was discussed in the House of Commons on July 14, 1959, Mr. A. H. Thomas expressed the general view of a large school of thought when he termed it "astonishing".

The Bill was at that time before a Select Committee of the Kenya Legislative Council. The Hilton Young Committee was preparing its report through 1960 and it asked Mr. Amery to delay further progress with the measure till the report was ready. This request was reluctantly agreed to by Mr. Amery and Sir Edward Grigg, and the larger issue that the report raised tended to obscure through 1959 the future of the Land Trust.

LORD PASSFIELD'S AMENDMENTS

The amendments had largely come from members of the Labour Party, and Lord Passfield, while approving the general plan of a measure to the preparation of which a great deal of time and trouble had been given in several years, introduced amendments designed to change the intention that the Bill gave, while not intended to take away from the other. Instead of allowing leases to Europeans for 99 years—leases of territory which would include whole villages—Lord Passfield's amendments make 33 years the limit for a lease, save in exceptional cases, when 99 years may be granted with the consent of the Secretary of State. Another amendment laid down that, for any land taken from a reserve for public purposes, land of equal extent and value should be added to the reserve, the possibility of the reserve being gradually whittled away by a series of transfers such as this enough in itself but harmful in its cumulative effect.

When these amendments were put before the Kenya Legislative Council they provoked a strong outcry. They were called unfair, on the ground that the natives ought to contribute land for public purposes; they were designated as discriminatory, on the ground that the preference of suitable land following a reserve and available for use as compensation was grossly unequal. Sir Edward Grigg bowed to these objections and did not use the official machinery to pass the Bill, because such a course would have made the Bill in no sense a representative and agreed measure, and the work of the last three years, during which officials and elected members have worked not its provisions in content, would have been thrown away.

The primary purpose of the Bill is to secure agreement among the natives about something vital to them—the land, which is the guarantee of their economic independence. The bureaucrats difficulty confronting Lord Passfield was to make sure that this object is achieved, without undermining the Government in the Colony. But the more general consideration, the future of the Land Trust, is only a part of the larger question, on which a Government must comment as well as expected of those which and the future policy in East Africa.

C.O.

26

X 15730/29
KENT

38

Mr. Clegg
Mr. Allen
Mr. Tolson
Jan 11 1930

Sir J. Shackleton
Sir G. Grenville
Agent, U.S.
Party U.S.
Secretary of State

RECEIVED
9 JAN
1878

ST 11 January 1930

DRAFT

for copy
to Mr. [unclear]

have us to and the
receipt of your deep

(to 34)

No. 22 of the 22nd
November 1929, in which

you report the progress
made with the demarcation
of the boundaries of
Native Reserves up to the

30 September 1929.

I shall be glad to
review a future report
on the progress made
at 30 June 1930.

(to B. file to be brought
up with [unclear] on
30 Jan)

work might be completed

by an answer

and this work might

be completed ^{at} the

earliest possible date;

I would suggest that you

~~may~~ consider the

possibility of expediting

it by the engagement

of private carriers the

cost of ~~which~~ seems to

be low by general ~~means~~

~~of the~~ ~~pro~~ ~~abandonment~~ of any

land ~~abutting~~ ~~at~~ any

point on the ~~boundary~~

if a fence should be

permitted until that

part of the boundary

has been demarcated

(Signed) PASSFIELD.

also ~~and~~ to the ~~work~~
completed
by ~~it~~ and ~~anxious~~

that ~~the~~ ~~work~~ ~~should~~
be completed ~~at~~ ~~the~~
~~earliest~~ possible ~~date~~;

I would suggest that you
~~should~~ consider the
possibility of expediting
it by the engagement
of private surveyors, the
cost of ~~the~~ ~~same~~ to

be borne by general ~~means~~
~~being~~ ~~the~~ ~~responsibility~~ ~~of~~ ~~the~~ ~~Government~~ I have ~~to~~ ~~say~~ that
I have ~~no~~ ~~alteration~~ ~~of~~ ~~any~~

kind ~~of~~ ~~any~~
posed ~~on~~ ~~the~~
~~boundary~~

if a fence should be
permitted until that

part of ~~the~~ ~~boundary~~
has been ~~demarcated~~

1. The position now is that discussion of the Bill has been adjourned until the next meeting of the Legislative Council; we do not know when that will be.

The reason given by the Governor in his speech was that such a measure ought not to "go forth as a ~~product~~ ^{product} of constitutional power used against strong opinions and convictions of a large part" of the Legislative Council, and he therefore adjourned the matter "in order to permit of further study of the Secretary of State's amendment [i.e. Clause XVI(2)] and of the issues involved".

2. The Governor went on to say that to meet pressing administrative difficulties, the Government would consider the advisability of proceeding "as an interim measure" with Rules made under Section 58 of the Crown Lands Ordinance. (Section 58 with the rest of Part VI of the Crown Lands Ordinance would have been repealed by the Native Lands Trust Bill; that section empowers the Governor in Council to make rules enforceable by penalties not exceeding £50 for the management and control of any land reserved for the use of the members of a native tribe).

3. The Secretary of State went fully into the possibility of meeting the objections of the elected members to Clause XVI (2) in its revised form: the telegram of 16th December (No. 20 in file) represents his considered decision. The

Governor

Governor presumably thinks that there is a possibility that "further study" may lead to a solution of the present impasse between the Secretary of State on the one hand and the elected members on the other; but it is not clear whether he thinks that such further study will influence the elected members to accept the amended clause or that the Secretary of State will agree to some form of compromise or even give way altogether on the point. The Governor may telegraph further and make definite suggestions, but in his telegram there is no promise of any further communication except as regards the proposed clause.

It is assumed that the Secretary of State will insist upon his amendment of clause 21(2) and the question then arises as to action. If the Bill is to become law with that amendment, it could be put through at the next meeting of the Legislative Council by the use of the official majority - a procedure which Sir E. Grigg would of course not dislike or alternatively, the Secretary of State might proceed to legislate by Order in Council - a procedure which would relieve Sir E. Grigg of the embarrassment which he would feel personally of forcing the Bill through his Legislative Council. This alternative was mentioned as far back as 1925, when Colonel Wedderburn stated in the House

*It would have been thought
that Sir E. Grigg would
have found a way
in D. W. C. and
Legis.*

House (L. 231) of what the Government would take the form of an Order in Council or local enactment. His point was that the natives would feel much more secure if the settlement were made by Order in Council which, as he said, could not be reversed. Mr. Amery took the line that a local enactment was quite adequate, as it was, he thought, unnecessary to suggest that the terms of such an Ordinance would be set aside by a later Ordinance which would in any case not take effect until the pleasure of the Crown had been signified.

This point arose again in discussion between Mr. Amery and Sir E. Grigg in June 1927 (see record below No. 10138/27 Kenya) when it was agreed generally that legislation by Ordinance rather than by Order in Council was preferable. Sir E. Grigg suggested that some provision for the security of the reserves might be included in any Order in Council establishing a closer union in East Africa. Mr. Amery observed that he kept an open mind on that suggestion.

The circumstances however are now different. It was the desire previously to secure the passage of the necessary legislation by general consent in Kenya. Sir E. Grigg was anxious from the beginning that this should be the procedure. But, as things are, it would seem that we cannot proceed with general consent, unless the elected members decide to waive their objection; the alternative of an Order in Council would be adopted solely to get the measure through in a form which the Secretary of State considers necessary from the point of view of native interests.

Governor presumably thinks that there is a possibility of a "further study" may lead to a solution of the present impasse between the Secretary of State on the one hand and the elected members on the other; but it is not clear whether he thinks that such further study will influence the elected members to accept the amended clause or that the Secretary of State will agree to some form of compromise or even give way altogether on the point. The Governor may telegraph further and make definite suggestions, but in his telegram there is no promise of any further communication except as regards the proposed rules.

4. It is assumed that the Secretary of State will insist upon his amendment of Clause XVI(2) and the question then arises as to action. If the Bill is to become law with that amendment, it could be put through at the next meeting of the Legislative Council by the use of the official majority - a procedure which Sir E. Grigg would of course much dislike; or alternatively, the Secretary of State could proceed to legislate by order in Council - a procedure which would relieve Sir E. Grigg of the embarrassment which he would feel personally of forcing the Bill through his Legislative Council. This alternative was mentioned as far back as 1924, when Colonel Wedgwood asked in the

House

*Johnston has thought
Sir E. Grigg would
be surprised to find
in O.C. with
himself
etc.*

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This point arose again in discussion between Mr. Amery and Sir E. Grigg in June 1937 (see report below No. 18 in X.10133/27 Kenya) when it was agreed generally that legislation by Ordinance rather than by Order in Council was preferable. Sir E. Grigg suggested that some provision for the security of the reserves might be included in any Order in Council establishing a closer union in East Africa. Mr. Amery observed that he kept an open mind on that suggestion.

5. The circumstances however are now different. It was the desire previously to secure the passage of the necessary legislation by general consent in Kenya. Sir E. Grigg was anxious from the beginning, that this should be the procedure. But, as things are ^{now}, it would seem that we cannot proceed with general consent, unless the elected members decide to waive their objection. The alternative of an Order in Council would be adopted ~~and~~ solely to get the measure through in a form which the Secretary of State considers necessary from the point of view of native interests.

6. As regards the suggested rates, the administrative difficulties are presumably due to the absence of any machinery for dealing with the leasing of small plots within the Reserve; but it is not clear why a few weeks further delay should so accentuate these difficulties as to make immediate action necessary, seeing that draft rules were prepared so long ago as 1923. (see draft despatch in Gov/17063/24 Kenya).

7. As regards a point of detail raised by Cottonley on Clause XVI(2), I have consulted Mr. Busse who agrees that in the case of a public utility concession, the terms of the clause could be supplied with by including in the concession words to the effect that the concessionaire covenants to place the Government in a position to fulfil the provisions of this clause.

Should this point be raised in the 9th. This was referred to St. Legat advice.

I think the Govt should be courteous enough to explain the position to the natives.

37
29

NATIVE LANDS IN KENYA

LORD PASSEFIELD CRITICIZED

EUROPEANS' PROTEST

(FROM OUR CORRESPONDENT)

NAIROBI, Dec. 21.

Resolute and understanding on both sides of the House presented a political crisis in the Kenya Legislature yesterday which would have been deplored throughout the country.

The Government had proposed the re-committal of the Native Lands Trust Bill for the purpose of inserting amendments recently suggested by Lord Passfield, the Secretary of State. The principal amendment provides that when land is taken from a native reserve for public purposes there shall be added an area equal in size and value.

The Executive Members maintained that the amendment was impracticable as land was not always available, restricted to the reserve and the Government was the creator of small reserves and reserves attached from the Reserve. Many influential natives, that the Government had a duty to the State to respect the provisions of land for public purposes equally with the other conditions, and that there were no grounds for their special exemption from this responsibility, as it was understood that the State's reserves, especially in agriculture and applied to all land in the country. The Executive Members warned the Government of their intention to bring the Bill to a standstill in the Legislative Council as a protest if the Government of the Bill were passed in its original form. After an adjournment Mr. Edward O'Neil, the Government's spokesman in the Legislative Council, said that the Government would not withdraw the Bill, but would accept the amendments suggested by Lord Passfield. The Government said it appreciated the spirit in which the Executive Members had met the Government at all stages of the Bill in the House. They had understood that their position as members of the Council was involved. The Bill would not be the product of government and the last thing the Government would do is to bring the House to the point of constitutional severance. The Government said that the Government was the creator of a large part of the trouble. It had been in the possession of the passage of the Bill as a measure of general agreement carrying the goodwill of the House, especially in the Executive.

Lord Passfield has already considered the Executive Members' main objections, which he believes were due to misunderstanding. If the Government were to accept the amendments, it would be possible to provide a large area of Crown land in exchange, while if it was wanted for non-agricultural purposes it would be incumbent on the Government to find an equivalent, and the latter part of the conditions of the compromise. The Executive Members, however, lay stress on the impracticability and uncertainty of the proposal, and criticize the action of the Colonial Office, following the report of the Kilimo Young Commission, in altering the original terms on which an agreement satisfactory to Kenya had been previously reached locally.

The Government has accepted a modification by the Executive Members urging an investigation into the existing machinery for the administration of justice for the natives. The recent acquisition of native land instead of another area, considered to be the correct procedure, and it is in this regard that the Government is in a position to offer a large area of land in exchange for the land which would be taken for public purposes.

COL. OFFICE

30 36

Telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 21st December, 1929.

(Received Colonial Office 2.53 p.m., 21st December, 1929.)

No. 372
24 Dec 1929
D. W. G.

No. 372 21st December. With reference to my private and personal telegram 20th December following is the text of my statement to the Council. Begins. I must apologise to the Honourable Members for any inconvenience this further adjournment may have caused them but I am sure that they will recognise that it was justified in view of the very solemn and eloquent appeal which they made that the Government should reconsider its position in this matter.

Before I come to the action that the Government proposes I wish particularly to reaffirm appreciation which I have before expressed of the spirit in which Elected Members of the Council have met the Government in Select Committee and in all stages through which the consideration of this Measure has passed over a period of more than 3 years. I know from their past records on this Measure that they would not have decided on course which they propose to take today without feeling very strongly that their duty as men of conscience and their dignity as members of this Council would otherwise be compromised.

They will remember that when this Bill was first about to be introduced I laid special emphasis on the importance of its going out as a Measure of general agreement and carrying with it the good will of all other parts of the community: the natives of this territory. I also laid great stress on the Bill going out in form which might so far as human wisdom could ensure be proof against changing conditions and be therefore proof against amendment which would be bound to undermine the very thing which we sought to establish a native sense of security

security

31
security in regard to their land. Both those things are today evidently impossible. This cannot go out of the Council today as a Measure of good will and I think that the last thing desirable in this Colony is that such a Measure should go forth as a product of constitutional power used against strong opinions and convictions of a large part of this Assembly. In view therefore of the situation I propose to adjourn consideration of the Bill till the next Session of the Council in order to permit of further study of the Secretary of State's amendment^{and} of the issues involved and I will take steps in the meanwhile to report fully what has passed today to the Secretary of State. I have to add that further delay in the passage of this Measure is I am afraid bound to cause still further administrative inconvenience and the Government therefore proposes where administrative difficulties are pressing and there are such places - and some action immediately is required the Government I say proposes to consider advisability of proceeding as an interim measure by Rule under Section 68 of the Crown Lands Ordinance. Ends.

ORIGINAL *32-32*
Copy of a telegram from the Gov. KenyaDated 20 Dec. 1929 Received in the Colonial Office at 4.47 p.m. on 20 Dec.
DominionsDecoded
by M.A.W.
Deciphered

20 Dec. Private and Personal.

(No 30.)
I have endeavoured to persuade Elected Members of the Council not to oppose the Native Land Trust Bill by giving them explanation which you authorised me in your tel. 16 Dec. I was privately assured last night that while some would continue to oppose, others would probably be prepared to vote only against clause 16 in Committee. When however recommitment of the Bill was announced in the Council this morning Elected Members of the Council asked for an adjournment and then declared that they must leave the House in a body if the Govt. pressed your amendt. I felt that such a demonstration on a matter of paramount importance to natives would make a very bad impression upon natives particularly in KIKUYU Reserve and I felt myself unable to press the Bill without further consideration as a purely Govt. measure in view of appeal which I made when it was first introduced (see page 5 XI 3rd para. to page 7 1st para. of my speech of 18 May 1928).

(Copy attached)
I accordingly adjourned discussion **XXIX** until next Council. In view of this I think it will be necessary to ask your approval of certain provl. rules under Crown Lands Ordce. to dispose of pressing administrative difficulties. I will tel later about this

GRIGG

32 30

ORIGINAL REPORT of a telegram from the Gov. Kenya

Date: 20 Dec. 1929 Received in the Colonist Office at 4.47 p.m. on 20 Dec. Dominion

Decoded by M.A.W.
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GRIGG



33 34

KENYA
No 721

GOVERNMENT HOUSE,
NAIROBI,
KENYA

11 November 1930.

RECEIVED
GOVERNMENT HOUSE

My Lord,

(No. 6.)

I have the honour to refer to Mr. Avery's despatch No. 216 of the 30th March 1929, on the subject of the Demarcation of the Boundaries of Native Reserves in which he said that he would be glad to receive a further report on the position in six months' time.

(No. 5.)

2. In my despatch No. 106 of the 16th February 1929, to which the despatch under reference was in reply, I reported that by the 31st December 1928, 900 miles of native reserve boundaries had been clearly demarcated by trenches, cairns of stones and by other means.

3. By the 30th September 1929, an additional extent of 400 miles had been completed bringing the total miles demarcated to 1,300.

4. There remains a balance of 1582 miles of which 1106 miles require accurate demarcation by the Survey Department. This task represents according to experience gained to date, work for one surveyor for 10 years, or, on the basis of the present establishment of three staff surveyors, 4 years, allowing for absence on leave.

5. The demarcation of the Native Reserves of the ...

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

RECEIVED - GOV. 21 JAN 1930

the Kikuyu Province has been completed except as to a few small details and it is reported that the natives concerned have expressed their general approval and satisfaction thereat.

I have the honour to be,
My Lord,
Your Lordship's most obedient,
humble servant,

Edward Gigg

GOVERNOR.

Leader.

African Standard

UGANDA AROUS

TUESDAY, OCT. 30, 1929.

The Native Lands Trust Bill.

When His Excellency the Governor of Kenya addressed the Legislative Council of the Colony on the problem awaiting decision, he placed the greatest emphasis on the case which had attended consideration of the Native Lands Trust Bill. He used the history of that measure as an illustration of the exceptional difficulties which have beset the Government in dealing with many of its major problems during the last three years. The problem of the Native lands is without any question at once the most difficult and the most urgent of all the questions facing the Colony. It is the fundamental issue in the social, economic and political life of the African and through him of the country as a whole. A study of the problem, which continued intermittently before and after the war and became regularly manifest when economic development and political controversy assured the history of the country in the days of the post-war boom, was brought to a head not less than four years ago. Definite proposals were made in 1927 and the broad principles were actually approved by the Secretary of State and embodied in the Bill which has been before the Colony. The Hilton Young Commission interfered with the progress of the discussions, the Colonial Office suggested amendments to the draft measure and nearly a year and a half ago the amended Bill was approved by every section of the Kenya Legislative Council. It was at this stage that the interference of the Hilton Young Commission became operative. The Bill was in its final stage of consideration when all action was suspended until the Commission had issued its report on the wider issues of Native Policy and Clou-

Union. Meanwhile the proposals made by the Kenya Select Committee had been sent Home, the Election interrupted their consideration and so the matter was again shelved for a new Secretary of State. It is to the credit of the present Secretary of State for the Colonies that when approached by the Governor, he gave the matter immediate attention. It is due to his credit that it was approved in a general sense of the substance of the Bill—but he has been guilty of adding still further to the inconveniences and dangers of delay by withholding for farther consideration some amendments of detail. The consequences of the story of the long and unnecessary delay are easily apparent to those who have any experience of the difficulties of the last few years. On every hand any question affecting native land has had to be shelved pending a decision. Disputes have accumulated, finally on subjects of importance, as the development of the reserves has been impossible and, most regrettable of all, the inability of the British Government to come to a decision has prepared a fertile ground for agitation. There is nothing more capable of incantation and of unpopularity in the mind of the African than the question of his land. With its interwoven problems of economic development and of progress of the reserves, of the reserves for further production of sites for buildings such as schools and hospitals, of the solution of that great and pressing question, the proper use of native stock and, allied to that latter phase, the recent difficulties of control or improvement of undesirable native customs. The land question in its ramifications affects every phase of native policy and of relations between Natives and Government and Natives and other races in the country. The delay which has occurred since 1927 in obtaining a final decision in regard to this measure has wrought incalculable harm to the interests of Kenya, has fostered and encouraged suspicion of Government and of settlers, retarded progress, upset the tenour of life in the reserves, given rise to retrograde move-

ments, wasted in the spaces of irresponsibility and made immensely more difficult the solution of other questions. The people of the Colony, particularly the white settlers, can be and are being charged with a share in the responsibility for injustices to the Africans for which they, as a community, have no concern. The Colony and its Legislative Council have indicated their anxious desire to see this problem solved. Government has indeed pressed for decision, but should and must continue to press unhesitatingly until the urgent necessity for finality is realised by the authorities in Britain. The history of the Land Trust Bill is unjust to Kenya, to its Government, to its settlers and most of all, unfair to its loyal Native peoples.

Mr. Clegg
Mr. [unclear]
Mr.
Mr. Hattisley.
Mr. [unclear]
Mr. J. Shuckburgh
Mr. G. Grindie.
Mr. F. Davis.
Mr. S. Wilson.
Mr. Ormsby-Gore.
Lord Lovat.
Mr. Amey.

O.P.
17-DEC
7

32
36

15th Dec 29

29 Dec 1929

DRAFT.

~~for signature~~

Messrs A. J. Castle & Sons

Dear Sir,
I am in receipt of the
receipt of your letter
of the 25th December,
and to inform you that
he is not aware of
any legislation recently
enacted, nor is he aware of the
Cost of being

... of the
... described in your
letter. If known, you
are able to furnish
any ^{additional} further relevant
details, ^{has Cordell} ~~and~~ ⁱⁿ ~~the~~
will be pleased to
have your ^{response} ~~answer~~
and ~~information~~

STANLEY A. O. G. PARKINSON

completion of the
kind described in your
letter. If, however, you
are able to furnish
any ^{additional} further relevant
details ^{has cordless} ~~and~~ ^{hand} ~~held~~
will be pleased to
have ^{any} further ~~relevant~~
~~information~~

Sincerely,
A. C. O. PARKINSON

A. J. CASH & SONS,
SOLICITORS,
COMMISSIONERS FOR OATHS,
100, GERRY,
DUBLIN 4, IRELAND.
TELEGRAMS: "CASH."
TEL. 892 GERRY.



Dear Sir,

Kenya Colony.

We are instructed by the President of the Conference of the United Methodist Church to deal with the Mission Estates of the United Methodist Church in Kenya Colony.

The President is informed that a recent Ordinance has been passed requiring the establishment of a Corporate Body under Seal to deal with land in the Colony, and we shall be glad if you will kindly send as a print of any Requisition of your Department in order that compliance may be immediately made with the terms thereof on behalf of the United Methodist Mission Stations in the East African Protectorate.

We are,

Yours faithfully,

A. J. Cash & Sons

His Majesty's Secretary of State for
the Colonial Department,
Whitehall,
LONDON.

F. A. J. CASH & SONS,
SOLICITORS,
COMMISSIONERS FOR OATHS,
100, GUY
STREET, E. C. 4, LONDON,
W. C. C. 2, 1929.
TEL. 855 BERRY.

37
3. Market Place
Derby
AND BY BELLEVILLE STREET
2nd December, 1929.

CO. OFFICE

Dear Sir,
Kenya Colony.

We are instructed by the President of the Conference of the United Methodist Church to deal with the Mission Estates of the United Methodist Church in Kenya Colony.

The President is informed that a recent Ordinance has been passed requiring the establishment of a Corporate Body under Seal to deal with land in the Colony, and we shall be glad if you will kindly send us a print of any Requisition of your Department in order that compliance may be immediately made with the terms thereof on behalf of the United Methodist Mission Stations in the East African Protectorate.

We are,

Yours faithfully,
A. G. Bashir

His Majesty's Secretary of State for
the Colonial Department,
Whitehall,
LONDON.

30
X 11300/29
KORV

- Mr. Clegg 2/12/29
- Mr. Quinn 12/12/29
- Mr. J. Starnes
- Mr. G. Grandin
- + Party U.S. of S. 12/12/29
- + Party U.S. of S. 12/12/29
- + Secretary of State 12/12/29

Coded + sent
10 p.m.
16 Dec 29
L24

DRAFT

Confidential Code Telegram

King Vachon

No. 28

SECRET

Private and Personal

Your telegram of 30th November Private and Personal Notice (and Trust Bill O. King Elected Members and be under such misapprehension as to my intentions regarding Clause (b) (2) that is required is that the appropriate use of the language shall not be diminished. This is irrespective of in person or in how and where it is to be published.

deposited ^① ~~of~~
 of the land added to a
 lease can be allotted
 a value ^{value of a tube} ~~value~~
 its value will be taken
 as part compensation ^② when
 part of a lease is taken
 by the Government for its
 own purposes, the land
 to be added to the Reserve
 will normally be appropriated
 from land ^③ which taken
 for a public utility
 concession it will be
 incumbent on the
 concessionaire to find
 the necessary land and his liability
 will be ^④ in relation of the concession
 New paragraph
 if at some future time
 required
 for any particular public
 land for ~~the lease~~
 purpose ^⑤ were required and
 it could be shown
 that the land in land

*written by agreement
 (unilateral Order
 land or otherwise)*

C. O.
 Mr.
 Mr.
 Mr.
 Mr. Hottelley
 Sir J. Shackleton
 Sir G. Grindle
 Permit. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

DRAFT.

with his approval

³⁵ Poling
 which even though not oblique
 with the Reserve could be added

~~appropriate value~~
 in substitution for the
 area to be abstracted
 and if the circumstances
 were explained to the
 Secretary of State ^⑥ the
 case could be made
 the subject of a Special
 Ordinance which could
 make alternative provision
 New paragraph ^⑦
 have no objection to
 it being ^⑧ stated that
 the present form of
 Clause 16 (2) and (3)
 was adopted in my
 instruction and is given
 in ^⑨ ~~the~~ ^⑩ ~~the~~ ^⑪ ~~the~~ ^⑫ ~~the~~ ^⑬ ~~the~~ ^⑭ ~~the~~ ^⑮ ~~the~~ ^⑯ ~~the~~ ^⑰ ~~the~~ ^⑱ ~~the~~ ^⑲ ~~the~~ ^⑳ ~~the~~ ^㉑ ~~the~~ ^㉒ ~~the~~ ^㉓ ~~the~~ ^㉔ ~~the~~ ^㉕ ~~the~~ ^㉖ ~~the~~ ^㉗ ~~the~~ ^㉘ ~~the~~ ^㉙ ~~the~~ ^㉚ ~~the~~ ^㉛ ~~the~~ ^㉜ ~~the~~ ^㉝ ~~the~~ ^㉞ ~~the~~ ^㉟ ~~the~~ ^㊱ ~~the~~ ^㊲ ~~the~~ ^㊳ ~~the~~ ^㊴ ~~the~~ ^㊵ ~~the~~ ^㊶ ~~the~~ ^㊷ ~~the~~ ^㊸ ~~the~~ ^㊹ ~~the~~ ^㊺ ~~the~~ ^㊻ ~~the~~ ^㊼ ~~the~~ ^㊽ ~~the~~ ^㊾ ~~the~~ ^㊿ ~~the~~ ¹ ~~the~~ ² ~~the~~ ³ ~~the~~ ⁴ ~~the~~ ⁵ ~~the~~ ⁶ ~~the~~ ⁷ ~~the~~ ⁸ ~~the~~ ⁹ ~~the~~ ¹⁰ ~~the~~ ¹¹ ~~the~~ ¹² ~~the~~ ¹³ ~~the~~ ¹⁴ ~~the~~ ¹⁵ ~~the~~ ¹⁶ ~~the~~ ¹⁷ ~~the~~ ¹⁸ ~~the~~ ¹⁹ ~~the~~ ²⁰ ~~the~~ ²¹ ~~the~~ ²² ~~the~~ ²³ ~~the~~ ²⁴ ~~the~~ ²⁵ ~~the~~ ²⁶ ~~the~~ ²⁷ ~~the~~ ²⁸ ~~the~~ ²⁹ ~~the~~ ³⁰ ~~the~~ ³¹ ~~the~~ ³² ~~the~~ ³³ ~~the~~ ³⁴ ~~the~~ ³⁵ ~~the~~ ³⁶ ~~the~~ ³⁷ ~~the~~ ³⁸ ~~the~~ ³⁹ ~~the~~ ⁴⁰ ~~the~~ ⁴¹ ~~the~~ ⁴² ~~the~~ ⁴³ ~~the~~ ⁴⁴ ~~the~~ ⁴⁵ ~~the~~ ⁴⁶ ~~the~~ ⁴⁷ ~~the~~ ⁴⁸ ~~the~~ ⁴⁹ ~~the~~ ⁵⁰ 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What is required is that the aggregate area of Reserves shall not be diminished.

This is irrespective of compensation to individual, or tribes dispossessed, though if the land added to reserves can be allowed to such persons or tribe, its value will be taken as part compensation.

When part of Reserves is taken to lot for its own purposes, the land to be added to the Reserve will normally be land appropriate to Crown Land.

When taken for Public Utility concessions, it will be on the concessionaire to find the necessary land.

at some future time

• If for any particular public utility purpose land from the Reserve is required, and it ~~can~~ ^{could then} be shown that there ~~was~~ ^{was} no land ~~available~~ anywhere within the Colony ~~to~~ to the aggregate Native Reserve in substitution for the area ^{to be} abstracted; and the circumstances were explained to the S/S, the case could be made the subject of a special Order, which could ^{make} ~~provide~~ alternative provision

That
could
be
added

at some future time

• For any particular Public
 Utility purpose land from
 the Reserve is required,
 and it ~~is~~ ^{could then} be shown that
 there ~~is~~ ^{was} no land ~~available~~
 anywhere within the
 Colony ~~to~~ to the
 aggregate Native Reserve
 in substitution for the
 area ^{to be} abstracted; and the
 circumstances were
 explained to the S/S, the
 case could be made the
 subject of a special
 No. ^{made}, which could ~~provide~~
 alternative provision

That
 could
 be
 added

NOTE

It is of course possible either

- (i) to insist on the requirement that the area of a reserve shall not be diminished in spite of the local view that it will in some cases prove impracticable; or
- (ii) to waive the definite requirement making it (as originally proposed) permissive instead of mandatory.

Under (i) it would seem necessary to answer the question in the last sentence of the telegram in the affirmative: under (ii) it would not arise.

Failing either of these courses a compromise must be sought. Any compromise would involve an amendment of the law if passed in its present form and thus one reaches the question whether the contingency which, according to the local view, is bound to arise should

- (A) be left to the proof of time and then dealt with; or
- (B) provided against not by an amendment of clause 16 of the Bill.

If (A) were adopted the Governor might be informed that the Secretary of State considers that it would be contrary to the spirit of the declaration in clause 2 (1) of the Bill to include a provision allowing of the exclusion of land from a reserve, even for a public purpose, without a corresponding addition to preserve its total area and that it is not justifiable to contemplate such a provision unless and until the local view has been subjected to the test of actual experience and it can be shown that insistence on the requirement would in a concrete case or cases prejudice important public purposes of interest to the whole community: that it is therefore the desire of the Secretary of State that section 16 (1) of the

It is not the case that the Secretary of State is not bound to the local view of the Governor.

No. 25

Bill should be passed in the form given in the telegram of the 1st November, and the Governor is at liberty so to inform the Legislative Council.

(B) If on the other hand it is thought better to provide in the Bill for the contingency foreseen locally this might be done by adding a second proviso to clause 16(2) to the effect (the phraseology is of course not legal) that in any case in which it is established to the satisfaction of the Central Board that the requirement as to adding an equal area of land is impracticable owing to no sufficient area of suitable land being available the Governor may, with the prior approval of the Secretary of State, waive the requirement or wholly or in part on payment of such compensation additional to that contemplated in clause 16 (3) as may be determined by an ad hoc tribunal after enquiry and approved by the Secretary of State. In that case it could be an instruction to the Governor that the tribunal should be similar to that contemplated in the Maragua case, and should be guided by similar considerations in so far as the award of compensation is concerned. With the Central Board is being the tribunal need not be concerned with the question of public necessity. A copy of the terms of reference in the Maragua case is attached.

(Native reserves being the subject of special legislation it is reasonable that acquisition of land within them even for public purposes should be dealt with by special machinery rather than by recourse to the Indian Land Acquisition Act. Also if where land is available, land is to form compensation additional to that contemplated by clause 16 (3) of the Bill, it is only logical that where land is not available additional compensation in

some other form should be used.

If course B were adopted the Secretary might be informed that for the reasons given under A the Secretary of State would prefer the Bill to be passed as it stands and tested by experience but, having regard to the strong representations made to him, he is prepared to go as far as "B", if that course will be accepted as a solution of the matter.

W. H. Allen
3/1/43

Terms of Reference of proposed Tribunal.

Inquire whether the scheme proposed by the East African Power and Lighting Company Limited known as the Maragua Tana Electric project is necessary either in whole or in part in the general interests of the public of Kenya and if the reply of the Tribunal to the primary question be in the affirmative to require the said Company to submit to the Tribunal proposals for compensation for such natives as will by the scheme be dispossessed of land occupied by them, such compensation to take the form of land of at least an equal area and equivalent agricultural utility. To consider whether compensation proposed is adequate and whether any pecuniary addition and to what amount is necessary to compensate natives concerned fully for present and future value of the land taken, for disturbance, and for expense of removal.

A
12

46 28

ORIGINAL goods of a telegram from the Gov. Kenya

Dated 30 Nov. 1929 Received in the _____ Office at 12.40 p.m. 1 Dec.

Decoded _____ by M.A.W.
Deciphered _____

RECEIVED
- 2 DEC 1929
COL OFFICE

30
Dec. 16 Dec. 29

30 Nov. PRIVATE AND PERSONAL. I have been requested by European Elected Members of the Council to telegraph you enclosed letter which they addressed to me today. Begina. I am requested by the KIKUM Elected Members to address you on the subject of the proposed amendt. to the Native Land Trust Bill which appeared in local Press recently and which we understand will be within Your Excellency's recollection. After prolonged discussion Elected Members as an earnest of their willingness and desire to cooperate in safeguarding economic future of natives as far as it is possible to do so by reserving large areas of land for development gave their support to the Bill which had recd. approval of Your Excellency and your Advisers and also of the then Sec. of State for the Colonies and various missionary bodies and others interested in native welfare.

We are anxious however to keep the question of native land out of the field of political controversy as much as possible and to any reasonable amendt. we would give our sympathetic consent. It is our unanimous opinion however that we could not possibly support any such proposal as that contained in par. 1.

We are of the opinion that proposal that land can be acquired from a native reserve for public purposes only on condition that equivalent land be added to such reserve is quite impracticable as in many cases no such land would be available.

We welcome extn. to the natives of every personal right enjoyed by other races as soon as practicable but suggest that every extn. of personal right must necessarily be balanced by a corresponding extn. of personal obligation.

The power of the State to compulsorily acquire land for public purposes must obviously apply equally to all members of the State. Until such time as the natives achieve right to individual interest

Mr. S. Johnson
Mr.
Mr.
Mr. Bannister
Sir B. Baring
Sir J. Shackburgh
Sir G. Grindle
Sir C. Davis
Sir S. Wilson

XXXXXXXXXX
Mr. Lunn
Mr. Lunn
Lord Passfield
XXXXXX

47
15540/1929

Cabled received -
1 p.m. 6.11.29
C.S.

7-NOV

DRAFT TELEGRAM

In view of the question...

has not received the report of His Majesty's Government and whether any new amendments have been made to the draft ordinance for presentation to the Kenya Legislature, and, if so, what are the principal points raised by...

The following reply was received -

Yes, Sir, the Government of Kenya has now been authorized to proceed with the Native Land Bill.

and has been arranged by my noble friend with the Government with the object of securing the best protection of native interests. These include provisions to the following effect:-

(1) If land is taken away from a Native Reserve for public purposes, there shall be set aside to the Reserve an area equal in extent,

Return immediately after despatch is
P.S.

as far as possible, equal in value to the
the value of land taken for the track of a road
or railway, or merely for the site of a
building, thus ensuring that the total area
of a Reserve will not be diminished.

(11) Fair compensation to be made to
the natives affected by any transaction
concerning a Reserve so as to cover the
cost of any loss incurred by them.

(12) Leases of land in a Reserve will
be limited to 21 years, save in respect of
mines, where, with the prior sanction of the
Secretary of State, leases not exceeding
30 years, may be granted.

(13) As a result of the consideration
of the Bill, the report of the
Commissioner of Lands in East Africa, a
High Commissioner is appointed in East Africa,
that officer will be substituted for the
Governor of Kenya as President of the Central
Board which will be set up under the Bill.
The Bill was read and adopted by the
Native Reserves. Inda.

- Mr. Balfour
- Sir E. Harrow
- Sir J. Shackleton
- Sir G. Grenville
- Sir C. Druce
- Sir S. Wilson
- Mr. Ormsby-Gore
- Mr. Lloyd

M.P.T.

of a building or other
addition of land which
is made 48

XVI (3) Any interest
dispossession by the
acquisition of land from
a Native Reserve shall be
entitled -

(1) to the value and occupation
of the area which is
added to the Native
Reserve pursuant to
Sub-section (2) of this
Section, so far as the
same may be practicable;

(2) to compensation in
money in respect of
(a) any buildings or
crops destroyed or damaged
(b) to difference in value
between the area which
is excluded and the
area which is added and
(c) disturbance or other

... general ...
... section ...

... with ... that
... is ...
... that the ...
... and
... get
... occupation
of ^{the} added area, although
this is desired, where
possible

As regards leaves
I would state that as
a matter of executive
action I should hold
myself free to require
that the grant of
leaves for over 30 years
should ~~be~~ ^{be} the
substitution of other leave

I approve of your intention
with the ... ~~subject~~ ^{subject} to
the amendments upon which I have
agreed

John

This was
specifically
stated ...
of the ...
of course
covered by
the ...

Mr. Clegg 1/11/29
Mr. [unclear] 1/10/29

- Mr. [unclear] 1/11/29
- Sir R. [unclear]
- Sir J. [unclear]
- Sir G. [unclear]
- Sir C. [unclear]
- Sir S. [unclear]
- Sir [unclear]
- Miss [unclear]
- Mr. [unclear]

etc

~~Booth 1/11/29~~

1st Nov

Captain

DRAFT

Dear Sir

Reference is made

Your telegram of 11th
 October No. 311. Notice under
 First Bill of 1928
 difficulties anticipated in
 carrying out the provisions of your
 telegram but in all
 the circumstances I prefer
 to adhere to the course I
 have already expressed & I
 would suggest that the
 Commission should be
 held XVI (1) as they
 now stand would be

Recd from
at once and

...and that
following working should
be adopted. Begins -

...
is included for a Native
... under this section
the Governor shall, by notice
in the Gazette, add to
such Native Reserve for
... and if possible
...
and measured Crown land
...
and as far as possible
...
excluded, and any area so
... shall be deemed
for the purposes of this
Ordinance to be part of
such Native Reserve. (2) provided
that where land is
excluded for the purpose of
...
a road or a railway,
or hereby for the site

RECEIVED
29 OCT 1929

51 24

Telegram from the Governor of Kenya to the Secretary of
State for the Colonies.

Dated 26th October, 1929.

(Received Colonial Office 3.44 p.m. 28th October, 1929.)

No. 23

Private and Personal. 28th October. My confidential
telegram of to-day's date Native Land Trust Bill. I trust
that you will now give final approval to passage of Bill
If not passed during the present session it must I fear
be delayed until after General Election due in January. Such
delay would not only cause further grave administrative
inconvenience but attitude of newly elected members to the
Bill might be different. I have still great hopes of passing
it (word omitted) present council without serious opposition.

I have on this account accepted your amendment to
Clause XVI(ii) without further argument though in common
with the unanimous opinion of my advisers I believe that
it will necessitate amendment of Ordinance in the not
distant future.

RECEIVED
28 OCT 1929
OFFICE

52 29

TELEGRAM from the Governor of Kenya to the Secretary of State for the Colonies.

Dated: 28th October, 1929.

(Received Colonial Office 4.45 p.m. 28th October, 1929).

Confidential.

No. 311. 28th October.

Handwritten mark

Your telegram 21st October Confidential Native Lands Trust Bill. Clauses specified are being amended as follows. Following is draft amendment to Clause XVI (11) *land* is excluded from a native reserve under this any native actually dispossessed shall be given occupation of an area equal in extent and as far as possible equal in value to the area excluded and shall also be entitled to receive compensation in money in respect of any building or crops destroyed or damaged, in respect of any difference in value between the area excluded and the area which such native is given use and occupation and in respect of any disturbance or other loss or expense to such native caused by such exclusion.

Handwritten note on left margin:
Amend to No 311/16/29

In this connection I feel bound to point out that the clause as amended may prove unworkable in practice in that it is mandatory in respect of addition to the native reserve in all cases of exclusion. In some areas such as Embu Reserve this would mean either taking the land from some other tribe or adding land which could only be used by a tribe or sub-tribe other than that affected by exclusion. My view which is shared by my advisers is that concrete case(s) will occur which will lead to demand by Central Board for an amendment of the Ordinance soon after it has been enacted. This could be avoided by resorting to leasing clause instead of to Clause XVI (11) but such procedure is said to be consonant with inherent rights of the Crown to acquire land for public purposes.

Committee

No. 20

Committee referred to in paragraph 6 of my despatch of 10th September cannot in some cases complete investigations for some months but as such action as you may approve in their reports can only be taken under Ordinance when enacted it is of vital importance to the Colony as a whole that the Bill should proceed without further delay and I trust that I shall now receive your immediate sanction by telegraph to complete it at the present session of the Legislative Council.

53

L 28840/29. Kenya.

Handwritten: 4.0. 21/10/52 SA



Handwritten: Answer to 25

21 October. Confidential

Mr.
Mr.
Mr. Bostwick
Mr. Harding
Mr. [unclear]
Mr. [unclear]
Mr. [unclear]

(21) My telegram of 14 October. Native

lands Trust Bill I agree to text as amended in your confidential despatch of 10th September No. 119 subject to

Handwritten: 5/11/52

Mr. Lunn
Mr. Pensonby
Lord Passfield
Mr. [unclear]

(20)

the following.

DRAFT Code Telegram

Handwritten: Wainaki

Clause 3 (1) (i) substitute quote after considering any suggestion of the Governor or of the Board itself unquote for quote on the recommendation of the Governor unquote.

Clause 3 (1) proviso I do not understand inclusion of Governor and the Board when High Commissioner was reasons President this is contrary to whole idea of the amendment and presence of High Commissioner and Governor together on Board might be most embarrassing the words quote the Governor or in

his absence unquote should be deleted.

Clause 10(1) as drafted does not indicate exceptional nature of leases exceeding 33 years

I think it essential to make this quite clear

and I wish clause to read quote Leases under

Section 8 of this Ordinance may be for any

period not exceeding 33 years and shall be

granted for such periods and subject to

such terms and conditions as may be pre-

scribed by rules made under this Ordinance

provided however that in exceptional cases

with the prior sanction of the Secretary of

State leases may be granted for a longer

period which shall not in any event exceed

99 years unquote.

Clause 10(2) Central Board should be

established for Governor in both (a) and (b)

compare clause 11.

Clause 10 (2) Compensation must in all

cases include (a) equal area for persons

actually displaced if possible but in any

his absence unquote should be deleted.

Clause 10(1) as drafted does not indicate exceptional nature of leases exceeding 33 years

I think it essential to make this quite clear

and I wish clause to read quote leases under

Section 8 of this Ordinance may be for any

period not exceeding 33 years and shall be

granted for such periods and subject to

such terms and conditions as may be pre-

scribed by rules made under this Ordinance

provided however that in exceptional cases

with the prior sanction of the Secretary of

State leases may be granted for a longer

period which shall not in any event exceed

99 years unquote.

Clause 10(2) Central Board should be

amended for Governor in both (a) and (b)

compare Clause 11.

Clause 10 (2) Compensation must in all

cases include (a) equal area for persons

actually displaced if possible but in any

case equal area added to the reserve
 see under Clause 16 (3) below (b) money
 compensation to make up full value (c)
 compensation for disturbance (d)
 suitable arrangements for establishment
 of natives concerned in their new homes.
 Clause should be amended to cover ^{these points} this
 and I should like to see draft of
 proposed amendment.

Clause 16 (3) I consider it
 essential to ensure that total area of
 each Reserve is never diminished the
 only possible exception being when land
 is required for track of roads or rail-
 ways or where no more than mere site
 for building is in question. In line 2
^{word} ~~see~~ shall should be substituted for ~~and~~
 may and quote an area equal in extent
 and as far as possible equal in value
 to the area excluded unquote should be
 substituted

substituted for quote an area equivalent
to the area excluded unquote and proviso
added to cover exceptions mentioned above.

Clause 22 Draft Rule enclosed in your
despatch seems satisfactory except that I
think local Council should be able with
permission of the Board concerned to bring
someone to speak on their behalf as a quote
friend unquote.

I should be glad to have opportunity
of considering reports of Committees referred
to in para. 6 of your despatch together with
your recommendations before action is taken.

Yours

X 1554074 21

21

56

Cover sent

6:50 pm

9/14/14

Mr. Bostowley 14/10

Sir E. Harding

Sir J. Shackburgh

Sir G. Grindall

Sir C. Dixon

Mr. S. Wilson

Mr. [unclear]

Mr. [unclear]

Mr. [unclear]

Mr. [unclear]

DRAFT.

Dear Sir,
I have the honor to acknowledge the receipt of your letter of the 11th inst. in relation to the proposed Bill for the better regulation of the Native Lands Trust Act.

You may state when opening Legislative Council that the substance of the Bill is amended in your interest.

The Bill will be approved but that various amendments in detail will still be required & as to these I will send you a further telegram at a very early date.

Dear Sir,
Yours faithfully,
[Signature]

Secretary

3(2) The provision for the appointment
one day of an African as a
full member, should be
additional to (not substitute
for the cooption of one of)
more ad hoc. to be discussed?

3(2)(f) I don't like leaving it to
the Gov. to select any Senior
Comm. (he could pick a
tame one, or substitute a
tame one. Should it not
be the Chief Native Comm.
or in his absence, etc? The
Chief Native Comm. is ex officio
a member of every Local Board
(2)

10/11 Why should the Gov. fix the
rent? Should it not be the
Law Board? So as to
assessment of damages. (10, 2,
2)

Sec. 11
makes the
Council
Board bear
the rent

10 Power to lease should be
definitely restricted
so as not to amount, in
effect, to permanent
alienation. ex. They should
buildings be erected, so
substantially as to warrant
a 99 year lease? I think
we should say that the power
to lease should only be for
strictly temporary purposes
(ex. grazing). Anything
warranting so long a term
as anything over 33 years
must be accompanied by
the addition of other land to
the Native Reserve equal
in value - otherwise the
land is to be shown

16(3) "may" must be "shall" 59

- (1) Compensation must in all cases include
- (a) equal area of land ~~added to the Reserve~~ Reserve for the persons displaced if possible; but in any case equal area added to the Reserve;
 - (b) money compensation to make up the full value;
 - (c) compensation for disturbance;
 - (d) suitable arrangement for re-employment in new homes. (It is most undesirable to make leasing either easy or tough to the lessee)

(1) We have been through this despatch with the departmental note (No. 20A), and in the following minute I refer only to the points which appear to be doubtful or to require special consideration by the Secretary of State. It should be mentioned that in his private telegram of the 5th October Sir E. Grigg has urged that he should receive before 16th October, when the Legislative Council meets, instructions to announce approval of the Native Lands Trust Bill. But presumably he will need to give the Council the revised text of the Bill to show exactly what is approved. This means rushing the Secretary of State and the Department, but in the circumstances the Secretary of State may wish to send a definite reply by the date mentioned.

(References are to the paragraphs of Secretary of State's despatch of 1.8.29 No. 31 in 15027/28 Pt. III)

(2) Paragraph 2(a)(i)

It is surprising to find in the new proviso to Clause 3 relative to the substitution of the High Commissioner for the Governor as President of the Central Board that the Governor has provided that when the substitution takes effect, the Governor (or in his absence, the Colonial Secretary) shall have a seat on the Board in place of the Attorney General. There seems no objection to the Attorney General going off the Board - he has ample to occupy him in Kenya - but it would surely be unwise to put the Governor on the Board. The main object in

making

Refer
6th
1929

making the High Commissioner President was to keep the Governor out of it. The position of the High Commissioner as President with the Governor as a member might be most embarrassing. The same difficulty would not arise if the Colonial Secretary takes the place of the Attorney General when the High Commissioner comes on the scene.

7 Proviso should be amended by omitting the words "the Governor, SA, in his absence" thus leaving the Colonial Secretary to come on the Board when the High Commissioner takes over.

(3) Paragraph 2 (a) (iv).

The draft Rule which is enclosed with the despatch meets the case except that it does not provide for a Local Native Council to be represented before a Local Board on the Central Board otherwise than by deputation - i.e. the Governor ignores the alternative of representation by a duly appointed agent or counsel. There is, in fact, a good deal to be said against importing European lawyers into these native land cases, and we think that it is best to accept the Governor's draft case without raising this point.

(4) Paragraph 2 (a) (v).

When Sir B. Grigg was here, he was understood to see no difficulty in making the condition in Clause 7 (c) applicable to licences as well as to leases. The argument

in

61
in the despatch against doing this is not perhaps too convincing; but it is the kind of point upon which it is difficult for the Secretary of State to overrule the man with knowledge of local conditions. There are safeguards as indicated by the Governor more especially in the proviso to clause 7, and on the whole we think it better not to press the proposed amendment.

(5) Paragraph 2 (a) (vi).

The amendment made at instead of asking the Governor to do it in the rights of individual natives to any part of the lands, etc. accruing from land in the Native Reserve (clause 3(3)), the decision should rest with the Local Native Council or similar authority, with right of appeal to the Senior Commissioner. The Governor argues against any change and points out that the Central Board would have the advice of the Local Native Council and the Local Board concerned. But if, as the Governor suggests, Africa members of Local Native Councils and Local Boards will in many cases be Headmen or Elders who may not give fair consideration to the just claims of more humble natives, will there not be less risk of injustice if the Senior Commissioner (who, if anyone, is likely to be able to obtain information and form an unbiased opinion) is called in as a final judge on appeal rather than that the Central Board (an august and comparatively unwieldy body) should try to settle controversial detail of this kind with advice from a Local Native Council

Council or Local Board in which the Senior Commissioner is only Chairman? We are inclined to think that the original suggestion is best; but it is a doubtful point perhaps, and the Secretary of State may not wish to go against the advice of the Governor on such a matter.

(6) Paragraph 2(b) (iii)

Here we feel no doubt. In the Bill as drafted there is nothing at all to indicate that 33 is to be the normal period and anything over that (up to 99 years) an exceptional period for a lease. This should appear clearly in the Bill itself, and we suggest that the Governor be asked to amend clause 10 (1) so as to read:-

"Leases under Section 8 of this Ordinance may be for any period not exceeding thirty-three years, and shall be granted for such periods and subject to such terms and conditions as may be prescribed by rules made under this Ordinance; provided however that in exceptional cases, with the prior sanction of the Secretary of State, leases may be granted for a longer period which shall not in any event exceed ninety nine years".

(7) A further point arises in clause 10 as now drafted by the Governor. While it is clearly for the Governor to grant leases and do various other executive acts provided for in the Bill - generally "with the advice and consent of the Central Board" - it would seem proper that

62
that the Central Board, rather than the Governor should assess the compensation in new clause 10(2) (b) which the lessee or licensee is to pay to natives for damage or disturbance.

(8) Paragraph 2(b) (iv)

For the first time we have a reasonable explanation of the deletion of clause 9, which the Secretary of State wished to restore. The explanation makes a great deal of difference, and in view of the unanimous opinion of the Executive Council including Dr. Arthur (who is a sensible and trusted missionary nominated specially to represent native interests in the Council), we think that the Secretary of State may not wish to press for the restoration of this clause.

(9) Paragraph 2(c) (i)

The new clause 16 (3) is certainly an improvement in that (a) it provides for adding land wherever land is excluded from a Reserve and not only in cases where the area excluded exceeds 200 acres, and (b) the land added is to be not only suitable, but "if possible contiguous". We must accept facts, and allow the qualification "if possible" before "contiguous". But the clause would seem to be inadequate when read in the light of the relevant passage from the Secretary of State's draft despatch on native policy. The passage in question is as follows:-

"It would be idle to pretend that any land, whether in native use or occupancy or in

European

European ownership can remain for all time immune from such compulsory appropriation for public purposes. In the view of His Majesty's Government it is of high importance that no such compulsory expropriation, however small in extent, of land once definitely allocated to native occupancy or use, whether as Native Reserves, or tribal occupancy, or individual holdings, should ever be permitted by the local administration for the mere private or personal profit or other advantage of any individual, whether of European, Indian African or other race. Where the expropriation is required for public purposes, it should be permitted only after ample notice to the natives concerned, with a full and patient explanation of the public purpose to be served, and a formal public enquiry by some competent tribunal, which should be required to assess and determine the compensation to be made to the persons or tribes thereby deprived of what the Government has promised to them in perpetuity. One element in the compensation should, in any other case than where land is required for the track of roads or railways or where no more than a mere site for a building is in question, be invariably prescribed. In order that the aggregate area of land solemnly assured to the native population may not be lessened, other land of superficial extent equal to that to be

compulsorily

63
compulsorily expropriated must in every case be obtained from the areas not previously allocated to the natives, and placed freely at the disposal of the persons or the tribe to be extruded from their accustomed territories. Such compensation land ought, it need hardly be said, to be not only equal in superficial extent but also as far as possible equal in agricultural quality, convenience and market value to that taken away. Where such complete equality cannot be ensured, it will be for the competent tribunal to assess the pecuniary compensation, if any, required to make the expropriation equitable. Suitable additions to the award must also be made, as is customary in Europe and as is indeed provided for in Kenya by the application of the Indian Land Acquisition Act, 1894, by way of compensation for disturbance, and also in order to cover the cost of reinstatement in new homes for removal to which appropriate arrangements should always be made by the Government. Only on these lines, in the opinion of His Majesty's Government, can the compulsory expropriations of native lands, which are from time to time necessary in the public interest, be made to seem, to the dispossessed tribes or persons anything but a breach of the solemn undertaking into which the Government have entered.

This despatch has, of course, not yet issued; in any event it would hardly be practicable to incorporate the substance of all that is there said in this Bill. But if we were

to provide here that the new area must be equal in extent and as far as possible equal in value to that excluded, we should have gone a long way towards what presumably is required; and this might be directed? we should still be left however with the fact that the clause is permissive only, and it is for consideration whether "may" in line 2 could be amended to "shall". The draft despatch on native policy contemplates an exception in the case ~~of~~ required for the track of roads or railways on a mere building site, and an unqualified direction that "the Governor shall add would not quite do. Would it be reasonable, and meet the Secretary of State's views, to ask that the Governor should amend the clause in this respect to read :-

Where any land is excluded from a Native Reserve under this section, the Governor (unless in any case he has obtained the approval of the Secretary of State for ^{not} doing) shall by notice in the Gazette, add to such Native Reserve This would leave it to the Secretary of State to decide in any particular case on representations from the Governor that land need not be added, and in the circumstances this seems to be the earliest solution.

All Parkin
11.10.29

I think this should be made permissive and the explanation given that it is the total area of the Reserve that need never be diminished

NOTE

Paragraph 2 (a) (i)

The revised draft of the Bill gives effect to the Secretary of State's ^{and also in the 2nd paragraph above} ~~suggestion~~ that provision should be made for the High Commissioner, if appointed, to act as President of the ^{Central} Board instead of the Governor. It is noted, however, that in the event of the High Commissioner presiding, it is provided that the Governor of ~~the~~ should have a seat as a member of the ~~Board~~ instead of the Attorney General, personally. ~~It is~~ ^{It is} undesirable as it would tend to bring ~~to~~ ^{to} publicize any difference of opinion which might arise between the Governor and the High Commissioner.

It is provided that if the High Commissioner presides the unofficial members of the Central Board, both Europeans and Africans (if any) should be nominated by the President on the recommendation of the Governor. This procedure is similar to that ~~proposed~~ ^{proposed} by Sir Samuel Wilson in his Report as regards the nomination of the unofficial members to the Central Council, and seems unexceptionable.

It should be noted that in ^{clause} paragraph 5 (1) (a) it is provided that nominations of unofficial members of the Local Boards should be made by the Governor, no mention being made of the High Commissioner. The difference is presumably made on purpose in view of the local nature of these Boards.

Paragraph 3 (a) (iii)

The Secretary of State's suggestion is fully met by the proviso now added to Clause 3 (i) of the Bill. It may

But the Govt. are not sure the thing is done after considering any suggestion of the Governor or the Board itself.

(What is the intention of the Bill?)

be noted that this proviso is mandatory and states that a Governor or High Commissioner, as the case may be, shall (not may) nominate a suitable African or Africans to the Central Board as soon as may be possible.

*Some generally
and evidence for
public purpose*

Paragraph 2 (a) (iii)

The Secretary of State's suggestion is met by the emendation of Clause 3 (4)

*Constitution of local
Native Councils
Central Board*

Paragraph 2 (a) (iv)

It is proposed to meet the suggestion made by the Secretary of State in this paragraph by a Rule to be made under the Ordinance. It may be noted that in the draft Rule appended to the despatch provision is made only for a local native council to be represented by a deputation, and nothing is said about their being represented by a "daily appointed agent or counsel", as was suggested by the Secretary of State.

This point should be taken up in reply

Paragraph 2 (b) (i)

~~Native Land Board~~

*Somehow show that
it is a good case*

The Governor is not anxious to carry out the suggestion made in this paragraph that the condition in Clause 7 (c) of the Bill should be made to apply to licences as well as leases. He appears to make out a good case, and to show that in certain cases the local natives would benefit by the non-application of this condition to licences. In the circumstances I should suggest that it is not necessary to press this point.

Native rights

Paragraph 2 (b) (ii)

Here again the Governor wishes Clause 8 (3) to remain as printed, and I think the point he makes is sound. His opinion on this point should be accepted.

Paragraph 2 (b) (iii)

*Somehow show that
it is a good case*

The new Clause 10 (1) puts the duration of

leases at not more than 99 years. No reference to a term of 33 years actually appears in the Bill, although the Governor agrees that in normal cases a maximum term of 33 years should apply. It is to be noted that the terms and conditions of all such leases would be submitted to the Secretary of State in all cases in draft, and this would appear to afford a sufficient safeguard to ensure that a lease of 99 years was not granted except where circumstances justified it. It might, however, be more satisfactory if some reference to the 33 years term could appear in the Bill itself, and perhaps Mr. Budge might be asked to consider whether some slight alteration in the drafting could not be made so as to provide for this.

Paragraph 2 (b) (iv)

The Governor still wishes to delete Clause 9. The reason for which the Select Committee originally proposed to delete this clause was the difficulty of ascertaining the exact amount of the land in actual occupation of the natives on the date of the lease, or the amount likely to be required by natives during the currency of the lease. The Governor ^{now} argues, with some force I think, that the abolition of the clause would place the native in a stronger position than its retention. It might be noted that the whole of the Executive Council, including Mr. Arthur, the nominated member representing native interests, advocated the exclusion of this clause.

If it is agreed to delete this clause, the contingencies contemplated in the latter part of paragraph 2 (b) (iv), and in the latter part of paragraph 2 (b) (v) of the Secretary of State's despatch, will not arise.

Paragraph 2 (b) (v)

The suggestion in the first sentence of this paragraph

is met by the new Clause ¹⁰ (2). This clause is now made applicable to licences as well as leases. The phrase "Such compensation as the Governor may assess for any damage or disturbance ~~whenever~~" appears to meet the point sufficiently, but it would be desirable to have legal advice on this point also.

X

Paragraph 2 (e) (i)

The Governor foresees difficulties in certain cases in adding an equal area of land to the Reserve as part of the compensation for the exclusion of other land for public purposes. It may be noted that the powers given to the Governor under Clause 16 (3) are permissive only. This presumably is so worded in order to meet the case where it is not physically possible to add an equal area of land to the Reserve. This ~~Section~~ ^{Clause}, however, does not appear to go as far as the Secretary of State's draft despatch on Native Policy, which lays down in fact that there should be in every case compensation in the form of equal area of land, and that where land thus granted is not of equal agricultural value to that taken away the difference should be made up by a pecuniary grant.

Implication -
but

X

It is for consideration whether it would not be desirable to bring this clause more into accord with the provisions of the draft despatch on Native Policy.

Paragraph 2 (e) (ii)

The Secretary of State's request that rules to be made under Clause 16 (1) (b) (f) and (g) should be submitted to him in draft, is noted.

Paragraph 2 (d)

Clause 18 of the Bill specifically provides that, in spite of the provisions of the Water Bill, no water ~~shall~~ ^{is} be withdrawn from the natives' use without the prior consent of

the ~~Board~~ Board. Similar provision is made in Clause 18 (A) as regards demarcation of various areas under the Forest Ordinance. These two provisions appear to strengthen the Bill, and may, I think, be accepted without hesitation.

Paragraph 3 of the Governor's despatch contains certain minor amendments which it is proposed to make in the Bill, chiefly for purposes of clarity. These are almost entirely verbal and non-contentious and may I think be accepted.

Paragraph 5 of the Governor's despatch proposes certain alterations in the form of the rule-making powers provided, and seems unobjectionable. *As regards the telegraph*

~~in~~ Clause 24 of the Bill is a little obscure, but it should be noted that Section 58 of the Crown Lands Ordinance is that which gives the Governor power to make rules for the management and control of any land reserved for the use of the members of a native tribe.

Paragraph 6 of the Governor's despatch.

The Governor proposes to take an opportunity of making an announcement in the terms of paragraph 2 (e) (i) (ii) of the Secretary of State's despatch. A Sub-Committee of the Executive Council has been appointed to consider what minor adjustments and extensions to existing Reserves are necessary, and any such extensions as are proved necessary will be made in Clause 2 (i) of the Bill.

The Governor wishes to re-submit the Bill to Council at the session commencing on the 16th October, and asks therefore for a telegraphic reply.

*See above
note that
the report
sent from
before
ackn -
been*

KENYA

No. 119

(CONFIDENTIAL).



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

10th September, 1929.

69

RECEIVED
10 OCT 1929
COL. OFFICE

My Lord,

I have the honour to acknowledge receipt of Your Lordship's Despatch Confidential (2) of the 1st of August relating to the Native Lands Trust Bill and to inform Your Lordship that, in consultation with my Executive Council, I have given careful consideration to all the points raised. I propose, in this despatch, first to deal seriatim with those points and subsequently to recommend sundry other minor amendments relating to matters of detail which would appear desirable in order to give further emphasis to the agreed policy of the measure. A revised draft of the Bill, indicating precisely the alterations proposed, is transmitted herewith.

2. Paragraph 2 (1) of Your Lordship's despatch. The acceptance of my proposal that the High Commissioner, as a disinterested authority, should be President of the Central Board involves a proviso which has now been added to Clause 3 (1) of the Bill and a consequential addition to 3 (1) (f).

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

15027/14
The 9th Nov 31
REVISED BILL
Recd. 24 Oct 29
For and by
by hand of Sir G. G. ...

Paragraph 3 (a) (ii). I agree that it will be useful to declare definitely the intention of Government to appoint Africans to be full members of the Central Board as soon as any can be found who will be able to serve the native community generally in that capacity, and a further proviso has accordingly been added to Clause 3 (i) of the Bill.

Paragraph 2 (a) (iii). I concur with Your Lordship on this point and propose to amend Clause 3 (4) of the Bill in the manner indicated in the revised draft.

Paragraph 2 (a) (iv). I am advised that Your Lordship's proposals, with which I am in full agreement, can appropriately be carried into effect by means of Rules under Clause 22 of the Bill as they relate to details of procedure, and I trust that the draft submitted as an enclosure to this despatch will meet with Your Lordship's approval.

ENCLOSURE

Paragraph 2 (b) (i). I must point out that Your Lordship's proposal to the effect that the condition in Clause 7 (c) of the Bill should apply to licenses as well as to leases would give rise to serious difficulty, for, whereas a lease conveys possession to the lessee to the total exclusion of the lessor, a license in many cases only permits certain limited rights of user which may be exercised concurrently by the lessor. For instance a license may be granted for the temporary depasturing of cattle in a native reserve on agistment, and such cattle may graze together with the natives' herds: in such case it could not be said that the land was not being beneficially used by the natives or that it was not required for their use. An actual case in point occurs at Mariakani where Somali and other traders purchase

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slaughter cattle for the Mombasa market and graze them on payment in the Nyika Native Reserve until they have a mob ready to move to Mombasa. This arrangement has been in force for years, and is a great convenience to all concerned. The natives are quite agreeable to it and the Local Native Council benefits by the fees, which are estimated for 1929 at £15. I trust, therefore, that Your Lordship will not press this point in view of the safeguards contained in the proviso to Clause 7 and in the provision in Clause 8 (d) which limits the duration of licenses to 12 months at any one time.

Paragraph 2 (b) (ii). I am of opinion that a greater measure of justice to individual natives as well as uniformity of practice will be achieved by leaving the decision as to the payments to be made to individual natives in the hands of the Central Board, which will in each case have before it the advice of the Local Native Council and of the Local Board concerned. It is to be borne in mind that the African members of Local Native Councils and of Local Boards will in many cases be Headmen or Elders who are sometimes prone to claim privileges to which they are not justly entitled, and there is a danger that the just claims of individual natives of more humble degree might not always receive due consideration at the hands of the local body. In the circumstances, I should greatly prefer Clause 8 (5) to remain as printed and I trust that in the light of this explanation Your Lordship will concur.

Paragraph 2 (b) (iii). I have given most careful consideration to Your Lordship's views on the subject of

the maximum term for leases, and an in general agreement that in normal cases a maximum term of 55 years should apply. I agree, however, with Your Lordship in thinking that there may be exceptional cases in which a longer term would be justified, both in the case of schemes involving principles of co-operative benefit and also in cases where the construction of buildings of substantial value forms an essential part of the lease. In order to provide for such contingencies, I propose that Clause 10 (1) of the Bill should be amended as shown in the revised draft, and that it should be left for the terms and conditions to be provided by Rules under Clause 22 of the Bill which, in accordance with the request conveyed in paragraph 2 (b) (vi) of Your Lordship's despatch under reply, would in every case be first submitted to Your Lordship in draft.

This would be an official personal alteration
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Paragraph 2 (b) (iv). With regard to Clause 9, I regret that the object underlying the proposal to delete this Clause was not more fully explained in my despatch No. 223 of the 22nd of June, 1928. The sole purpose of the deletion is to place the native in a far stronger position than he would be if the clause were allowed to stand. Under the clause, as printed, a lease could be granted over lands which contain native villages or settlements without specific survey and exclusion of the land that was in native occupation, and there would be an implied reversion to the lessee of any land within the general boundaries of his lease which natives ceased to occupy or cultivate. The existence of such a provision in section 31 of the Crown Lands Ordinance, 1908, and in section 85 of the Crown

*31/2/28
No. 223 of June 1928*

Lands Ordinance, 1925, has resulted in the past in cases of hardship to natives who have been induced to leave their holdings in ignorance of their actual rights and have thus enabled lessees to take into occupation land which should have been preserved for native use.

If Clause 9 is deleted, as I propose, it will be necessary under Clause 7 (a) of the Bill for any land required or likely to be required for native use to be surveyed separately and specifically excluded from any lease, so that no rights whatever over it would be conveyed to the lessee, and any subsequent proposal on the part of the lessee to add any such lands to the area leased would have to be the subject of a fresh application to be dealt with de novo and subject to all the safeguards which the Bill provides. The deletion of Clause 9 of the Bill is advocated by Dr. Arthur, the nominated member representing native interests as well as by all the other members of my Executive Council, and I trust that Your Lordship will agree that it is essential in the interests of the native population that it should be omitted. In that case the contingencies indicated in paragraph 2 (b) (iv) of Your Lordship's despatch and the question of a lessee charging rent for land in native occupation, as suggested in paragraph 2 (b) (v) will not arise.

Paragraph 2 (b) (v). In accordance with Your Lordship's suggestion it is proposed to amend Clause 10 (2) of the Bill to provide more precisely for the payment of compensation not only in case of leases but also of licenses, and the draft Bill has been altered accordingly.

Paragraph 2 (c) (1). I fear that it will not always be possible to carry out the proposal in paragraph 2 (c) (1) of Your Lordship's despatch to the effect that in every case of exclusion of land from a native reserve for a public purpose

an equal area of land should be added to the Reserve as part of the compensation granted. Many native reserves are over 50 miles in width, and it is easily conceivable that an exclusion might have to be made of a comparatively small area which is not within 15 miles of the reserve boundary. In view of the system of family holdings into which the agricultural reserves are divided, and even that of sectional grazing areas in pastoral reserves, it would be manifestly impossible in such a case to add land to the reserve which would in any way compensate the natives actually dispossessed or which could be utilised by them at all. At the same time I am in full agreement that, where geographical and other circumstances permit, an equal area of suitable, and if possible contiguous, land should be added to the reserve and Clause 16 (3) had been amended on the lines proposed.

Your Lordship's wish that Rules be framed and submitted to you in draft before use is made of the powers conferred by sub-clauses (b), (c) and (g) of Clause 16 (1) of the Bill is noted.

Paragraph 2 (d). On further consideration of the question of water in native reserves, I am of the opinion that all questions of water throughout the Colony and Protectorate should come within the sphere of activities of the Water Board to be constituted under the Water Bill, which is before Legislative Council. At the same time I consider that in order to safeguard native interests, it is essential that the Water Board should co-operate with the Central Native Lands Trust Board, and I have therefore inserted in the revised draft a new clause in place of the present Clause 18 of the Bill. A corresponding

But not impossible to add an equal area to the native Reserves, so that the natives do not get short of land.

It is a matter of convenience for the natives from the Reserve not the compensation they cannot afford to pay. They must have money. All money we have is the issue of the Native Reserves.

amendment will be made in clause 27 (3) of the Water Bill.

5. Upon re-consideration of the whole Bill my Executive Council has for purposes of clarity advised the following minor amendments of which I invite Your Lordship's approval.

- (a). Clause 4. The word "thereto" in line 8 to be deleted and replaced by the words "to such lands" in order to make it clear that the functions of the Board relate only to land and do not embrace questions of general native administration.
- (b). Clause 5 (a). The word "senior" to be substituted for the word "Provincial".
- (c). Clause 5 (1) (c). The words "land in" to be inserted after the word "to" in line 19 for the reason stated above.
- (d). Clause 5 (a). The words "after reference to the said Council" to be inserted after the word "district" in line 30.
- (e). Clause 8 (1) (a). The word "a" to be substituted for the word "the".
- (f). Clause 8 (1) (c). If Clause 9 is deleted there will be a consequent renumbering and Clause 11 will become Clause 10.
- (g). Clause 16. The words "Local Native Council or the" to be inserted after the word "the" in line 33.
- (h). Clause 23. Page 9, line 11. The word "provision" to be substituted for the word "provisions".

4. My attention has been drawn by the Forestry Department to the necessity of making adequate provision whereby forests in native reserves may be protected from destruction or improper exploitation and conserved as forests in the interests not only of the natives but of

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the Colony as a whole in view of their important climatic value. I propose, subject to Your Lordship's approval, to insert a new clause after Clause 18, in order to treat forests on the same lines as it is proposed to treat water, and to bring them within the scope of the general forest authority with the reservation that all action affecting forests in native reserves must be subject to the prior approval of the Central Native Lands Trust Board. A new clause 18 A, has accordingly been drafted and a consequential addition made to clause 6 (b).

5.

I have given further consideration to the question of the rule-making powers provided in the Bill and have come to the conclusion that the present arrangement is unsatisfactory in that the power to make rules is divided between two separate but overlapping authorities under Clauses 22 and 24 respectively. It is desirable that the rule-making power be as wide as possible and there seems to be no advantage to be gained by specifying particular matters which are already included in a general and comprehensive phrase. I consider therefore that it will be better to delete all the subclauses of Clause 22, preserving however the power to prescribe fees, (which I am advised must be specifically provided), and to delete the words "and with the exception of section 55" in Clause 24. All Rules would then be made by the Governor with the advice and consent of the Central Board, which under Clause 6 must in all cases consult the Local Board concerned. Any Rules relating to leases or licenses or to the powers to be exercised under sub-clauses (b), (f) and (g) of Clause 18 (1) of the Bill will be submitted to Your Lordship in draft in accordance

with the requests contained in paragraph 2 (b) (vi) and (c) (ii) of the despatch under reply, and all Rules will be subject to disallowance by His Majesty. In the circumstances I trust that Your Lordship will approve of this amendment.

6. I note the terms of the general considerations dealt with by Your Lordship in paragraph 2 (e) (i) and (e) (ii) of the despatch, and will take the opportunity of working with them in the course of any announcement which I may make when the Bill is re-committed. I need hardly say that I fully share Your Lordship's views as to the duties and responsibilities imposed upon members of the Board as trustees of native interests, and regard it as important that it should be made clear to them that they are fully at liberty to express their independent views with the most complete freedom.

I also share Your Lordship's opinion that, in view of the provisions of clause 7, there is no reason why the Native Land Trust Bill should be held up pending the result of an investigation into the adequacy of the Reserves by an independent and impartial authority. The existing boundaries of the Reserves, as described in Government Notice No. 594 published in the Official Gazette of the Colony dated 15th of October, 1926, were determined after close consultation with the administrative officers and with the approval of the Chief Native Commissioner, who, on the information before him at that time, had no reason to believe that any of the areas reserved were inadequate. Recently, however, representations have been made,

- particularly -

particularly from the Kerio Province, as to the inadequacy of the grazing for natives' stock, and orders have been issued for an agricultural officer of experience to proceed to that Reserve and make a full report as to whether the conditions, if found existing, are normal or due to recent abnormal conditions of drought, locust infestation and over-stocking by the tribes. Should that report indicate the necessity for providing further land for the tribes concerned, I propose to appoint a Committee to go into the question and advise me as to how the situation may be met. Further, it is also the case that certain minor adjustments and extensions to existing Reserves are in contemplation, and I have recently appointed a Sub-committee of Executive Council consisting of the Chief Native Commissioner, the Acting Commissioner for Local Government, Lands and Settlement and Mr. Conway Harvey to go into this question, with an instruction to co-opt in each case the Senior Commissioner of the Province concerned. The reports of that Sub-committee will be carefully considered by my Executive Council and, in the event of any extensions to the existing Reserves being recommended, they will be dealt with under clause 2 (1) of the Bill. In these circumstances, I trust that Your Lordship will agree with me that there is no reason why the Native Lands Trust Bill should be further delayed on this account.

I am most anxious, if possible, to re-commit the Bill to Council at the next Session, which will commence on the 16th of October, and I should therefore be obliged if Your Lordship's approval to the revised Bill may, if possible, be communicated to me by telegram.

by telegram.

I have the honour to be,

My Lord,

Your Lordship's most obedient

humble servant,

Edward Gigg

GOVERNOR.



A Bill to Provide for the Reservation of Lands for the Use and Benefit of the Native Tribes of the Colony and for the Management and Control of Lands so Reserved.

A Bill to Provide for the Reservation of Lands for the Use and Benefit of the Native Tribes of the Colony and for the Management and Control of Lands so Reserved.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Native Lands Short Title Trust Ordinance, 1935.

2. (1) The areas of Crown land described in Government Notice No. 394, published in the Official Gazette of the Colony dated the thirteenth day of October, 1935, are hereby declared to be Native Reserves and are reserved and set aside for the use and benefit of the native tribes of the Colony for ever, and a copy of this Ordinance duly authenticated together with maps showing the boundaries of the Native Reserves concerned shall be delivered to each Local Native Council throughout the Colony.

Reservation of land for natives

(2) It shall be lawful for the Governor, with the approval of the Legislative Council from time to time to reserve for the use and benefit of the native tribes of the Colony such further areas of Crown land as in his opinion may be required for their maintenance and support. Any area so reserved shall be deemed for the purposes of this Ordinance to be a Native Reserve.

(3) Notices of every reservation under sub-section (2) shall be published in the Gazette and shall read as follows:

Provided that in the event of the creation of the appointment of High Commissioner in, for, or of East Africa, the said High Commissioner shall be President of the Central Board in the place of the Governor, the Chief Secretary to the High Commissioner shall be Vice-President of the Central Board in the place of the Colonial Secretary, and the Governor, or, in his absence, the Colonial Secretary shall have a seat on the Board in the place of the Attorney General, who shall, in such case, be no longer a member of the Board.

(a) The Commissioner of Lands; (b) A Senior Commissioner to be selected by the Governor;

(f) Four unofficial members, to be nominated by the Governor, or, if the Governor is not resident, by the

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Provided that when, in the opinion of the Governor, there shall be an African or Africans who is or are sufficiently capable of representing and speaking for the native community generally, then and in such case the Governor shall, as soon as may be possible, appoint at least one such African to be a full member of the Central Board.

Further
Provided that in the event of the creation of the appointment of High Commissioner in, for, or of East Africa, the said High Commissioner shall, in the event mentioned above as soon as may be possible, on the recommendation of the Governor, appoint at least one such African to be a full member of the Central Board.

A Bill to Provide for the Reservation of Lands for the Use and Benefit of the Native Tribes of the Colony and for the Management and Control of Lands so Reserved.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Native Lands (Reserve) Trust Ordinance, 1925.

2. (1) The areas of Crown land described in Government Notice No. 394, published in the Official Gazette of the Colony dated the thirteenth day of October, 1925, are hereby declared to be Native Reserves and are reserved and set aside for the use and benefit of the native tribes of the Colony for ever, and a copy of this Ordinance duly authenticated together with maps showing the boundaries of the Native Reserves concerned shall be delivered to each Local Native Council throughout the Colony.

Reservation of land for natives.

(2) It shall be lawful for the Governor, with the approval of the Legislative Council from time to time to reserve for the use and benefit of the native tribes of the Colony such further areas of Crown land as in his opinion may be required for their maintenance and support. Any area so reserved shall be deemed for the purposes of this Ordinance to be a Native Reserve.

(3) Notice of every reservation under sub-section (2) shall be published in the Gazette and shall read:

Provided that in the event of the creation of the appointment of High Commissioner in, for, or of East Africa, the said High Commissioner shall be President of the Central Board in the place of the Governor, the Chief Secretary to the High Commissioner shall be Vice-President of the Central Board in the place of the Colonial Secretary, and the Governor, or, in his absence, the Colonial Secretary shall have a seat on the Board in the place of the Attorney General, who shall, in such case, be no longer a member of the Board.

(a) The Commissioner of Lands;

(b) A Senior Commissioner to be selected by the Governor;

(c) Four unofficial members, to be nominated by the Governor, or, if the Governor is not resident, by the

35

Provided that when, in the opinion of the Governor, there shall be an African or Africans who is or are sufficiently capable of representing and speaking for the native community generally, then and in such case the Governor shall, as soon as may be possible, appoint at least one such African to be a full member of the Central Board.

Further
Provided that in the event of the creation of the appointment of High Commissioner in, for, or of East Africa, the said High Commissioner shall, in the events mentioned above as soon as may be possible, on the recommendation of the Governor, appoint at least one such African to be a full member of the Central Board.

A Bill to Provide for the Reservation of Lands for the Use and Benefit of the Native Tribes of the Colony and for the Management and Control of Lands so Reserved.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Native Lands **Short title** Trust Ordinance, 1926."

2. (1) The areas of Crown land described in Government Notice No. 894, published in the Official Gazette of the Colony dated the thirteenth day of October, 1926, are hereby declared to be Native Reserves and are reserved and set aside for the use and benefit of the native tribes of the Colony for ever, **Reservation of land for natives.** (and a copy of this Ordinance duly authenticated together with maps showing the boundaries of the Native Reserves concerned shall be delivered to each Local Native Council throughout the Colony.)

(2) It shall be lawful for the Governor, with the approval of the Legislative Council, from time to time to reserve for the use and benefit of the native tribes of the Colony such further areas of Crown land as in his opinion may be required for their maintenance and support. Any area so reserved shall be deemed for the purposes of this Ordinance to be a Native Reserve.

(3) The title of every Reservation under sub-section (2) shall be published in the Gazette and shall specify—

- (a) the boundaries of the Native Reserve; and
- (b) the title and purpose for which use and benefit such reservation has been made.

3. (1) There shall be established a Native Lands Trust Board (hereinafter referred to as the "Central Board") which shall consist of— **Establishment of Native Lands Trust Board.**

- (a) The Governor as President;
- (b) The Colonial Secretary as Vice-President;
- (c) The Attorney General;
- (d) The Chief Native Commissioner;
- (e) The Commissioner of Lands;
- (f) A Senior Commissioner to be selected by the Governor;

(2) Four unofficial members, to be nominated by the Governor, or, if the Governor is not resident, by the President on the recommendation of the Governor.

(3) The Central Board may from time to time, if it should deem it desirable, co-opt one or more Africans as members of the Board for the purpose of the consideration of any particular matter, (co-opt the Chairman of the Local Board concerned as a member of the Central Board, and may for a like purpose after reference to any Local Native Council particularly concerned co-opt one or more Africans as members of the Central Board). **Power to co-opt**

(4) The President or Vice-President and four other members shall form a quorum. **Quorum.**

Provided that no lease or license shall be granted under this Ordinance, and no land shall be excluded from a Native Reserve for public purposes under this Ordinance unless there shall be at least five votes in favour of the granting of such lease or license, or in favour of the exclusion of such land from a Native Reserve for public purposes.

Native Reserves and all matters relating thereto shall be under the control and management of the Central Board, and all such lands shall be administered for the use and benefit of the native tribes for which they have, respectively, been reserved.

5. (1) There shall be established in every administrative district in which one or more Native Reserves may be situated an Advisory Board (hereinafter referred to as a "Local Board") which shall consist of:

(a) The District Commissioner as Chairman;

(b) The District Commissioner as Deputy Chairman;

(c) One European official member, to be nominated by the Governor: Provided that for the purpose of the consideration of any matter relating to a particular Native Reserve a Local Board (the Chairman) may from time to time (after reference to the Local Native Council concerned) co-opt as an additional member any European who in the opinion of the Board possesses special knowledge of such Native Reserve;

(d) One African member, to be nominated by the Governor, who shall, so far as practicable, be selected from the members of some Local Native Council established within the said administrative district: Provided that for the purpose of the consideration of any particular matter a Local Board (the Chairman) may from time to time (after reference to the Local Native Council concerned) co-opt one or more additional African or Africans as a member or members of the Board.

(2) The Chief Native Commissioner shall ex officio be a member of every Local Board.

(3) The Chairman or Deputy Chairman and three other members shall form a quorum.

6. It shall be the duty of each Local Board (the Central Board to ~~advise~~ ^{advise} ~~consider~~ ^{consider} the ~~Central Board~~ ^{Local Board} ~~Local Board~~ concerned) in regard to the following matters relating to any Native Reserve included in the administrative district for which such Local Board has been established:

(a) Matters relating to the granting of a lease or license under section 8 of this Ordinance;

(b) ~~Matters relating to and arising out of the exercise of the powers of the Governor under sections 15, 17 and 18A of this Ordinance.~~

(c) Rules relating to occupation rights of native individuals, families and communities;

(d) All matters relating to the management and development of land in a Native Reserve.

(4) Questions before the Central Board shall be decided by a majority of votes of those present and voting, and, in the case of equality of votes, the President or Vice-President, as the case may be, shall have a second or casting vote.

Procedure at meetings.

5 4. Subject to the provisions of this Ordinance, all lands in Native Reserves and all matters relating to them are hereby declared to be under the management and control of the Central Board, and all such lands shall be administered for the use and benefit of the native tribes for which they have, respectively, been reserved.

Native Reserves to be under the control and management of the Central Board.

5. (1) There shall be established in every administrative district in which one or more Native Reserves may be situated an Advisory Board (hereinafter referred to as a "Local Board") which shall consist of—

Establishment of Advisory Boards.

15 (a) The ~~Reserve~~ Commissioner as Chairman;

(b) The District Commissioner as Deputy Chairman;

20 (c) One European unofficial member, to be nominated by the Governor: Provided that for the purpose of the consideration of any matter relating to a particular Native Reserve a Local Board (the Chairman) may from time to time (after reference to the Local Native Council concerned) co-opt as an additional member any European who in the opinion of the Board possesses special knowledge of such Native Reserve.

25 (d) One African member, to be nominated by the Governor, who shall, so far as practicable, be selected from the members of some Local Native Council established within the said administrative district. Provided that for the purpose of the consideration of any particular matter a Local Board (the Chairman) may from time to time (after reference to the Local Native Council concerned) co-opt one or more additional African or Africans as a member or members of the Board.

30 (2) The Chief Native Commissioner shall ex officio be a member of every Local Board.

(3) The Chairman or Deputy Chairman and three other members shall form a quorum.

40 6. It shall be the duty of each Local Board (the Central Board) to advise and consult the Central Board (the Board) in regard to the following matters relating to any Native Reserve included in the administrative district for which such Local Board has been established—

Functions of Local Boards.

45 (a) Matters relating to the granting of leases or licences under section 8 of this Ordinance;

(b) **Matters relating to and arising out of the exercise of the powers of the Governor under sections 16, 17 and 18A of this Ordinance.**

50 (c) Rules relating to occupation rights of native individuals, families and communities;

(d) All matters relating to the management and development of land in a Native Reserve.

(4) Questions before the Central Board shall be decided by a majority of votes of those present and voting, and, in the case of equality of votes, the President or Vice-President, as the case may be, shall have a second or casting vote; 4

Procedure at meetings.

5 4. Subject to the provisions of this Ordinance, all lands in Native Reserves and all matters relating thereto are hereby declared to be under the management and control of the Central Board, and all such lands shall be administered for the use and benefit of the native tribes for which they have, respectively, been reserved. 10

Native Reserves to be under the control and management of the Central Board.

5. (1) There shall be established in every administrative district in which one or more Native Reserves may be situated an Advisory Board (hereinafter referred to as a "Local Board") which shall consist of —

Establishment of Advisory Boards.

15 (a) The ~~Native~~ Commissioner as Chairman;

(b) The District Commissioner as Deputy Chairman;

20 (c) One European unofficial member, to be nominated by the Governor: Provided that for the purpose of the consideration of any matter relating to a particular Native Reserve a Local Board (the Chairman) may from time to time (after reference to the Local Native Council concerned) co-opt as an additional member any European who in the opinion of the Board possesses special knowledge of such Native Reserve; 25

30 (d) One African member, to be nominated by the Governor, who shall, so far as practicable, be selected from the members of some Local Native Council established within the said administrative district. ~~Provided that for the purpose of the consideration of any particular matter a Local Board (the Chairman) may from time to time (after reference to the Local Native Council concerned) co-opt one or more additional African or Africans as a member or members of the Board.~~ 35

(2) The Chief Native Commissioner shall *ex officio* be a member of every Local Board.

(3) The Chairman or Deputy Chairman and three other members shall form a quorum.

40 6. It shall be the duty of each Local Board (the Central Board) to ~~advise~~ ~~consult~~ the Central Board (the Board) ~~concerned~~ in regard to the following matters relating to any Native Reserve included in the administrative district for which such Local Board has been established: —

Functions of Local Boards.

45 (a) Matters relating to the granting of leases or licences under section 8 of this Ordinance;

(b) **Matters relating to and arising out of the exercise of the powers of the Governor under sections 16, 17 and 18A of this Ordinance.**

50 (c) Rules relating to occupation rights of native individuals, families and communities;

(d) All matters relating to the management and development of land in a Native Reserve.

Disposal of land in Native Reserves

7. Notwithstanding anything in any other Ordinance contained, no land in any Native Reserve shall be leased or otherwise disposed of except under and in accordance with the provisions of this Ordinance, and no lease or licence of or in respect of any such land shall be granted unless the Central Board is satisfied, after reference to the appropriate Local Board, that the following condition has been complied with, namely:—

10 (a) That the proposal to grant such lease or licence has been brought to the notice of the Local Native Council and of the natives concerned and that such natives have had an opportunity of expressing their views upon the proposal;

15 and in the case of a lease, that the following further conditions have been complied with, namely:—

(b) That there is reason to believe that the natives of the tribe for which such land has been reserved will derive benefit, apart from any revenue which may accrue therefrom, from the grant of such lease;

20 (c) That the land to be leased is not being beneficially occupied by the natives of the tribe for which such land has been reserved, and is not likely during the currency of the proposed lease, to be required for the use or support of such natives;

25 Provided that in no case shall any lease or licence be granted which is objected to by the ~~Major members of~~ Local Native Council or by any African ~~members~~ of the Local Board concerned without the prior approval of the Secretary of State.

Allocation or other disposal of land in Native Reserves

8. (1) Subject to the provisions of the last preceding section, it shall be lawful for the Governor, with the advice and consent of the Central Board:—

35 (a) To lease any land in the Native Reserve;

(b) To fix the rent payable in respect thereof;

40 (c) To revise such rent in accordance with the provisions of section 11 of this Ordinance at such periods or intervals as may be prescribed by Rules made under this Ordinance;

(d) To grant licences to and to enter into contracts with non-natives relating to ~~persons not being members of the tribe for which the land has been set aside relating to~~—

- (i) the grazing of cattle in a Native Reserve;
 - (ii) the removal of timber or other forest produce from a Native Reserve;
 - (iii) the taking of sand, lime, stone and other common minerals (excluding salt) from a Native Reserve;
- 45 ~~for periods not exceeding twelve months at any one time~~

50 Provided that in the case of a lease or licence relating to any lands reserved for the occupation of the Maasi tribe by virtue of the agreements dated, respectively, the ninth day of August, 1904, and the twenty-sixth day of April, 1911, regard shall be had to the terms of the said agreements and any subsequent agreements.

(2) Subject as aforesaid, the Governor may also, with the advice and consent of the Central Board, grant leases for special purposes. Every such lease shall ipso facto terminate as soon as the special purpose or purposes for which it was granted has or have been accomplished, notwithstanding that the term of the lease has not expired; and in every such lease there shall be implied a covenant by the lessee not to use the land leased for any purpose other than the purpose or purposes specified in the lease.

(3) All rents, stand premiums, grazing fees or other profits whatsoever accruing from land in a Native Reserve, or from timber or other forest produce or from sand, lime, stone or other materials removed or taken from a Native Reserve, shall be paid to the Local Native Fund, or, where there is no Local Native Fund, to the Natives' Trust Fund, or may be paid to any member or members of the tribe concerned who may be considered by the Central Board (after reference to the Local Board concerned) to be entitled thereto.

(4) The Governor shall at the end of each year forward to the Secretary of State a return of all leases and licences granted under this Ordinance during such year.

9. (1) Leases of land containing native villages or settlements may be granted under the last preceding section without specially excluding such villages or settlements, but land in the actual occupation of natives at the date of the lease shall, so long as it is actually occupied by them, be deemed to be excluded from the lease.

Leases of land in actual occupation of natives.

(2) Any land within an area leased which has been in the occupation of natives shall, on ceasing to be so occupied, pass to the lessee.

Provided that the Chief Native Commissioner or such person as may be authorised by him for that purpose shall certify after special enquiry that the natives have ceased to occupy such land of their own free will and accord and without any duress on the part of the lessee.

(3) Any doubts that may arise as to whether any land is or is not included in any native settlement or village, or in lands allotted for that purpose, shall be decided by the Central Board whose decision shall be final.

9 of this Ordinance may be Form of

10. (1) Leases under section 8 of this Ordinance may be for any period not exceeding ninety-nine years, and shall be granted for such periods and subject to such terms and conditions as may be prescribed by rules made under this Ordinance.

(a) Every such lease and every licence under this Ordinance shall contain provisions to the following effect:-

(a) that the lessee or licensee binds himself to pay the rent or fee fixed by the Governor, and the rent which may be fixed on revision;

(b) that the lessee or licensee binds himself to pay such compensation as the Governor may assess for any damage or disturbance whatsoever caused to native individuals or communities in the exercise of the rights granted to him.

John Brown

(2) Subject as aforesaid, the Governor may also, with the advice and consent of the Central Board, grant leases for special purposes. Every such lease shall *pro facto* terminate as soon as the special purpose or purposes for which it was granted has or have been accomplished, notwithstanding that the term of the lease has not expired; and in every such lease there shall be implied a covenant by the lessee not to use the land leased for any purpose other than the purpose or purposes specified in the lease.

(3) All rents, stand premia, grazing fees or other profits whatsoever accruing from land in a Native Reserve, or from timber or other forest produce or from sand, lime, stone or other materials removed or taken from a Native Reserve, shall be paid to the Local Native Fund, or, where there is no Local Native Fund, to the Natives' Trust Fund, or ~~may be paid~~ to any member or members of the tribe concerned who may be considered by the Central Board *after reference to the Local Board concerned* to be entitled thereto.

(4) The Governor shall at the end of each year forward to the Secretary of State a return of all leases and licences granted under this Ordinance during such year.

9. (1) Leases of land containing native villages or settlements may be granted under the last preceding section without specially excluding such villages or settlements, but land in the actual occupation of natives at the date of the lease shall, so long as it is actually occupied by them, be deemed to be excluded from the lease.

Leases of land in actual occupation of natives.

(2) Any land within an area leased which has been in the occupation of natives shall, on ceasing to be so occupied, pass to the lessee:

Provided that the Chief Native Commissioner or such person as may be authorised by him for that purpose shall certify after special enquiry that the natives have ceased to occupy such land of their own free will and accord and without any duress on the part of the lessee.

(3) Any doubts that may arise as to whether any land is or is not included in any native settlement or village, or in lands allotted for that purpose, shall be decided by the Central Board whose decision shall be final.

Form of

10. (1) Leases under section 8 of this Ordinance shall be for any period not exceeding ninety-nine years, and shall be granted for such periods and subject to such terms and conditions as may be prescribed by rules made under this Ordinance.

(2) Every such lease and every licence under this Ordinance shall contain provisions to the following effect:-

(a) that the lessee or licensee binds himself to pay the rent or fee fixed by the Governor, and interest which may be fixed on revision;

(b) that the lessee or licensee binds himself to pay such compensation as the Governor may assess for any damage or disturbance whatsoever caused native individuals or communities in the exercise of the rights granted to him.

Chief Commissioner

(2) Subject as aforesaid, the Governor may also, with the advice and consent of the Central Board, grant leases for special purposes. Every such lease shall ~~also~~ terminate as soon as the special purpose or purposes for which it was granted has or have been accomplished, notwithstanding that the term of the lease has not expired; and in every such lease there shall be implied a covenant by the lessee not to use the land leased for any purpose other than the purpose or purposes specified in the lease.

(3) All rents, stand premia, granting fees or other profits whatsoever accruing from land in a Native Reserve, or from timber or other forest produce or from sand, lime, stone or other materials removed or taken from a Native Reserve, shall be paid to the Local Native Fund, or, where there is no Local Native Fund, to the Natives Trust Fund, or ~~may be paid~~ to any member or members of the tribe concerned who may be considered by the Central Board ~~after reference to the Local Board concerned~~ to be entitled thereto.

(4) The Governor shall at the end of each year forward to the Secretary of State a return of all leases and licences granted under this Ordinance during such year.

B. (1) Leases of land containing native villages or settlements may be granted under the last preceding section without specially excluding such villages or settlements, but land in the actual occupation of natives at the date of the lease shall, so long as it is actually occupied by them, be deemed to be excluded from the lease.

Leases of land in actual occupation of natives

(2) Any land within an area leased which has been in the occupation of natives shall, on ceasing to be so occupied, pass to the lessee.

Provided that the Chief Native Commissioner or such person as may be authorized by him for that purpose shall certify after expiry that the natives have ceased to occupy such land of their own free will and accord and without any duress on the part of the lessee.

(3) Any doubts that may arise as to whether any land is or is not included in any native settlement or village, or in lands allotted for that purpose, shall be decided by the Central Board whose decision shall be final.

10. (1) Leases under section 8 of this Ordinance may be for any period not exceeding ninety-nine years, and shall be granted subject to such terms and conditions as the Governor with the advice and consent of the Central Board, may think fit.

Form of leases.

(2) Every such lease shall be deemed to contain provisions to the following effect—

Conditions implied in leases.

(a) That the lessee binds himself to pay the rent fixed by the Governor under section 8 of this Ordinance and any rent which may be fixed on revision;

(b) That the lessee binds himself to pay compensation for any damage caused to native individuals or communities in the exercise of the rights granted to him.

(3) It shall be lawful for the Chief Native Commissioner, subject to any general or special directions from the Governor, to execute for and on behalf of the Governor any lease granted under this Ordinance.

Chief Native Commissioner to execute leases.

11. In determining the rent to be demanded for any land in a Native Reserve, and upon any revision of rent, the Central Board shall take into consideration the rent obtained or obtainable in respect of any other land in the immediate neighbourhood, and shall fix the rent at the highest amount that can reasonably be expected to be obtained for the land, having regard to all the circumstances of the case.

Principles to be observed in fixing and revising rent.

10. Provided that upon any revision of rent, the Central Board shall not take into consideration any value due to capital expended upon the land by the same occupier during his term of occupancy or any increase in the value of the land due to the employment of such capital.

15. 19. Except as may be otherwise provided by Rules under section 22 of this Ordinance, it shall not be lawful for any licensee under this Ordinance to alienate the land comprised in his lease or any part thereof by sale, mortgage, transfer of possession, sub-lease, bequest or otherwise howsoever without the consent of the Central Board first had and obtained, and any such sale, mortgage, transfer of possession, sub-lease, bequest or other alienation effected without the consent of the Central Board shall be null and void. *The granting or withholding of such consent shall be in the absolute and unfettered discretion of the Central Board and any sale, mortgage, transfer of possession, sub-lease, bequest, or other alienation effected without the consent of the Central Board shall be null and void.*

Licensee not to alienate land without consent.

20. 18. If the rent or any part thereof reserved in a lease under this Ordinance shall at any time be unpaid for the space of twenty-one days after the same shall have become due, or if there shall be any breach of the lessee's covenants, whether express or implied, the Chief Native Commissioner or any person authorised by him in writing may serve a notice upon the lessee specifying the rent in arrear or the covenant of which a breach has been committed, and at any time after one month from the service of the notice may commence an action in the Supreme Court for the recovery of the premises, and, on proof of the facts, the Court shall, subject to relief upon such terms as may appear just, declare the land forfeited, and may order that possession of the land be given by the defendant to the plaintiff, either forthwith or on or before such day as the Court thinks fit to name, and that the defendant do pay the costs.

Forfeiture of lease for non-payment of rent or breach of covenant.

25. 14. (1) If the rent or any part thereof payable under a licence granted under this Ordinance shall at any time be unpaid for the space of twenty-one days after the same shall have become due, or if the licensee shall fail to comply with, or shall commit any breach of, any of the conditions of his licence, the Chief Native Commissioner may cause an application to be made to a magistrate of the first class within whose local jurisdiction the land the subject of the licence is situate, to declare the licence forfeited.

Forfeiture of licence.

25. (2) Upon receipt of such application together with a statement specifying the rent in arrear or the condition which has not been complied with or of which a breach has been committed, the magistrate shall cause to be served upon the licensee a copy of such statement together with a notice of the date, not being less than fourteen days from the date of such notice, when the application will be heard.

30. (3) If upon the date fixed for the hearing of the application or to which such hearing has been adjourned it shall be proved to the satisfaction of the magistrate that rent is in arrear or that the licensee has failed to comply with or has committed a breach of any of the conditions of the licence, the magistrate shall, subject to relief upon such terms as may appear just, declare the licence forfeited.

11. In determining the rent to be demanded for any land in a Native Reserve, and upon any revision of rent, the Central Board shall take into consideration the rent obtained or obtainable in respect of any other land in the immediate neighbourhood, and shall fix the rent at the highest amount that can reasonably be expected to be obtained for the land, having regard to all the circumstances of the case.

Principles to be observed in fixing and revising rent.

Provided that upon any revision of rent, the Central Board shall not take into consideration any value due to capital expended upon the land by the same occupier during his term of occupancy or any increase in the value of the land due to the employment of such capital.

12. Except as may be otherwise provided by Rules under section 23 of this Ordinance, it shall not be lawful for any lessee under this Ordinance to alienate the land comprised in his lease or any part thereof by sale, mortgage, transfer of possession, sub-lease, bequest or otherwise howsoever without the consent of the Central Board first had and obtained, and any such sale, mortgage, transfer of possession, sub-lease, bequest or other alienation effected without the consent of the Central Board shall be null and void. ~~The granting or withholding of such consent shall be in the absolute and unfettered discretion of the Central Board and any sale, mortgage, transfer of possession, sub-lease, bequest, or other alienation effected without the consent of the Central Board shall be null and void.~~

Lessee not to alienate land without consent.

13. If the rent or any part thereof reserved in a lease under this Ordinance shall at any time be unpaid for the space of twenty-one days after the same shall have become due, or if there shall be any breach of the lessee's covenants, whether express or implied, the Chief Native Commissioner or any person authorised by him in writing may serve a notice upon the lessee specifying the rent in arrear or the covenant of which a breach has been committed, and at any time after one month from the service of the notice may commence an action in the Supreme Court for the recovery of the premises; and, on proof of the facts, the Court shall, subject to relief upon such terms as may appear just, declare the land forfeited, and may order that possession of the land be given by the defendant to the plaintiff, either forthwith or on or before such day as the Court thinks fit to name, and that the defendant do pay the costs.

Forfeiture of lease for non-payment of rent or breach of covenant.

14. (1) If the rent or any part thereof payable under a licence granted under this Ordinance shall at any time be unpaid for the space of twenty-one days after the same shall have become due, or if the licensee shall fail to comply with, or shall commit any breach of, any of the conditions of his licence, the Chief Native Commissioner may cause an application to be made to a magistrate of the first class within whose local jurisdiction the land the subject of the licence is situate, to declare the licence forfeited.

Forfeiture of licence.

(2) Upon receipt of such application together with a statement specifying the rent in arrear or the condition which has not been complied with or of which a breach has been committed, the magistrate shall cause to be served upon the licensee a copy of such statement together with a notice of the date, not being less than fourteen days from the date of such notice, when the application will be heard.

(3) If upon the date fixed for the hearing of the application or to which such hearing has been adjourned, it shall be proved to the satisfaction of the magistrate that rent is in arrear or that the licensee has failed to comply with or has committed a breach of any of the conditions of the licence, the magistrate shall, subject to relief upon such terms as may appear just, declare the licence forfeited.

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15. No forfeiture under either of the two last preceding sections shall operate to extinguish any debt due in respect of any rent or other payments to be made by a lessee or licensee under a lease or licence forfeited.

Debt not extinguished by forfeiture.

5. 16. (1) The Governor may at any time, with the advice and consent of the Central Board, by notice in the Gazette, exclude from a Native Reserve any land which may be required for any of the following purposes:—

Power of Governor to exclude from Native Reserve land required for public purposes.

- (a) Public roads or bridges;
- 10 (b) Public reservoirs, aqueducts, canals, water-courses or water pipe-lines;
- (c) Public quays, wharves or landing places;
- (d) Public railways or tramways;
- (e) Public arcadomes;
- 15 (f) Development of electric power for public purposes from any lake, river or stream;
- (g) Development of the mineral resources of the Colony;
- (h) Government camps or stations;
- 20 (i) Buildings or works in connection with any of the foregoing purposes;
- (j) The establishment of townships;

Provided, however, that no land shall be excluded from a Native Reserve under this section unless the Central Board is satisfied that the proposed exclusion has been brought to the notice (of the Local Native Council and) of the natives concerned, and that representatives of the location or section concerned have been co-opted on the Local Board for the purpose of the discussion upon such proposed exclusion.

Provided further that in any case where the area of land proposed to be excluded from a Native Reserve under this section exceeds two hundred acres and the African member or members of the Local Board object to the exclusion of such area, then and in such case such area shall not be excluded from such Native Reserve unless and until the approval of the Secretary of State to such exclusion has been obtained.

(2) Compensation shall be payable in respect of any buildings or crops destroyed or damaged, and in respect of any disturbance or other loss to natives caused by such exclusion.

(3) Where any land is excluded from a Native Reserve under this section, the Governor may by notice in the Gazette, add to such Native Reserve, from suitable and, if possible, contiguous, unalienated and unreserved Crown land, an area equivalent to the area excluded, and any area so added shall be deemed for the purposes of this Ordinance to be part of such Native Reserve.

- 50 (a) at any time to enter upon any land in a Native Reserve and to take therefrom stone and other materials for the making or repairing of roads, railways, canals, water channels, or other public works whether of the like kind or not, upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;
- 55 (b) at any time to enter upon such land and to set up poles and carry electric lines across such land and to lay sewers, water pipes or electric lines therein, without paying compensation but making good all damage;

Governor may enter on land in Native Reserve.

15. No forfeiture under either of the two last preceding sections shall operate to extinguish any debt due in respect of any rent or other payments to be made by a lessee or licensee under a lease or licence forfeited.

Debt not extinguished by forfeiture.

5 16. (1) The Governor may at any time, with the advice and consent of the Central Board, by notice in the Gazette, exclude from a Native Reserve any land which may be required for any of the following purposes:—

Power of Governor to exclude from Native Reserve land required for public purposes.

- 10 (a) Public roads or bridges;
- (b) Public reservoirs, aqueducts, canals, water-courses or water pipe-lines;
- (c) Public quays, wharves or landing places;
- (d) Public railways or tramways;
- (e) Public aerodromes;
- 15 (f) Developments of electric power for public purposes from any lake, river or stream;
- (g) Development of the mineral resources of the Colony;
- (h) Government camps or stations;
- 20 (i) Buildings or works in connection with any of the foregoing purposes;
- (j) The establishment of townships;

Provided, however, that no land shall be excluded from a Native Reserve under this section unless the Central Board is satisfied that the proposed exclusion has been brought to the notice (of the Local Native Council and) of the natives concerned and that representatives of the location or section concerned have been co-opted on the Local Board for the purpose of the discussion upon such proposed exclusion.

30 Provided further that in any case where the area of land proposed to be excluded from a Native Reserve under this section exceeds two hundred acres and the African member or members of the Local Board object to the exclusion of such area, then and in such case such area shall not be excluded from such Native Reserve unless and until the approval of the Secretary of State to such extension has been obtained.

35 (2) Compensation shall be payable in respect of any buildings or crops destroyed or damaged, and in respect of any disturbance or other loss to natives caused by such exclusion.

40 (3) Where any land is excluded from a Native Reserve under this section, the Governor may by notice in the Gazette, add to such Native Reserve, from suitable and, if possible, contiguous, unalienated and unreserved Crown land, an area equivalent to the area excluded, and any area so added shall be deemed for the purposes of this Ordinance to be part of such Native Reserve.

- 50 (a) at any time to enter upon any land in a Native Reserve and to take therefrom stone and other materials for the making or repairing of roads, railways, canals, water channels, or other public works whether of the like kind or not, upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;
- 55 (b) at any time to enter upon such land and to set up poles and carry electric lines across such land and to lay sewers, water pipes or electric lines therein, without paying compensation but making good all damage;

Government or agents to land in Native Reserves.

15. No forfeiture under either of the two last preceding sections shall operate to extinguish any debt due in respect of any rent or other payment to be made by a lessee or licensee under a lease or license forfeited.

Debt not extinguished by forfeiture.

16. (1) The Governor may at any time, with the advice and consent of the Central Board, by notice in the Gazette, exclude from a Native Reserve any land which may be required for any of the following purposes:—

Power of Governor to exclude from Native Reserve land required for public purposes.

- (a) Public roads or bridges;
- (b) Public reservoirs, aqueducts, canals, water-courses or water pipe-lines;
- (c) Public quays, wharves or landing places;
- (d) Public railways or tramways;
- (e) Public aerodromes;
- (f) Development of electric power for public purposes from any lake, river or stream;
- (g) Development of the mineral resources of the Colony;
- (h) Government camps or stations;
- (i) Buildings or works in connection with any of the foregoing purposes;
- (j) The establishment of townships.

Provided, however, that no land shall be excluded from a Native Reserve under this section unless the Central Board is satisfied that the proposed exclusion has been brought to the notice (of the Local Native Council and) of the natives concerned and that representatives of the location or section concerned have been consulted on the Local Board for the purpose of the discussion upon such proposed exclusion.

Provided further that in any case where the area of land proposed to be excluded from a Native Reserve under this section exceeds two hundred acres and the African inhabitant or members of the Local Board object to the exclusion of such area, then and in such case such area shall not be excluded from such Native Reserve unless and until the approval of the Secretary of State to such exclusion has been obtained.

(2) Compensation shall be payable in respect of any buildings or crops destroyed or damaged, and in respect of any disturbance or other loss to natives caused by such exclusion.

(3) Where the area of any land excluded from a Native Reserve under this section exceeds two hundred acres, it shall be lawful for the Governor, by notice in the Gazette, to add such Native Reserve, from contiguous (suitable) unalienated unreserved Crown land, an area equivalent to the area added, and any area so added shall be deemed for the purposes of this Ordinance to be part of such Native Reserve.

17. (1) It shall be lawful for the Governor—

Power of Governor in regard to land in Native Reserve.

(a) at any time to enter upon any land in a Native Reserve and to take therefrom stone and other materials for the making or repairing of roads, railways, canals, water channels, or other public works whether of the like kind or not, upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;

(b) at any time to enter upon such land and to set up poles and carry electric lines across such land and to lay sewers, water pipes or electric lines therein, without paying compensation but making good all damage;

15. No forfeiture under either of the two last preceding sections shall operate to extinguish any debt due in respect of any rent or other payment to be made by a lessee or licensee under a lease or license forfeited.

Debt not extinguished by forfeiture.

5 16. (1) The Governor may at any time, with the advice and consent of the Central Board, by notice in the Gazette, exclude from a Native Reserve any land which may be required for any of the following purposes:—

Power of Governor to exclude from Native Reserve land required for public purposes.

- 10 (a) Public roads or bridges;
- (b) Public reservoirs, aqueducts, canals, water-courses or water pipe-lines;
- (c) Public quays, wharves or landing places;
- (d) Public railways or tramways;
- (e) Public aerodromes;
- 15 (f) Development of electric power for public purposes from any lake, river or stream;
- (g) Development of the mineral resources of the Colony;
- (h) Government camps or stations;
- (i) Buildings or works in connection with any of the foregoing purposes;
- 20 (j) The establishment of townships.

Provided, however, that no land shall be excluded from a Native Reserve under this section unless the Central Board is satisfied that the proposed exclusion has been brought to the notice (of the Local Native Council) and of the natives concerned and that representatives of the location or section concerned have been consulted on the Local Board for the purpose of the discussion upon such proposed exclusion.

25 Provided further that in any case where the area of land proposed to be excluded from a Native Reserve under this section exceeds two hundred acres and the African member or members of the Local Board object to the exclusion of such area, then and in such case such area shall not be excluded from such Native Reserve unless and until the approval of the Secretary of State to such exclusion has been obtained.

30 (2) Compensation shall be payable in respect of any buildings or crops destroyed or damaged, and in respect of any disturbance or other loss to natives caused by such exclusion.

(3) When the area of any land excluded from a Native Reserve under this section exceeds two hundred acres, it shall be lawful for the Governor, by notice in the Gazette, to add such Native Reserve from contiguous (suitable) unalienated or unreserved Crown land, an area equivalent to the area excluded, and any area so added shall be deemed for the purposes of this Ordinance to be part of such Native Reserve.

17. (1) It shall be lawful for the Governor—

- 50 (a) at any time to enter upon any land in a Native Reserve and to take therefrom stone and other materials for the making or repairing of roads, railways, canals, water channels, or other public works whether of the like kind or not, upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;
- 55 (b) at any time to enter upon such land and to set up poles and carry electric lines across such land and to lay sewers, water pipes or electric lines therein, without paying compensation but making good all damage;

Power of Governor in regard to land in Native Reserve.

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(c) at any time to enter upon such land and there do any work which he may consider necessary for maintaining or improving the flow of water in any river or stream on such land, and to construct dams, and to divert any river or stream, upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;

(d) by writing under his hand, to authorise officers of the Government and Government contractors, their servants and agents, to exercise any of the powers conferred upon him by this section.

(2) Whenever compensation is payable under this section, such compensation shall not in any case exceed, in the case of buildings and crops destroyed or damaged, the fair value of the buildings or crops.

(3) The powers conferred by this section may be exercised before the compensation is paid, (but not before compensation has been assessed).

18. Notwithstanding anything contained in either of the two last preceding sections, it shall not be lawful for the Governor, in the exercise of any of the powers thereby conferred to deprive the natives concerned or allow them to be deprived of the use of any water without the prior consent of the Central Board.

Cap. 149.

18A. Notwithstanding anything contained in the Forest Ordinance no land in a native reserve shall be declared to be a forest area or demarcated forest without the prior consent of the Central Board, and no rules shall be made in respect of any such forest area or demarcated forest without the prior consent of the said Board.

35 of any rents or relating to any damages or wrongs whatsoever in respect of such land, may be commenced, prosecuted and carried on in the name of the Chief Native Commissioner, and he may be plaintiff or defendant, as the case may require, in any such action, suit or proceeding.

40 (2) In any such action, suit or proceeding the Chief Native Commissioner may be represented by any advocate or by any officer of the Native Affairs Department or by any administrative officer duly authorised by him in writing.

45 20. (1) It shall be lawful for the Governor or any person acting under his directions or in the execution of his duty as an officer of the Colony to enter upon any land leased or occupied under a licence under this Ordinance.

Power of officers to enter upon lands in execution of duty.

50 (2) Any person who wilfully prevents or attempts to prevent any such person from entering upon land as aforesaid, or who obstructs or hinders such person in the execution of his duty, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

55 21. Any person who unlawfully occupies land in a Native Reserve, in any manner whatsoever, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Penalty for unauthorised occupation of land in Native Reserve.

60 22. It shall be lawful for the Governor, with the advice and consent of the Central Board, and subject to the disallowance thereof by His Majesty, to make Rules, which may

Power to make Rules

- (c) at any time to enter upon such land and there do any work which he may consider necessary for maintaining or improving the flow of water in any river or stream on such land, and to construct dams, and to divert any river or stream, upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;
- (d) by writing under his hand, to authorise officers of the Government and Government contractors, their servants and agents, to exercise any of the powers conferred upon him by this section.
- (2) Whenever compensation is payable under this section, such compensation shall not in any case exceed, in the case of buildings and crops destroyed or damaged, the fair value of the buildings or crops.
- (3) The powers conferred by this section may be exercised before the compensation is paid, (but not before compensation has been assessed.)

18. Notwithstanding anything contained in either of the two last preceding sections, it shall not be lawful for the Governor, in the exercise of any of the powers thereby conferred to deprive the natives concerned or allow them to be deprived of the use of any water without the prior consent of the Central Board.

Cap. 149.

18A. Notwithstanding anything contained in the Forest Ordinance no land in a native reserve shall be declared to be a forest area or demarcated forest without the prior consent of the Central Board, and no rules shall be made in respect of any such forest area or demarcated forest without the prior consent of the said Board.

of any rents or relating to any damages or wrongs whatsoever in respect of such land, may be commenced, prosecuted and carried on in the name of the Chief Native Commissioner, and he may be plaintiff or defendant, as the case may require, in any such action, suit or proceeding.

(2) In any such action, suit or proceeding the Chief Native Commissioner may be represented by any advocate or by any officer of the Native Affairs Department or by any administrative officer duly authorised by him in writing.

20. (1) It shall be lawful for the Governor or any person acting under his directions or in the execution of his duty as an officer of the Colony to enter upon any land leased or occupied under a licence under this Ordinance.

Power of officers to enter upon lands in execution of duty.

(2) Any person who wilfully prevents or attempts to prevent any such person from entering upon land as aforesaid, or who obstructs or hinders such person in the execution of his duty, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

21. Any person who unlawfully occupies land in a Native Reserve, in any manner whatsoever, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Penalty for unauthorised occupation of land in Native Reserve.

22. It shall be lawful for the Governor, with the advice and consent of the Central Board, and subject to the disallowance thereof by His Majesty, to make Rules, which may

Power to make Rules.

(c) at any time to enter upon such land and there do any work which he may consider necessary for maintaining or improving the flow of water in any river or stream on such land, and to construct dams, and to divert any river or stream upon payment of compensation for buildings and crops destroyed or damaged and for disturbance or other loss;

(d) by writing under his hand to authorise officers of the Government and Government contractors, their servants and agents, to exercise any of the powers conferred upon him by this section.

(3) Whenever compensation is payable under this section, such compensation shall not in any case exceed, in the case of buildings and crops destroyed or damaged, the fair value of the buildings or crops.

(3) The powers conferred by this section may be exercised before the compensation is paid, (but not before compensation has been assessed).

18. Notwithstanding anything contained in either of the two last preceding sections, it shall not be lawful for the Governor, in the exercise of any of the powers thereby conferred to deprive the natives concerned or allow them to be deprived of the use of any water without the prior consent of the Central Board.

Native.

19. (1) All actions, suits and proceedings by or on behalf of His Majesty or by or on behalf of the Governor respecting land in a Native Reserve, or respecting any lease or licence existing thereto, or the breach of any covenant contained in any such lease or licence, or any trespass on such land, or any damages accruing by reason of such trespass, or for the recovery of any rents or relating to any damage or wrong whatsoever in respect of such land, may be commenced, prosecuted and carried on in the name of the Chief Native Commissioner, and he may be plaintiff or defendant, as the case may require, in any such action, suit or proceeding.

Action to be brought in name of Chief Native Commissioner.

(2) In any such action, suit or proceeding the Chief Native Commissioner may be represented by any advocate or by any officer of the Native Affairs Department or by any administrative officer duly authorised by him in writing.

20. (1) It shall be lawful for the Governor or any person acting under his directions or in the execution of his duty as an officer of the Colony to enter upon any land leased or occupied under a licence under this Ordinance.

Power of officers to enter upon lands in execution of duty.

(2) Any person who wilfully prevents or attempts to prevent any such person from entering upon land as aforesaid, or who obstructs or hinders such person in the execution of his duty, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

21. Any person who unlawfully occupies land in a Native Reserve, in any manner whatsoever, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Fines for unauthorised occupation of land in Native Reserve.

22. It shall be lawful for the Governor, with the advice and consent of the Central Board, and subject to the disallowance thereof by His Majesty, to make Rules, which may

Power to make Rules.

(c) at any time to enter upon such land and there do any work which he may consider necessary for maintaining or improving the flow of water in any river or stream on such land, and to construct dams, and to divert any river or stream upon payment of compensation for buildings and crops destroyed or damaged and for disturbances or other loss;

(d) by writing under his hand to authorise officers of the Government and Government contractors, their servants and agents, to exercise any of the powers conferred upon him by this section.

(2) Whenever compensation is payable under this section, such compensation shall not in any case exceed, in the case of buildings and crops destroyed or damaged, the fair value of the buildings or crops.

(3) The powers conferred by this section may be exercised before the compensation is paid, (but not before compensation has been assessed.)

18. Notwithstanding anything contained in either of the two last preceding sections, it shall not be lawful for the Governor, in the exercise of any of the powers thereby conferred to deprive the natives concerned or allow them to be deprived of the use of any water without the prior consent of the Central Board.

actions

19. (1) All actions, suits and proceedings by or on behalf of His Majesty or by or on behalf of the Governor respecting land in a Native Reserve, or respecting any lease or licence relating thereto, or the breach of any covenant contained in any such lease or licence, or any trespass on such land, or any damages accruing by reason of such trespass, or for the recovery of any rents or relating to any damages or wrongs whatsoever in respect of such land, may be commenced, prosecuted and carried on in the name of the Chief Native Commissioner, and he may be plaintiff or defendant as the case may require, in any such action, suit or proceeding.

Actions to be brought in name of Chief Native Commissioner.

(2) In any such action, suit or proceeding the Chief Native Commissioner may be represented by any advocate or by any officer of the Native Affairs Department or by any administrative officer duly authorised by him in writing.

20. (1) It shall be lawful for the Governor or any person acting under his directions or in the execution of his duty as an officer of the Colony to enter upon any land leased or occupied under a licence under this Ordinance.

Power of officers to enter upon lands in execution of duty.

(2) Any person who wilfully prevents or attempts to prevent any such person from entering upon land as aforesaid, or who obstructs or hinders such person in the execution of his duty, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

21. Any person who unlawfully occupies land in a Native Reserve, in any manner whatsoever, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Penalty for unauthorised occupation of land in Native Reserve.

22. It shall be lawful for the Governor, with the advice and consent of the Central Board, and subject to the disallowance thereof by His Majesty, to make Rules, which may

Power to make Rules.

be of general or special application, for the purpose of carrying into effect the provisions of this Ordinance with regard to and prescribing the fees to be paid for any matter or thing done under this Ordinance.

- 5
- Board and of Local Boards, the procedure at such meetings, the term during which unofficial members of such Boards, respectively, shall hold office, and the circumstances in which such members shall vacate office;
- 10 (b) The management and control of land in Native Reserves;
- (c) The management and control of water, forest and timber in Native Reserves;
- 15 (d) The conduct of surveys and the erection and maintenance of boundary marks;
- (e) The reservation of existing easements and of means of access to neighbouring lands, and the compensation, if any, to be paid therefor;
- 20 (f) The limitation of areas to be leased for building purposes;
- (g) The procedure to be adopted in regard to applications for leases and licences under this Ordinance;
- (h) The prescribing of the periods or intervals at which rents payable under leases granted under this Ordinance shall be reviewed;
- 25 (i) The registration of leases granted under this Ordinance;
- (j) The reservation of areas of land in Native Reserves for townships and trading centres, and the management and control of such townships and trading centres;
- 30 (k) The reservation of areas of land in Native Reserves for the purpose of establishing schools, churches, hospitals and other institutions of a similar character, and the management and control of such areas and institutions;
- 35 (l) The reservation of areas for afforestation or for other services to the tribe concerned whether of a like nature or not;
- 40 (m) The granting of occupation licences to individual natives or to families;
- (na) The individual, family, or communal rights of user and the settlement of all disputes arising therefrom between the members of a tribe or tribal unit for whose benefit a Native Reserve has been set aside;
- 45 (n) The procedure for the assessment and allocation of compensation payable under this Ordinance;
- (o) The fees to be paid for any matter or thing done under this Ordinance.

50 23. Nothing in this Ordinance contained shall be deemed to affect the validity of any title to land within the area of a Native Reserve granted before the commencement of this Ordinance, and all such titles and the rights thereby conferred and the obligations thereby imposed shall continue to be governed by the Ordinance under which such titles were granted as if this Ordinance has not been enacted;

55

Saving as
existing

88

be of general or special application, for the purpose of carry-
ing this Ordinance into effect and consistently with regard to
and prescribing the fees to be paid for any matter
or thing done under this Ordinance

- 5
- Board and of Local Boards, the procedure at such meetings, the term during which unofficial members of such Boards, respectively, shall hold office, and the circumstances in which such members shall vacate office;
- 10 (b) The management and control of land in Native Reserves;
- (c) The management and control of water, forest and timber in Native Reserves;
- 15 (d) The conduct of surveys and the erection and maintenance of boundary marks;
- (e) The reservation of existing easements and of means of access to neighbouring lands, and the compensation, if any, to be paid therefor;
- 20 (f) The limitation of areas to be leased for building purposes;
- (g) The procedure to be adopted in regard to applications for leases and licences under this Ordinance;
- (h) The prescribing of the periods or intervals at which rents payable under leases granted under this Ordinance shall be revised;
- 25 (i) The registration of leases granted under this Ordinance;
- (j) The reservation of areas of land in Native Reserves for townships and trading centres, and the management and control of such townships and trading centres;
- 30 (k) The reservation of areas of land in Native Reserves for the purpose of establishing schools, churches, hospitals and other institutions of a similar character, and the management and control of such areas and institutions;
- 35 (l) The reservation of areas for afforestation or for other services to the tribe concerned whether of a like nature or not;
- 40 (m) The granting of occupation licences to individual natives or to families;
- (na) The individual, family, or communal rights of user and the settlement of all disputes arising therefrom between the members of a tribe or tribal unit for whose benefit a Native Reserve has been set aside;
- 45 (n) The procedure for the assessment and allocation of compensation payable under this Ordinance;
- (o) The fees to be paid for any matter or thing done under this Ordinance.

50 23. Nothing in this Ordinance contained shall be deemed to affect the validity of any title to land within the area of a Native Reserve granted before the commencement of this Ordinance, and all such titles and the rights thereby conferred and the obligations thereby imposed shall continue to be governed by the Ordinance under which such titles were granted as if this Ordinance has not been enacted.

55

Saving as
existing rights

be of general or special application, for the purpose of carrying this Ordinance into effect and particularly with regard to all or any of the following matters:—

- 5 (a) The convening and holding of meetings of the Central Board and of Local Boards, the procedure at such meetings, the term during which unofficial members of such Boards, respectively, shall hold office, and the circumstances in which such members shall vacate office;
- 10 (b) The management and control of land in Native Reserves;
- (c) The management and control of water, forest and timber in Native Reserves;
- 15 (d) The conduct of surveys and the erection and maintenance of boundary marks;
- (e) The reservation of existing easements and of means of access to neighbouring lands, and the compensation, if any, to be paid therefor;
- 20 (f) The limitation of areas to be leased for building purposes;
- (g) The procedure to be adopted in regard to applications for leases and licences under this Ordinance;
- 25 (h) The prescribing of the periods or intervals at which rents payable under leases granted under this Ordinance shall be revised;
- (i) The registration of leases granted under this Ordinance;
- 30 (j) The reservation of areas of land in Native Reserves for townships and trading centres, and the management and control of such townships and trading centres;
- 35 (k) The reservation of areas of land in Native Reserves for the purpose of establishing schools, churches, hospitals and other institutions of a similar character, and the management and control of such areas and institutions;
- 40 (l) The reservation of areas for afforestation or for other services to the tribe concerned whether of a like nature or not;
- (m) The granting of occupation licences to individual natives or to families;
- (n) The individual, family, or communal rights of user and the settlement of all disputes arising therefrom between the members of a tribe or tribal unit for whose benefit a Native Reserve has been set aside;
- 45 (o) The procedure for the assessment and allocation of compensation payable under this Ordinance;
- (p) The fees to be paid for any matter or thing done under this Ordinance.

23. Nothing in this Ordinance contained shall be deemed to affect the validity of any title to land within the area of a Native Reserve granted before the commencement of this Ordinance, and all such titles and the rights thereby conferred and the obligations thereby imposed shall continue to be governed by the Ordinances under which such titles were created as if this Ordinance had not been enacted:

Saving of existing rights

be of general or special application, for the purpose of carrying this Ordinance into effect and particularly with regard to all or any of the following matters:—

- 5 (a) The convening and holding of meetings of the Central Board and of Local Boards, the procedure at such meetings, the term during which unofficial members of such Boards, respectively, shall hold office, and the circumstances in which such members shall vacate office;
- 10 (b) The management and control of land in Native Reserves;
- (c) The management and control of water, forest and timber in Native Reserves;
- 15 (d) The conduct of surveys and the erection and maintenance of boundary marks;
- (e) The reservation of existing easements and of means of access to neighbouring lands, and the compensation, if any, to be paid therefor;
- 20 (f) The limitation of areas to be leased for building purposes;
- (g) The procedure to be adopted in regard to applications for leases and licences under this Ordinance;
- (h) The prescribing of the periods or intervals at which rents payable under leases granted under this Ordinance shall be revised;
- 25 (i) The registration of leases granted under this Ordinance;
- (j) The reservation of areas of land in Native Reserves for townships and trading centres, and the management and control of such townships and trading centres;
- 30 (k) The reservation of areas of land in Native Reserves for the purpose of establishing schools, churches, hospitals and other institutions of a similar character, and the management and control of such areas and institutions;
- 35 (l) The reservation of areas for afforestation or for other services to the tribe concerned whether of a like nature or not;
- 40 (m) The granting of occupation licences to individual natives or to families;
- (n) The individual, family, or communal rights of user and the settlement of all disputes arising therefrom between the members of a tribe or tribal unit for whose benefit a Native Reserve has been set aside;
- 45 (o) The procedure for the assessment and allocation of compensation payable under this Ordinance;
- (p) The fees to be paid for any matter or thing done under this Ordinance.

23. Nothing in this Ordinance contained shall be deemed to affect the validity of any title to land within the area of a Native Reserve granted before the commencement of this Ordinance, and all such titles and the rights thereby conferred and the obligations thereby imposed shall continue to be governed by the Ordinances under which such titles were granted as if this Ordinance has not been enacted.

Saving of existing rights

Provided, however, that all land comprised in any such
side shall be deemed to be included in the Native Reserve in
which it is geographically situated, and all rents accruing
therefrom shall be paid to the credit of the Local Native Fund,
5 or, where there is no Local Native Fund, to the Natives
Trust Fund (in the manner provided for in ~~section 8~~ 8 (3) of this
Ordinance.)

24. Subject to the provisions of the last preceding ^{Repeal}
section (and with the omission of section 24 Part VI of the ^{Cap 140}
10 Crown Lands Ordinance, as amended by the Crown Lands No. 22 of 1925
(Amendment) Ordinance, 1925, is hereby repealed.

In witness whereof
At the Government Office
for the Colonies
London
the 14th day of
July 1925
W. G. ...

Where reference is made by the Central Board or a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such reference to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained such reference and that the members of such Local Native Council appeared fully to understand the same.

The President shall thereafter in due course forward to the Central Board or Local Board, as the case may be, a copy of any resolution passed by the Local Native Council in regard to such reference together with a report setting forth the reasons adduced by the members of such Council for or against the resolution.

Where any Local Native Council is aggrieved of being heard orally in respect of any matter relating to land within the area in respect of which such Council has been established it shall appoint a deputation of not more than three of its members and such deputation shall be heard by the Local Board concerned and may by consent of the Central Board thereafter be heard by the Central Board.

Where reference is made by the Central Board or a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such reference to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained such reference and that the members of such Local Native Council appeared fully to understand the same.

The President shall thereafter in due course forward to the Central Board or Local Board, as the case may be, a copy of any resolution passed by the Local Native Council in regard to such reference together with a report setting forth the reasons adduced by the members of such Council for or against the resolution.

Where any Local Native Council is aggrieved of being heard orally in respect of any matter relating to land within the area in respect of which such Council has been established it shall appoint a deputation of not more than three of its members and such deputation shall be heard by the Local Board concerned and may by consent of the Central Board thereafter be heard by the Central Board.

91
DOWNING STREET,

70 August, 1929.

Mr. Kenyatta
23rd July 1929.
To Kenyatta
August

Mr. Kenyatta to
Mr. E. GRIGG
20th March.

sir,

With reference to your telegram No. 31 of the 6th February, I have the honour to transmit to you the accompanying petitions addressed to me by the Kikuyu Central Association. I also enclose, for your information, copies of correspondence between the Colonial Office and Mr. Johnstone Kenyatta.

3. I would explain that after an interview with Kenyatta, of which the record is enclosed herewith for convenience of reference, Sir Edward Grigg handed in at the Colonial Office the enclosed petitions with a letter to himself from Kenyatta, of which a copy is also enclosed. Sir Edward Grigg offered no observations upon the petitions; but, as regards the question of the release of Harry Thuku, he had correspondence with the Colonial Office whilst he was in this country.

3. I shall be glad to receive your observations upon the various matters dealt with in the two petitions.

I have the honour to be,

sir,

Your most obedient,

humble servant,

OFFICER ADMINISTERING
THE GOVERNMENT OF
KENYA.

4. In the case of boundaries that have required the services of a qualified Surveyor these services have been provided by the Surveyor-General and paid porters necessary for the work of his technical staff and for placing inter-visible line beacons have been furnished by Government. The actual work of digging trenches and of erecting cairns of stones has been performed by unpaid labour from the neighbouring reserve.

5. In the case of the inter-reserve boundaries demarcated by Administrative Officers, all work of demarcation has been done by unpaid local labour.

6. The unpaid labour is, if necessary, called out under section 5 of the Roads in Native Reserves Ordinance (Chapter 114 - Laws of Kenya -), but I am informed that the natives of the Reserves are so appreciative of the advantages of definite demarcation that recourse to compulsion is seldom if ever necessary, and that all the labour that can possibly be required is, in almost every case, forthcoming voluntarily.

No. 88/100
(15027/28)

7. The assumption in paragraph 4 of your despatch under reference is correct, and natives are not called out for work in this connection in addition to the six days a quarter that they may have been required to perform under section 8 (4) of the Native Authority Ordinance (Chapter 129 - Laws of Kenya -).

I have the honour to be,

Sir,

Your most obedient humble servant,


ACTING GOVERNOR.



Masai "Treaty Boundary" (1911) shown thus
Present Masai Reserve
30 March 1975

"B"

SUK NATIVE RESERVE

Boundary of area proposed (sic) for 1919 by the Director of Surveys to be surveyed for alienation and authorised for March 1919 by H.E. the Governor with the exception of the two small areas coloured Blue and Red.

Boundary of surveyed area claimed in 1919 as Suk grazing ground.

Area relinquished 1919.

Area subsequently relinquished 1921.

Present Native Reserve

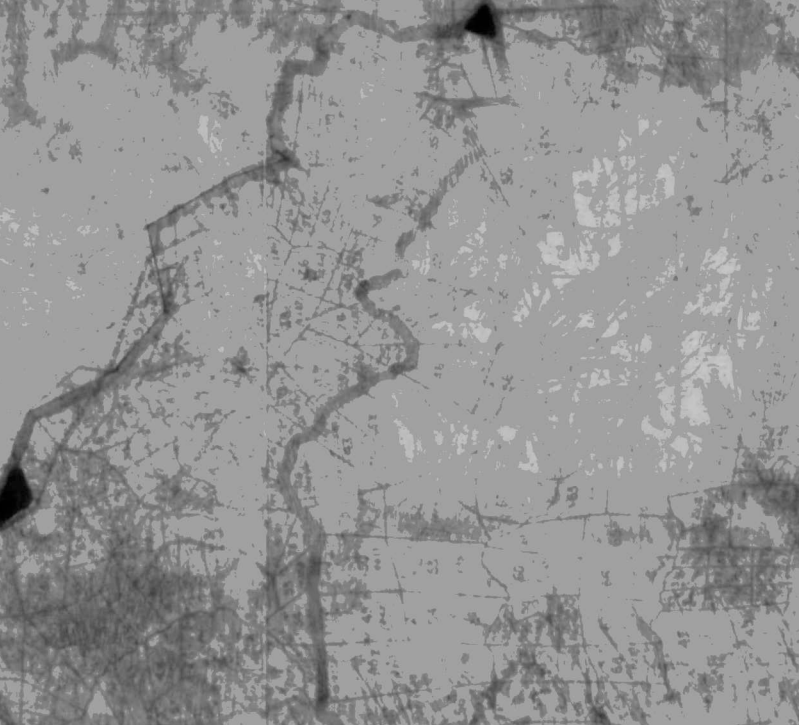
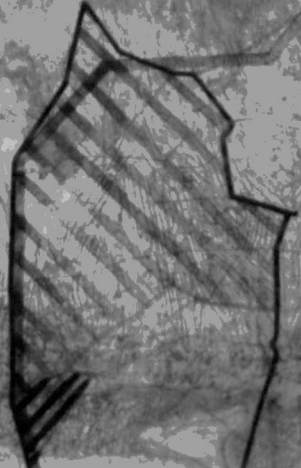


PLAN OF
LANDS OF
CONDIANI TO KISUMU

LANDS SURVEYED FROM

96
S.M.

THE NATIVE TITLE SERVICE
OF THE
STATE OF AKWIS



PUBLIC RECORD OFFICE

END

TOTAL EXPOSURES →