

1923

E. AFRICA

C.O  
19683  
REC'D  
REG 20 APR 23

OGLESWORTH, A.

DATE

17th APRIL 1923.

SUBJECT

560

EAST AFRICA TRADE ASSOCIATION.

States Lord Milner of opinion that the Committee should be appointed by C.O. Will communicate further on subject on return to Town.

CIRCULATION

Mrs.

Miss

Mr.

Asst. Secy

23/4/23

From U.S. of S.

Part U.S. of S. 15-4-23

Secretary of State.

Previous Paper

m 7

492478

MINUTES

*Handwritten notes:*  
See to [unclear]

*Vertical handwritten note:*  
Done by [unclear] 23

Some time ago I attended a meeting in A.C. [unclear] room between him & Mr. Wigglesworth. [unclear] was accompanied by [unclear] (who is now in Nyasaland). The reason [unclear] visited Mr. Wigglesworth was expected to talk about his purchase of [unclear] property in Tanganyika. But he did not.

He raised the question [unclear] I think he may have spoken to A.C. [unclear] of the [unclear] of a Committee in London on which should sit his representatives of each of the E.A. dependencies, [unclear] [unclear] [unclear] perhaps Zanzibar. The representatives [unclear] [unclear] [unclear] members of commercial firms, specially [unclear] [unclear]

Subsequent Paper

23

dependencies. The subject was new to me - I asked whether the ground was not already covered by the East African Trade Association (also  $\frac{m.s.}{m.s.}$ ) and he W. said not, as that body was practically devoted to the question of freight. He also said in reply to Mr. Mackenzie that the section of the London Chamber of Commerce devoted to Africa was not sufficient to meet the requirements of merchants.

He suggested that he should be invited to the C.O. to form a committee, which appeared to me as an extraordinary notion (as we are not particularly anxious to have one) and it seemed to me that if he & his friends wanted a new committee ~~perhaps~~ they ought to form it and then approach this office with the request that they might be received from time to time in the same way as the joint U.A. committee. I also observed that if such a committee

He said this was  
not the intention

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IN REPLY PLEASE QUOTE

DEPARTMENT

3rd May 1923.

W. Ormsby-Gore Esq.,  
Colonial Office,  
Downing Street, S.W. 1.

Dear Mr. Ormsby-Gore,

I have delayed replying to your letter of the 25th of April in order to be able to confer once more with Lord Milner with regard to his taking the Chairmanship of the Committee we are proposing to form for East Africa. Lord Milner is thoroughly in sympathy with the scheme, but owing to the many calls upon his time he will not agree to take the Chairmanship of the Committee, but I am pleased however to say that he has agreed to give us the benefit of his advice on any questions which we may care to put before him.

I discussed with him as to a Chairman and we came to the conclusion that we should like to get either Sir Frederick Lugard or Sir Eric Geddes. I am getting into touch with these gentlemen early next week, and I hope shortly to be able to report what arrangements are to be made, and to give you a full list of the members of the Committee so that you can call upon them any time thereafter.

Yours faithfully,

*Alfred Wigglesworth*

A 1111P

\* I have to send the message back to the  
Committee after the kind of that is intended. The  
information is that they want to come & talk. C.S. 7/1

were formed, it would have to be  
representation of all interests - probably  
probably the London Chamber - if it  
was to be given special recognition by  
the Dept.

It was settled that he might  
interest Lord Milner in the matter, &  
that perhaps Lord Milner would be the  
president or something of the sort & might  
approach us on the subject.

Mr Wigglesworth now goes even further  
than his previous suggestion by saying that  
Lord Milner agrees with him that the  
Colonial Office ought to appoint the  
Committee - He also suggests that Mr.  
Dunlop fore goes.

I certainly do  
not - What the Advisory Committee for  
the Work of the Colonies should be called  
Lord Milner is referring to is a precedent  
may mean I do not know. It certainly  
never met & I do not remember having  
heard of it.

A joint East African Committee appears

He is referring, no doubt,  
to the CO C<sup>o</sup> on  
the Economic Develop<sup>mt</sup>  
of the Colonies & Part<sup>ly</sup>  
which was set up by  
Lord Milner & I shall  
be happy to advise  
H. J. P.

exist already (on paper at any rate -  
see minute on 59288/22) and it seems  
to me that Selective Committee may be  
formed by Mr. Wigglesworth, it ought to  
be non-sectional. It looks to me as  
though he were trying to get official patronage  
for a body which will not be in harmony  
with the London Chamber.

C.S.  
21/4/13

I am strongly averse from the  
idea of the Secretary of State  
appointing a Committee on  
a Colonial matter, if for  
no other reason that so far as  
it could be completely  
representative, it would be  
a mere collection of axes to  
be ground.

If the Chamber of Commerce,  
or representing the whole trade  
with E.A., wish to come here  
& make suggestions, that  
can be so, the door has been  
open for 18 months. If any  
body can be formed  
representing the producers of

Dear Mr. [unclear] [unclear]

I have the honor to acknowledge the receipt of your letter of the 14th inst.

and in reply to inform you that the same has been forwarded to the

proper authorities for their consideration.

I am, Sir, very respectfully,  
Your obedient servant,

[Signature]

[Title]

[Address]

[City]

[State]

[Country]

[Post Office]

[Post Office]

[Post Office]

[Post Office]

[Post Office]

Let them come.

The next word needs to be said.

Lord Milner

Oct. 23. 1913.

564

Mr. Broughley's

For Lord Milner's Oct. 22. 1913. M  
348 & Lord Amery's opening statement  
on p. 3. As a matter of fact, practically  
all the questions dealt with by the 12  
related to Public Works and as such  
Saturdays. Labour, as when Mr. Churchill  
became so far the 12 was allowed  
to fall into obsolescence, as the results  
obtained were not considered sufficient to  
justify its continuance, as the work  
was taken over by Mr. J. Stevenson.

I share Mr. Broughley's view

Yours

23/10/13

I attach a possible  
draft reply to Mr. W. for  
Cairns

24. 10. 13

W. G.

X Sir W. Bled

I am  
the  
the  
the  
25/10

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REPLY PLEASE QUOTE

DEPARTMENT

82, Fenchurch Street,

LONDON, E.C.3.

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17th April 1988,

Hon. W.G.A. Ormsby-Gore,  
Colonial Office,  
S.W.

Dear Mr. Ormsby Gore,

I have had an opportunity of discussing with Lord Milner today the subject of the East African Committee. Although he is anxious to help in this matter he appears doubtful whether he will have the necessary time to devote to this scheme. He is getting into touch with you, and I hope you will succeed in persuading him to launch the Committee, even though he may not have time to pursue the matter.

He is of opinion, which I think you share with me, that the Colonial Office ought to appoint the Committee. He strongly approves of the scheme, and mentioned that whilst in Office, he formed a strong Committee on similar lines as an advisory body for the whole of the Colonies.

I shall be out of Town for a week, but on my return shall take an opportunity of getting into touch with you again. I hope in the meantime that you may have an opportunity of seeing Lord Milner.

I remain,

Yours faithfully,

*Alfred Wigglesworth*

AW/HP



Wark  
Colonial Office

Downing Street, S.W.1.

25th April 1923

Dear Mr. Vigglesworth,

In reply to your letter of April 17th I have, after mature consideration, come to the definite conclusion that it would be very unwise for the Secretary of State to appoint the proposed Committee.

I think experience showed that the Committee appointed by Lord Milner was not the best way of ensuring closer touch between the Colonial Office and private enterprise engaged in Colonial trade and development.

I feel that the West African precedent offers the most fruitful line to explore.

An unofficial Committee of representative planters and merchants connected with East Africa trade and development, if formed, might be received here regularly as is the Joint Committee of the West African Chambers of Commerce. Discussions between me as the Secretary of State's representative and the permanent staff on one side and such a Committee on

the

567  
END

the other on a definite agenda might be of great value to both sides. I certainly think Lord Milner would be the man to launch the Committee even if he were unable to continue President for long.

Yours sincerely

(Signed) W. Ormsby-Gore

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END

the other on a definite agenda might be of great value to both sides. I certainly think Lord Hilner would be the man to launch the Committee even if he were unable to continue President for long.

Yours sincerely

(Signed) W. Ormsby-Gore

**END**

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# PUBLIC RECORD OFFICE

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# Kenya

1934

VOL. 1

UNION PRINTING AND BOOK BINDING CO. LTD. N.S.K. 100, G.P.O.

| DESP. NO. | DATE  | SUBJECT                          |
|-----------|-------|----------------------------------|
| Jel       | 2 Jan | Nairobi Town Hall and Market     |
| Conf      | 2     | Albany                           |
| Jel       | 3     | Franchise Bill                   |
| 3         | 3     | Loa way Ordinance                |
| Conf      | 3     | Salaries of Road Location Survey |
| 3         | 4     | Uganda Railway pensions          |
| 12        | 5     | Nairobi Municipal Council        |
| 13        | 5     | Pensions                         |
| 17        | 7     | Deportation Ordinance, 1923      |
| Conf      | 7     | Kenya Coffee Plantations, Ltd.   |
| Jel       | 7     | Franchise Bill                   |
| Jel       | 8     | Agadi Agreement                  |
| Conf      | 9     | Railway Estimates, 1924          |
|           | 10    | African and Arab Education       |
| Jel       | 12    | Franchise Bill                   |
| 56        | 12    | Salaries for Abdulla Adam        |
| 58        | 14    | Mr. E. M. Joshi                  |
| 60        | 14    | Fish Protection Order            |
| Jel       | 15    | Inspector of Plantations         |
| 47        | 16    | Colgarian Syndicate              |
| 66        | 17    | Cotton Tax Order                 |
| 64        | 17    | Coconut Industry Order           |
| Conf      | 17    | Samailia Khoja School            |
| 75        | 18    | Entomologist                     |
| 78        | 18    | Thika-Nyeri Railway              |
| Jel       | 21    | Jwanjwe Market                   |
| Jel       | 23    | Military expenditure             |
| 49        | 24    | Town planning                    |
|           | 25    | Custody of secret papers         |
| Jel       | 26    | Gold prospecting                 |
| 136       | 28    | Timber Concession                |

# Kenya

1924

VOL. 1

(1924) MARCH 1924 1000 K.S.S.M. G. 26

| DESP. NO. | DATE  | SUBJECT                          |
|-----------|-------|----------------------------------|
| Jel       | 2 Jan | Nairobi Town Hall and Market     |
| Conf      | 2     | Abanaki                          |
| Jel       | 3     | Franchise Bill                   |
| 3         | 3     | Loa railway Ordinance            |
| Conf      | 3     | Salaries of Road Location Survey |
|           | 4     | Uganda Railway pensions          |
| 12        | 5     | Nairobi Municipal Council        |
| 13        | 5     | Pensions                         |
| 17        | 7     | Transportation Ordinance, 1923   |
| Conf      | 7     | Kenya Coffee Plantations, Ltd.   |
| Jel       | 7     | Franchise Bill                   |
| Jel       | 8     | Regadi Agreement                 |
| Conf      | 8     | Railway Estimates, 1924          |
|           | 10    | African and Arab Education       |
| Jel       | 12    | Franchise Bill                   |
| 36        | 12    | Gratuity for Abdulla Adam        |
| 38        | 14    | Mr. D. M. Joshi                  |
| 40        | 14    | Fish Protection Order            |
| Jel       | 15    | Inspector of Plantations         |
| 47        | 16    | Lolgorien Syndicate              |
| 66        | 17    | Cotton Tax Order                 |
| 65        | 17    | Coconut Industry Order           |
| Conf      | 17    | Samaila Khoja School             |
| 75        | 18    | Zoologist                        |
| 78        | 18    | Thika-Nyeri Railway              |
| Jel       | 21    | Jevanjee Market                  |
| Jel       | 23    | Military expenditure             |
| 119       | 24    | Town planning                    |
|           | 25    | Contents of secret papers        |
| Jel       | 26    | Gold prospecting                 |
| 136       | 28    | Timber Concession                |

| DESP. NO | DATE   | SUBJECT                                 |
|----------|--------|---|
| 184      | 25 Jan | Foreign representation of Govt of India |
| 185      | 29     | Immigration Bill                        |
| 186      | 29     | Mombasa Town Hall                       |
| 187      | 30     | Railway Loan                            |
| 188      | 1 Feb  | Audit Staff                             |
| 188      | 6      | Pension of Mr. Dandekar                 |
| 189      | 6      | Memorial of Kangri Stamps               |
| Conf.    | 6      | Liability of loan funds                 |
| 188      | 6      | Karachi Market and Town Hall            |
| Conf.    | 7      | Electric power for Kilihari at Staff    |
| Conf.    | 7      | The Ka. Hyderabad                       |
| 188      | 8      | Inspector of Schools                    |
| 188      | 8      | Exclusion of retired employees          |
| 186      | 8      | Second Crown Council                    |
| 187      | 9      | Allocation of Crown Lands               |
| 188      | 12     | Arms & Ammunition Bill                  |
| Conf.    | 2      | E & S Afr. Telegraph Co.                |
| 188      | 13     | Registrar General                       |
| 183      | 14     | Report of Chief Native Compt. 1922      |
| 187      | 15     | Allocation of Loan Funds                |
| 188      | 16     | Asst. Auditor                           |
| 185      | 18     | Govt. De. new exchange of land          |
| 188      | 20     | Ivory Trade                             |
| Conf.    | 20     | Pension of B. Quiterio                  |
| 188      | 21     | Indian Penal Code                       |
| 188      | 25     | Railway Loan                            |
| 188      | 27     | Mogadi Co. Reconstruction               |
| Conf.    | 27     | Ivory traffic                           |
| 187      | 28     | Kisumu Estate                           |
| 183      | 28     | Unclaimed balances of native soldiers   |
| 186      | 29     | Customs Revenue allocation              |
| 187      | 29     | Mogadi Co. Railway Staff                |
| -        | 29     | Financial & Economic position           |

| DESP. NO. | DATE   | SUBJECT                                |
|-----------|--------|--|
| 151       | 25 Jan | Annual representation of Govt of India |
| 152       | 29     | Immigration Bill                       |
| 153       | 29     | Mambasa Lower Plan                     |
| 154       | 30     | Railway Loan                           |
| 155       | 7 Feb  | Audit Staff                            |
| 156       | 6      | Passion of Mr. Dandekar                |
| 157       | 6      | Memorial of Kangri Shikari             |
| Conf.     | 6      | Shikari lands                          |
| Conf.     | 6      | Kachhi Market and Town Hall            |
| Conf.     | 6      | Electric Home for Kachhi at Wharf      |
| Conf.     | 6      | Thika Nyeri Railway                    |
| 158       | 8      | Inspector of Schools                   |
| 159       | 8      | Exercises to returned employes         |
| 160       | 8      | Second Crown Counsel                   |
| 161       | 9      | Allocation of Town Lands               |
| 162       | 12     | Arms and Ammunition Bill               |
| 163       | 12     | E & T Dept. Telegraphs                 |
| 164       | 12     | Registrar General                      |
| 165       | 14     | Report of Chief Native Commr, 1922     |
| 166       | 15     | Allocation of Loan Funds               |
| 167       | 16     | Asst. Auditor                          |
| 168       | 16     | Land Declaration, exchange of land     |
| 169       | 20     | Dairy Lands                            |
| Conf.     | 20     | Pension of S. Quiterio                 |
| 170       | 21     | Indian Penal Code                      |
| 171       | 25     | Railway Loan                           |
| 172       | 27     | Margadi Co. Reconstruction             |
| Conf.     | 27     | Heavy Traffic                          |
| 173       | 28     | Kabura Estate                          |
| 174       | 28     | Unclaimed balances of native soldiers  |
| 175       | 29     | Customs Revenue Allocation             |
| 176       | 29     | Mughal Railway Staff                   |
| 177       | 29     | Financial & Economic Position          |

1924  
1923

KENYA

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479

FROM  
GOVERNOR  
CORYDON

TEL

DATE  
2ND JANUARY 1924

REC'D  
Rr 3 JAN 24

FOR CIRCULATION

SUBJECT

Mr.

Mr.

Mr.

Asst. U.S. of S.

*J. H. [unclear]*  
+ [unclear]

NAIROBI TOWN HALL & MARKET SITES

Will report but protests against assumption Mr Jeevanjee is not receiving fair treatment.

Per U.S. of S.

Per U.S. of S.

Secretary of State

Previous Paper

MINUTES

*Gov*  
*59269*  
*x 23*

We must wait for the despatches, but it will lead a much clearer statement than we have had from Kenya up to now to convince me that the terms offered do not amount to taking advantage of the host confusion & delay.

We should tell Mr Jeevanjee that the Gov. has telegraphed that he is sending a full report, but he should not refer to the December despatches, which will be the final word.

8 JAN 1924

To Mr Jeevanjee

Subsequent Paper

*Gov*  
*59269*  
*24*

MINUTES

MINUTES NOT TO BE WRITTEN  
ON THIS SIDE.

3  
479  
Telegram from the Governor of Kenya to the Secretary of  
State for the Colonies. (Recd 3 JAN 24)

Dated 2nd January, 1924.

(Received Colonial Office 9.27 p.m. 2nd January, 1924).

-----  
2nd January.

See 59269  
23  
Your telegram of 21st December Jeevanjee. I will enquire into the matter and report but in the meantime I must record protest against the assumption that Mr. Jeevanjee is not receiving fair treatment. The despatches stating the basis of your negotiations with the person named were before the Government while the recent discussions were proceeding. See my despatches dated 20th December and 21st December.

137 protest 1/1/24



**M**

**W**

VIA AIR MAIL

*borneilles wnglyoxali*  
*ordywaraya elhoxyala*  
*ibylaguwne*

*wogokunbo*  
*amrehyar*

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Date  
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Paid

**M**

**W**

VIA **ECYPRADIO**

*borneidless*    *wglyoxali*    *wgodunbo*  
*ordiyaraya*    *ibhorayala*    *amrihyar*  
*ibytayawne*

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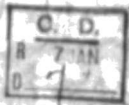
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DRAFT.

8 Jan 1924

A.M. Jeevarajee Esq.

MINUTE.

- Mr. Bull Jan 5
- Mr. Calder 7.1 f
- Mr. -
- Sir C. Jones -
- Sir G. G. G. G.
- Sir H. Read
- Sir J. M. M. M.
- Mr. G. G. G. G.
- Debt of D. D. D. D.

with ref. to your interview  
 at this Office on the 19th of  
 Dec. I am so to inform you  
 that the Govt of Kenya has  
 telegraphed that he is  
 sending a full report with  
 regard to the offers made  
 by the Govt of Kenya  
 in connection with the Town  
 Hall & Market sites at Nairobi.

(Signed) H. J. READ

1924  
1923

KENYA

C. O.  
4431

23 JAN 24

From *200*  
*Carapaden*

Date

*11 Jan, 1924*

For Circulation -

Mr.

Mr. *Sturtevant*

Mr. *Bostwick*

Asst. U.S. of S.

*S. V. Child*

*11/5/24*

Perm. U.S. of S.

Perf. U.S. of S.

Secretary of State

*Mbaraki*

*Send memo by air by sea  
cause delay that there is  
no concluded contract  
with Masor Hogan  
regarding grant of franchise  
right.*

Previous Paper

*9*

*60240*

*23*

MINUTES

*There are various points which  
must deal with later - particularly  
the misunderstanding in para. 6.*

*On the matter of franchise  
rights, I have just sent under  
this 9/5375/23 and f-p.*

*Stating bearing on this point.*

*Your stress that we  
must wait it, without legal  
advice, is a matter of Gov't  
policy. Kenya takes the  
narrow line of legal obligation,  
and I should be glad of your  
advice on that - without prejudice*

26 FEB 1924

*Answered by (3)*

*Sturtevant*  
*Child*  
*D*

Subsequent Paper

*15/5/23*

to my own view of what  
said points require.

As regards the letter of  
6.1.22 quoted by the  
A. G.

- (i) We have not had it  
before  
(ii) I do not see what it is  
relevant to the question  
point.

W.C.B.

31.1.24

On the correspondence, I am of  
opinion that it was definitely agreed  
between the J.C. & Major G. that he  
was authorized to carry out the whole  
scheme as shown on Major G.'s plan.  
There seems to me no real ground for  
understanding that the J.C. & Major G. were  
not at one on the point of the extent of  
the latter's rights in respect of the purchase.  
The object of the letter of Aug. 1921 was  
to prevent any misunderstanding on this  
point. It was in effect agreed that  
the scheme as shown in Major G.'s  
plan it was in effect agreed that

53735/23

Major G. did know them  
when the J.C. was with us on Nov. 22/23  
to Major G.'s agent that the principle  
of Major G.'s scheme had been  
accepted by J.C. & that proposals  
for terms had been prepared, the agreement  
was complete & the J.C. undertook  
to embody it in formal terms.  
After that it was too late for the J.C.  
to seek to re-open the matter as  
they attempted to do in the letter of  
6.1.22 & to throw on the  
other side the onus of ~~the~~  
suggestions before the J.C. as is  
done in the last para. of the A.G.'s  
memorandum.

I agree with you that the letter  
of 6.1.22 is irrelevant.

A.G.

1/2/26

The J.C. should not bring with us, I should  
not exchange further the various  
legal points of the desirability of  
obtaining funds essential to the scheme.

On other points: -

Para. 265 - This must await  
the result of the Court's decision  
last night regarding the trust.  
Para. 6. A para. concerning the trust.

the so-called "right" that certain  
Lopes had not been heard or heard  
of was the report of policy, not of  
substance. Never a word he keeping  
up its reputation for serious, clear & terse

Para 7. We asked the Govt. what the  
S. Off. had expressed his approval of the  
pending change. The replies referring to  
the letter to Major Gregory which I quote  
below, & says that he has "agreed"  
with Major Gregory but that his  
Executive Council & the C.D. letter  
lie in his hands.

The C.D. letter said (on the strength  
of a draft of which the draft was  
approved by the Govt.)

"As regards the change for carriage  
this appears to the S. Off. to be in  
accordance with the existing agreement  
and the initiation of the change is no  
long a breach of faith on the part of  
the U. R. administration.

In the circumstances, the S. Off. does not feel  
it necessary to intervene further in the  
matter.

It is always difficult for a  
drafted to call to mind of the Ex.

on 4/22/22

17231.

8  
Co. from that of the Governor, it  
to judge when the Governor comes  
his recommendations to be on what  
by the S. Off. But when the process  
of discussion fails it is a pity  
that the Governor should feel  
that his better judgment is followed  
by the support which the S. Off.  
was given to his expressed views.

I can find no reply to this part of  
the Governor's despatch, which we  
must simply bear in mind in  
case the S. Off. is called upon to be  
a moderator between the parties  
who are now negotiating. In the night

? Reply on the first point is  
the effect that he considers that a hope  
conferred by the late Govt & the S. Off. &  
in the hope that he will be able to  
mediate, & that the Government  
in para 6, 1921, generally, that  
the S. Off. will avoid the result of  
the negotiation, as a proper result

with 2/14  
J.H. Brown  
at once



*W.C.B.*

*To Mr. Bottomley*

*Dec 18/1*

4431  
GOVERNMENT HOUSE,  
KENYA,  
23 JAN  
EAST AFRICA

28th December 1923.

PERSONAL.

*9,*

*9*  
*55255*  
*23*

My dear Bottomley,

I have your letter of the 15th November with regard to Lord Inchcape's letter. It seemed inevitable some time ago that the only chance of a settlement was a personal discussion with Grogan, and I am glad he is coming out. I hope to get a settlement of these laborious and unsatisfactory negotiations.

Yours sincerely,

*R. G. Grogan*

W.C. BOTTOMLEY, ESQ. C.M.G., C.B.E.  
COLONIAL OFFICE,  
LONDON.



*Edwards*  
*In March 1911*  
*18/11*

4431  
GOVERNMENT HOUSE,  
KENYA  
23 JAN  
EAST AFRICA

PERSONAL.

28th December 1923.

9.

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9  
85205  
23

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Yours sincerely,

R. T. Coundon

W. C. BOTTOMLEY, ESQ. C.M.G., C.E.F.  
COLONIAL OFFICE,  
LONDON.

KENYA.

No. 1.

CONFIDENTIAL.



GOVERNMENT HOUSE

NAIROBI.

KENYA.

4431

2nd January, 1924.

23 JAN 24

10

My Lord Duke,

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53735  
23  
random.

With reference to Your Grace's despatch, No.1602 of November 15th last, on the subject of Mbaraki, I have the honour to transmit for Your Grace's consideration, a memorandum prepared by the Acting Attorney General. The letter of January 6th, 1922, mentioned in the last part of the memorandum is quoted in full (the other letters are those which were enclosed in the despatch under reply), and I trust that Your Grace's legal advisers will agree on reference to the complete correspondence, which does not appear to have been put before them, that there has been no concluded contract between this Government and Major Grogan for the grant of foreshore rights over the whole area held at Mbaraki by him or by the Kilindini Harbour Wharfs and Estate Company.

2. I take this opportunity of explaining in greater detail than was possible in my telegram of the 7th of December the reasons which led me with the concurrence of my Executive Council to request Your Grace to approve of further negotiations being undertaken in regard to the purchase of at least some portions of the Mbaraki Estate. The whole of the Mbaraki Estate consisting of 199.28 acres it appears has been sub-leased by Major Grogan to the Kilindini Harbour Wharfs and Estate

Company -

HIS GRACE

THE DUKE OF DEVONSHIRE, K.G., P.C., G.C.M.G., G.C.V.O.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.,

Company - certain portions being subject to option of purchase. A Schedule which shows the various arrangements in detail, and an appendix which gives the allotment of the 31,453 shares will be forwarded by next mail. The Equator Saw Mills Limited is a large shareholder in that Company.

3. At the end of October Mr. Bradley, Lord Howard de Walden's alternate Director on the board of Equator Saw Mills Limited, informed this Government that it had come to his knowledge as Director of Equator Saw Mills Limited that some dispute might arise with regard to the title to the land on which Mbaraki Pier was built, and he warned this Government of the risks it would run if it made any cash payment in this connection. Mr. Bradley in a subsequent interview with the Colonial Secretary stated that Major Grogan was only the Agent of the Kilindini Harbour Wharfs and Estate Company and was authorized to negotiate, but not to receive any cash payments direct nor to enter into any agreement without the approval of the Company, and that the Company's Board of Directors was in a position to give any information concerning Mbaraki Pier which Government might desire.

4. Since the date of this interview applications have been received by Government from Mr. Tannahill on behalf of Major Grogan and from the Kilindini Harbour Wharfs and Estate Company - the one asking that title to the reclaimed land be made in the name of Major Grogan, the other that title be given to the Company.

5. The position of the African Wharfage Company creates a further complication. The African Wharfage Company has hitherto paid its rent of £12,000 per annum to Major Grogan, but Mr. Bradley has stated that the rent for October was paid to the Kilindini Harbour Wharfs and Estate Company

at the request of the Company's solicitors. It was felt that in the event of purchase by Government the vendors should make their own prior arrangements with the African Wharfage Company, and that this could most easily be done locally. This Government could in no circumstances agree to Lord Inchcape's proposal of a monopoly of handling cargoes over Mbaraki and of cargoes by specified steamship lines over Government piers; its policy must be to treat all competing lighterage Companies alike.

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6. Adverting in conclusion to Your Grace's Confidential despatch of October 10th last, I confess I am rather at a loss to imagine the reason which led Your Grace to understand that the documents to which reference was made in that despatch had not been placed by me on official record in the Colony. The papers enclosed with that despatch (with the exception of Major Grogan's letter of September 26th to Sir Herbert Read) were placed in the relative files in my Secretariat on September 17th, together with my own note made at the interview of July 30th at the Colonial Office, dealing with the purchase of the 7 acres under the cliff and containing Major Grogan's proposed terms and a note as to the ownership of the railway siding.

7. The actual reference to the approval of the railway siding connection to Mbaraki Pier is contained in Sir Herbert Read's letter to Major Grogan of May 19th last which was enclosed with Your Grace's Confidential despatch of May 23rd. I did and still do hold the view that it is a matter for regret that Major Grogan should retain a strong sense of grievance as to the siding charge to Mbaraki Pier, and I expressed this opinion in Executive Council. But Council was unanimous in its support of the General Managers' view that Government was quite correct in imposing this charge; and this advice together with Sir Herbert Read's

letter -

( 4 )

letter to Major Grogan of May 19th brought me to the conclusion that, whatever my own desire might be, I could do nothing more towards meeting Major Grogan's contention.

8. I shall keep Your Grace informed of the progress of the negotiations which will be renewed on the arrival here of Major Grogan.

I have the honour to be,

My Lord Duke,

Your Grace's most devoted and  
most obedient servant,

*R. K. Sydney*

GOVERNOR.

L 1694/23.

19th November, 1923.

The Hon'ble Colonial Secretary,

Nairobi.

re: MBARAKI  
 re: Your No. 1923/41 of the 15th inst.

Except as regards the 52 acres I cannot agree that Major Grogan is possessed of the foreshore rights over the other areas fronting on Mbaraki Creek.

The position as to the 52 acres is clear. Under the lease the lessee is given liberty to erect wharves, piers and railway sidings on the land leased and the lessee covenants during the term to indemnify His Majesty against all actions claims demands and expenses in respect of any injury or infringement of any public rights in the foreshore on the said land occasioned by the exercise of the liberty given under the demise.

The indemnity was very necessary in view of the decision in *A.G. v Parmenter and others* (In re Portsmouth Harbour) 10 Price 378-411 (24 R.R. 723). *Parmenter and others v Gibbs*, 10 Price 412-464 (24 R.R. 745) fully reported in *Shipping Cases Vol. XII/II* p. 672. "The Crown cannot make a grant of any part of the sea-shore so as to entitle the grantee to obstruct the public in the right of navigation and access to the sea".

As regards the other areas fronting the Creek Major Grogan cannot have acquired any foreshore rights by virtue of the titles under which he holds:

- (a) A lease under the Crown Lands Ordinance, 1902, of an area fronting the sea would not carry with it

foreshore rights unless expressly included in the demise.

(b) A title under the Land Titles Ordinance, 1908, would not carry foreshore rights under the saving provisions of Section 33. "Nothing in this Ordinance shall be held to affect the rights of the Crown, except where it is, <sup>otherwise</sup> expressly provided in this Ordinance or any rights which the public may possess or be entitled to in respect of any immovable property".

(c) Similarly a lease under the Crown Lands Ordinance, 1915, would not carry the foreshore. "A conveyance lease or licence under this Ordinance shall not unless otherwise expressly provided therein confer any right to the foreshore". - see Section 76.

The Secretary of State, however, cables "I am satisfied that the 1921 assurance covered the right of foreshore held by Major Grogan's Company and not merely the foreshore covered by the Crown Lease".

He evidently treats the three letters referred to in his telegram of the 10th November, 1923, as forming a concluded contract, but in my opinion this is not the case.

The letter of the 9th August, 1921, refers to a scheme ..... reclaiming land on the foreshore and later "Major Grogan ..... is anxious ..... to have a definite assurance that he is entitled to carry out the whole scheme". The reference to foreshore was taken to mean the foreshore area covered by the 52 acres, since as pointed out above he did not possess

any foreshore rights in respect of the remaining areas. If then Major Grogan had in mind the whole of the foreshore area and Government part only the parties were never at one in the matter, and there can be no contract.

The letter of the 4th November, 1921, (122) was not a final acceptance since it was superseded by the letter of the 6th January, 1922, (123).

In continuation of my letter No.S.21296/112 of 4th November, with reference to Major Grogan's scheme for reclaiming foreshore at Bharaki, I am directed to inform you that while Government does not propose to charge more than normal rent for land recovered, no modification of the existing lease can be entertained until definite suggestions shall have been put forward by yourselves for consideration by Government. Should any such suggestions be accepted it would be necessary for them to be embodied in a formal document and submitted to Government's legal advisers for approval."

The Secretary of State's attention does not appear to have been directed to this last letter and certainly no suggestions have as yet been placed before Government's legal advisers - and in the absence of such I fail to see how there can possibly be a concluded contract.

I forward herewith comments by the Hon'ble Commissioner of Lands on book form.

AG: ATTORNEY-GENERAL

C. D.  
R 8 FEB  
D 8

DOWNING STREET,

February, 1924

16

*Handwritten notes:*  
Affairs  
C. D.  
S  
G. J. M.  
Sir,

Sir,

I have etc. to ack. the recpt.

of your Confidential despatch No. 1,  
of the 2nd of January, regarding the  
position of the Government in rela-  
tion to the areas with sea frontage  
held by Major Grogan, or, the  
Kilindini Harbour Wharves and Estate  
Company, at Mbaraki.

**DRAFT.**

KENYA,

CONFIDENTIAL. (3)

GOVERNOR CORYNDON.

MINUTE.

Mr. Bottomley - 2. 2. 24.

Mr.

Mr. *Shelton* 4/2

Sir G. Davis

Sir G. Grindle

Sir H. Road 4/12/24

Sir J. Macdonald

Mr. C. G. ...

DATE OF DISCUSSION

*Handwritten:*  
L. C. ...  
Sat ...

2. After full consideration of

the correspondence, on which Major  
Grogan bases his claim that he is  
entitled to make use of the whole of  
his sea frontage for the purpose of  
erecting wharves, I have come to the  
conclusion that both the Governor  
and the Secretary of State  
gave a definite pledge to Major  
Grogan which, irrespective of the  
question whether binding legal effect  
would be given to the pledge, could

not be withdrawn at this stage without breach of faith.

3. It would appear, indeed, that there is no real ground for contending that the Government and Major Grogan were not at one on the point of the extent of his rights in respect of the foreshore. The object of the letters of August, 1921, was simply to prevent any misunderstanding on this point, and if the exercise of such rights fell within the scheme as shown on Major Hickey's plan, of which there seems to be no doubt, it was, in effect, agreed that Major Grogan should have those rights. When the Acting Colonial Secretary wrote on the 4th of November, 1921, to Major Grogan's agent, that the principle of Major Grogan's scheme had been accepted by the Government, and that proposals for terms would be prepared, the agreement was complete, and the Government undertook to embody it in general formal terms.

4. I am advised that the further

16A  
letter of the 6th of January, 1922, does not affect the legal position on this particular point, and that it was not open to the Government to place on Major Grogan, and those associated with him, the onus of placing suggestions before the Government.

5. The matter is one which will presumably have arisen ~~from~~ <sup>during</sup> local negotiations with Major Grogan and the Company, which were to be begun on his arrival in Kenya ~~at the~~ <sup>beginning</sup> ~~beginning~~ of January, but I have thought it necessary to inform you at once of the view which I have formed on this matter. As regards paras. 2 to 5 of your despatch, it is unnecessary for me to make any comment in view of the local negotiations.

6. With regard to para. 6, there would appear to have been a misunderstanding as to the meaning of the passage in para. 4 of my predecessor's

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

Sir C. Davis.

Sir G. Grindle.

Sir H. Bond.

Sir J. Masterton Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

Confidential

Confidential despatch of the 10th  
of October, in which he expressed his  
regret that certain correspondence had  
not been placed on official record in  
the Colony. This passage was no doubt  
ambiguous, but it is certain that the  
view of the Duke of Devonshire was that  
record of the correspondence in question  
should have been sent from the C.O. to  
the Govt. of Kenya, and that his expres-  
sion of regret <sup>was intended</sup> ~~was to be applied~~ in that  
sense, ~~and that~~ The question whether you  
~~had~~ had, or had not, yourself placed the  
correspondence on record on your return  
to the Colony, was not present in his mind.

I have, etc.

(Signed) J. H. THOMAS

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I have, etc.

(Signed) J. H. THOMAS