

1921 (27)

KENYA

C O
42782
AUG 1

FROM
LENON, J.W.

DATE
21ST AUGUST 1921

FOR CIRCULATION
Mr.
Mr.
Mr.
Mr. Grindle
Sir H. Lambert
Sir H. Road
Sir G. Fiddes
Mr. Wood
Mrs Churchill

SUBJECT
BAMBOO CONCESSION
Encloses copies of documents sent to Nairobi in April 1921.

Previous Paper
418801

MINUTES

Put in

The Governor saw Mr. Lenon, Mr. Chesnaye and Mr. Finch Hatton this morning, at an interview at which Mr. Bushe and I were present. The Governor told them that he could not agree to any further extension of their option which had now expired, but that information was now being collected with regard to the areas available with a view to putting them up to tender, and that it was up to them, if they wished to apply for one of these on the new conditions now under consideration, which would certainly include provision for an area considerably less than that included in the previous concessions and for considerably larger expenditure. It was impossible to promise them one of these areas, or to give them the first choice, but any work that they could show that they had performed in connection

Subsequent Paper
418801

with

MINUTES.

MINUTES NOT TO BE WRITTEN
ON THIS SIDE.

with the previous concessions would be taken into account in considering their tender. I promised that as soon as we received information from the local Government as to what terms were proposed, we would communicate with them further, and a careful note should be made as to this.

Sir E. Northey's idea is that it will be sufficient to call for tenders in Nairobi, and to inform persons who have actually applied to us in this country of the terms proposed, so that they may have a chance of tendering if they wish. I think that he is right and that there is no need to advertise in this country as well.

There is no action to be taken at the moment.

Put by.

W. P. H. H. H.

Scout

418

ms

26 Nov 21

at

PHILIP ADDRESS
ANTONIS LONDON
1976 VICTORIA

WELINGTON CLUB
GROSVENOR PLACE, S.W.1

42782

Aug. 25

REC
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Ms. Battersby
many thanks
for your note of Aug. 22.
I am sending under
separate covers copies of
documents sent to Harold
in April 1921 for your
information and that of
Edmund Hooley

Very truly yours
Wm. Wilson

PUBLIC RECORD OFFICE.

ne Document, being 17 leaves and 1 map showing
provinces of Uthmaniyah district of Kirkuk

as been removed to MPG 1037

30-1-70

H. Neany

OBSERVATIONS BY CONCESSIONAIRES ON PROPOSED ALTERATIONS IN AGREEMENT AND LICENSE.

A G R E E M E N T.

Clause 1.
Extension of
time limit.

(a) It is submitted that the proposed time limit is insufficient. The conditions at the present time are unusually unfavourable for obtaining capital especially for untried ventures in new Countries. The difficulties will be increased in this case by reason of the Concessionaires not being in a position to guarantee interest on the capital at the outset nor having buildings machinery orders &c., to offer as security. It would appear, however, from opinions obtained that with improved conditions there should be, given time, a reasonable possibility of obtaining capital for flotations (See copy extracts herewith from letters as to raising capital)

Conditions of
Flotation.

By a letter from the Commission of Lands (AL/AJ No. C19 Commission of Lands to E.J. Stacey) dated 24-4-28 it was agreed that the formation of the Company should be based on the laws in force in 1906 and 1913 with their amendments. Paragraph 2 of that letter indicates the necessity for alteration of this Clause in Agreement.

Paragraph 3 of the same letter lays down rules to the effect that the Companies registered to operate in East Africa Protectorate would automatically come under the provisions of the New Companies Act which are at present unknown or at most in Bill form.

Clause 1.

(b) The alterations in this Clause have been made by the Syndicate's solicitor on the ground that it is only reasonable to expect repayment by any new concessionaires proposed by the Government of the East Africa protectorate of any expenses incurred by the concessionaires in opening up the new venture. This will probably be a considerable sum and it would obviously be unjust that the Concessionaires should lose all the money put into the new venture, particularly in view of the fact that the idea originated with them and that the preliminary investigations were undertaken at their expense. Any new party taking up the Concession should pay for the benefit of the work carried out by the concessionaires.

L I C E N S E

Clause 1.

The alterations in this Clause have been inserted with a view to rendering the interpretation of the Clause as wide as possible in view of the fact that raw material can be treated in ways so varied and complex that it is impossible to lay down any hard and fast rule as to the method best suited to give satisfactory returns on the capital invested.

The economic potentialities of Bamboo are so imperfectly known that the value of the various processes can only be proved by experience.

2.

Nil.

3.

It is submitted that the new or revisionary License should be upon the same terms as the present one.

Twenty five years is not a long time to allow to show an adequate return on large capital invested in an enterprise of this nature and the Concessionaires should be in a position to feel that in any extension of this term they would not be penalized by any fresh conditions being imposed.

4.

(a) The fixed fees originally mentioned in the License are heavy in comparison to the terms offered to Concessionaires in other Countries and it is especially urged that during the first and second years with little or no production this fee should be as low as possible.

It is also submitted that it is advisable to clearly define payments in English coinage in view of the possible change in the monetary standard in Kenya Colony and for the convenience of engineers.

(b) The amount of the Royalty has been reduced from Rs. 1/- to 1/2-. It is suggested that the former amount was excessive and for the reasons above stated it is advisable to define the amount in English coinage.

The words "cellulose or any product thereof" are suggested as a preferable substitute to "dry pulp".

5.

Nil.

6.

It is customary for Company Books to be submitted only to Government officials or Chartered Accountants especially qualified to deal with such matters and it is thought that the suggested alterations in this Clause will meet this point.

7. It is unlikely in view of the fact that no firm of machine manufacturers can guarantee delivery F.O.B. England under two years that the factory can be erected and in full working order in 5 years. The alterations suggested therefore provide that 10 years be allowed in which to erect a factory capable of turning out a large quantity of manufactured material. The small factory which the Clause stipulates shall be created within 3 to 5 years, to be gradually enlarged as the conditions of production require. It may be noted that the Indian Government in a pre-War Concession in Burma allowed 7 years for the erection of a factory.

An addition has also been made to the Clause of the contingences under which work is likely to be rendered impossible, and which it is thought only reasonable should be inserted.

8. Nil.

9. Nil.

10. Nil.

11. There are certain Common earths &c., which might be of use in the cellulose industry and possibly exist in the Concession area and it is therefore submitted that for the utilisation of the premises as indicated in the alterations it should be permitted. The development of such a large industry still in its infancy might be hampered by the restriction.

12. C, to E. The suggested alterations in the conditions of this clause have been based on technical and legal advice obtained. Owing to the situation of the Concession some distance from the sea, the vastness of the undertaking and the initial difficulties it is submitted that the Concessions now asked for are essential and that the withholding of these would make the proposition unattractive and impracticable except under the best economical conditions.

(b)

Messrs. Sindall and Bacon expert paper chemists have put forward a suggestion based on English practice.

13. This has been slightly amended to conform with Clause 4b.

14. This appears to be a repetition of Clause 8.

15. It is submitted that the use of the timbers within the Concession area should be unrestricted for the first 5 years subject only to the control of the Conservator of Forests and Forest Ordnance.

16.

See Clause 7.

17.

Nil.

18.

The proposed addition has been inserted to prevent any possible misunderstanding between the Government Officials and the Concessionaires of other employees and is, it is submitted, reasonable.

19.

It is submitted that this Clause is covered by Clause 2 and is otherwise objectionable for the following reason:-

In Countries where mining rights are open to anybody exuse may be found for blackmail or intimidation by property owners engaged in other pursuits unconnected with mining.

No Company with large interests at stake could afford to be subject to stipulation of surface or water rights through mining activity but on the other hand no reasonable exploitation would be refused where the surface rights were not destroyed or interfered with. It is suggested that if the deletion of this Clause is not agreed to it should be entirely altered in the above sense.

20.

Nil.

21.

It is suggested as reasonable that any future variation or amplification of such rules and regulations shall not come into operation with regard to Concessionaires for a period of 5 years from the date of publication and it should be incumbent on the Forest department to supply notices of any such variations &c. to legal and other authorised representatives of the Company or Concessionaires.

London, S. W. 1.
23-30, Charing Cross,
St. Paul's Church,
London, S. W. 1.

OPERATIONS BY CONSTRUCTION.

Whitchell House,

29-30, Charing Cross,
London, E.W. 1.

5th April, 1921.

Sir,

We have the honour to submit to you herewith a draft of the Concession granted to Messrs. Dashwood, Lenon, & Chassey, Finch-Hatton & Storey, who return the original Concession herewith with this draft, and some observations for your consideration.

Our clients have been very carefully through the draft proposed Concession, and from the notes which they send you herewith, you will realize it is impossible for them to deal with the Concession in its present form under the conditions that exist here at the present time.

To show you that they have been putting a great deal of work into the matter, we send you some extracts from letters as to the raising of the necessary finance over here, and you will realize from this that it is quite impossible to have done more than they have done at the moment.

The draft explanations will give you their reasons for desiring the alterations in the draft Concession, and the alterations have been inserted in red ink so that you may readily see the difference between the original document and the alterations which they desire.

Mr. Dashwood who is now in Nairobi, will, no doubt, see you on this matter, and we have dispatched

to him by this mail a facsimile copy of the draft.

We therefore ask on their behalf that you will favourably consider the extension of this concession in the form that we have submitted to you, and perhaps you would be good enough to communicate with us after you have considered the draft as to whether it may be granted in this form.

We have the honour to be,

Your obedient servants,

(SOD) STANTON & MACKENZIE.

The Secretary,
Concessions Board,
Nairobi,
Kenya Colony,
East Africa.

the Indian Companies Act 1913 or any Ordinance amending
or replacing the said Acts in the East Africa
Protectorate

THE SCHEDULE above referred to.

Short Particulars and conditions.
to be embodied in the License

1. The License shall confer upon the Licensees full liberty and power for the Licensees and their Agents and workmen to enter upon the land the subject of the License and to cut in accordance with the directions of the

License to cut Bamboo.

Conservator of Forests and subject to the conditions hereinafter appearing *(and all timber intended therewith) in making the same into bamboo fibre, paper pulp, bamboos growing on the land and convert the same into paper pulp for the other purposes and all timber intended therewith* purpose of sale.

2. There shall be expected and reserved in the license all minerals

No mineral rights.

mineral oil and precious stones within or under the premises with full liberty and power to work and get the same and all Native rights if any

3. The License shall be for a term of 25 years commencing from the date

Time duration of license under renewal conditions.

of execution PROVIDED that if the Licensees shall have paid all monies reserved under the License and shall have observed and performed all the covenants and conditions on the part of the Licensees to be observed and performed and shall have efficiently exercised the liberties and powers granted under the License to the satisfaction of the Governor and shall give to the Governor Six Months' notice before the termination of the License of

their desire to take a new License of the land then the Licensees shall be entitled at their own costs and charges to a ^{new} License for a further term of 25 years commencing from the termination of the License upon ^{the same} such terms and subject to ^{the same} such covenants conditions and provisions as the Governor may approve as ~~contained~~ ^{those of this license}

4. The License shall contain covenants on the part of the Licensees.

(a). To pay a fix fee or royalty (hereinafter called "the fix fee") during the first ^{year} ~~year~~ ^{second} ~~year~~ ^{after the registration of the bamboo at Rs. 1000} ~~year~~ of Rs. 1000 during the ~~second~~ ^{second} year of Rs. 2000 and during the residue of the term ~~Rs. 3000~~ ^{Rs. 300} such fee to be payable in advance on the first

Fix fee.

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day of January in every year.

(For its equivalent in local currency cellulose and paper products)

(b) A royalty of ~~Rs. 10/-~~ ^{ONE} per ton of manufactured ~~dry~~ pulp PROVIDED that the licensees shall be entitled to set off against the fixed fee paid in any year the royalty aforesaid payable for the same year but in no case shall a less sum than the fixed fee be paid by the licensees to the Government in any one year for the liberties and powers granted under the license.

Royalty

5. The licensees shall if they desire to have the land or any part thereof surveyed deposit prior to survey with the Conservator of Forests such a sum as he shall direct and on completion of survey the licensees shall pay such further sum as may be necessary to cover the cost of survey or the licensees shall be entitled to a proportionate refund if circumstances so require PROVIDED ALWAYS that the licensees may employ a licensed Surveyor for the purposes aforesaid then and in such case no deposit shall be made

Conditions of Survey

6. At all times while any royalty is payable to keep proper books an account which shall at all reasonable times be open to the Governor or other ^{any} or firm of chartered accountants as may be mutually agreed upon such persons as he may appoint for the purpose of inspection.

Account books open for inspection.

Factory to be erected. Capacity 3000 tons pulp per annum.

To erect a factory within two years from the date of the license capable of turning out at least ^{handlong} 3000 ^{TONS PER WEEK} tons of manufactured pulp per annum and to erect ^{handlong} within 10 years from the date of the license a factory capable of turning out ^{handlong} 1000 tons per annum and to keep the same working for six months in each year to the satisfaction of the Conservator of Forests ^{unless prevented by scarcity of labour or market or financial conditions} ~~which~~ ^{locks out interference of foreign}

Subletting conditions

7. To comply with all lawful demands made upon the licensees by the Conservator of Forests.
8. Not to assign sublet or otherwise part with the possession of the license or any part thereof without the previous consent of the Governor in writing.
9. To pay Rs. 15 for every such consent.

Additional
Clause 12a

- (c) (a) To make and keep up roads to & from the concession and subdivide all roads through the Concession
- (d) (a) To make and keep up branch lines railways and sidings and other like buildings in good repair
- (e) (a) To convey on the railways
 - (i) (a) Baled fibre or tow at wattle bark or country produce rates to port (16/- ton)!
 - (ii) (a) The pulp or cellulose at 30/- per ton to Mombasa
 - (iii) (a) Manufactured paper or allied products inclusive of 30/- per ton to Mombasa or no article produced shall be carried at no greater charge ^(than article is carried or at no greater charge) than 3d per ton per mile
- (f) (a) To want securing labour for Concession work
- (g) (a) To at all times communicate free of charge all accurate information in their possession regarding the treatment or conversion of any raw product into cellulose pulp & paper or allied products and materials.
- (h) (a) To transport all fuels earths clays and materials chemicals machinery in part or whole at lowest rates & at all times to give special quotations for transport of material whether raw or manufactured if for the purpose of this license
- (i) (a) To admit all materials imported for the purpose of this license at duties no higher than those ruling during the first year

which the Licensees may have erected or built on the land comprised in the license making reasonable compensation for all damage done to the premises by such removal.

Free Cutting for 18.
Government

The Governor shall be at liberty to authorize the cutting of bamboo

and timber necessary for Government works *provided that the removal of such bamboo timber or other forest products in no way interfere with the necessary supply of raw material for such trading for the purposes of this license*

Mining rights. 19.

~~Nothing contained in the license shall be deemed to limit or affect the rights of the Government or of a prospector or lessee of mining rights under the laws for the time being in force relating to mining~~

Resident Agent 20.
in Colony.

The Licensees shall at their own expense keep an agent in the Protectorate whose address shall be notified to the Conservator of Forests in whom all Notices and directions under the License can be served.

Subjection to 21
Forest Rules and
Ordinances.

The rights and interests of the Licensees shall in addition to the specific conditions set out above be subject in all respects to the Forests Ordinance Rules and Regulations for the time being in force. *they are provided*

Cost of License 22.
paid

The Licensees agree to pay the costs of the license amounting to Rupees sixty.

DATED

1920

SIR EDWARD MORTHEY, K.C.M.G.

- to -

others

MESSRS. DASHWOOD, LESSE & CHESTNUT

Draft

AGREEMENT

Stanton & Mackenzie,
Whitehall House,
82-83, Charing Cross
S.W.1.

AN AGREEMENT made this day of One Thousand
and Nine Hundred and BETWEEN SIR CHARLES CALVERT BOWRING ---
Knight Commander of the Most Excellent Order of the British Empire a ---
Companion of the Most Distinguished Order of Saint Michael and Saint ---
George the Acting Governor of the East Africa Protectorate (hereinafter
referred to as the Governor) of the one part and CECIL EDWARD BATEMAN ---
DASHWOOD, JOHN WALTER LEMEN, GEORGE ROBERTS CHESNAYE and JOHN BRIND ----
ELLIS resident in the East Africa Protectorate (hereinafter referred to
as the Concessionaires) of the other part WHEREBY it is agreed between
that said parties hereto as follows that is to say:-

If the Concessionaires before the Twenty First July One Thousand Nine
Hundred and Twenty One at the expense in all things of the Concession-
aires or of the Company to be formed as hereinafter mentioned shall --
procure:-

(a) A Company (hereinafter called "The Company") to be formed and ---
registered under the Companies (Consolidation) Act One Thousand Nine --
Hundred and Eight under such name as shall be agreed upon between the
parties hereto with a capital of not less than Fifteen Thousand Pounds
and with the object (amongst others) of accepting a licence for the --
purposes hereinafter mentioned.

(b) Then the Governor will execute in favour of the Company a Licence
(the Short particulars and conditions whereof are set forth in the --
schedule hereto) to cut bamboos over an area situate on the Kikuyu ---
Escarpment and Aberdare Mountains in the approximate position indicat-
ed on the plan annexed hereto and thereon edged with red of not more --
than Fifty Thousand acres (with a minimum area if possible of Thirty --
Thousand acres) in one block. The Boundaries of the said land to be --
hereinafter agreed by the Company and the Conservator of Forests.
If the Concessionaires fail within the period aforesaid to form and --
register a Company this Agreement shall ipso facto be determined.

IN WITNESS WHEREOF Sir Charles Calvert Bowring Knight Commander of
the Most Excellent Order of the British Empire a Companion of the ---
Most Distinguished Order of Saint Michael and Saint George the Acting -
Governor of the East Africa Protectorate hath on behalf of His Majesty
the King caused the Public Seal of the Said Protectorate to be here-
unto affixed and also set his hand and the Concessionaires have here-
unto set their hands the day and year first above written.

signed Sealed and Delivered)

THE SCHEDULE ABOVE REFERRED TO.

Short Particulars and conditions to be embodied in the Licence.

1. The Licence shall confer upon the licensees full liberty and power for the licensees and their Agents and workmen to enter upon the land the subject of the Licence and to cut in accordance with the directions of the Conservator of Forests and subject to the conditions hereinafter appearing bamboos growing on the land and convert the same into paper pulp for the purpose of sale.
2. There shall be excepted and reserved in the Licence all minerals mineral oil and precious stones within or under the premises with full liberty and power to work and get the same and all Native rights if any.
3. The Licence shall be for a term of twenty five years commencing from the date of execution PROVIDED that if the Licensees shall have paid all monies reserved under the Licence and shall have observed and performed all the covenants and conditions on the part of the Licensees to be observed and performed and shall have efficiently exercised the liberties and powers granted under the Licence to the satisfaction of the Governor and shall give to the Governor Six months notice before the termination of the Licence of their desire to take a new Licence of the land then the Licensees shall be entitled at their own costs and charges to a new Licence for a further term of Twenty Five years commencing from the determination of the Licence upon such terms and subject to such covenants conditions and provisions as the Governor may approve.
4. The Licence shall contain covenants on the part of the Licensees.
 - (a) To pay a fixed fee or royalty (hereinafter called the fixed fee) during the First year of Rupees One Thousand during the second year of Rupees Two Thousand and during the residue of the term of Rupees Three Thousand such fee to be payable in advance on the First day of January in every year.
 - (b) A royalty of Rupees One per ton of manufactured dry pulp. PROVIDED that the Licensees shall be entitled to set off against the fixed fee paid in any one year the royalty aforesaid payable for the same year but in no case shall a less sum than the fixed fee be paid by the Licensees to the Government in any one year for

the liberties and powers granted under the License.

5. The Licensees shall if they desire to have the land or any part thereof surveyed deposit prior to Survey with the Conservator of Forests such a sum as he shall direct and on completion of Survey the Licensees shall pay such further sum as may be necessary to cover the cost of Survey or the Licensees shall be entitled to a proportionate refund if circumstances so require PROVIDED ALWAYS that the Licensees may employ a Licensed Surveyor for the purposes aforesaid then and in any such case no deposit shall be made.
6. At all times while any royalty is payable to keep proper books of account which shall at all reasonable times be open to the Governor or such person as he may appoint for the purpose of inspection.
7. To erect a factory within two years from the date of the Licence capable of turning out at least Three Thousand tons of manufactured pulp per annum and to keep the same working for Six months in each year to the satisfaction of the Conservator of Forests.
8. To comply with all lawful demands made upon the Licensees by the Conservator of Forests.
9. Not to assign sublet or otherwise part with the possession of the Licence or any part thereof without the previous consent of the Governor in writing.
10. To pay Rupees Fifteen for every such consent.
11. Not at any time to use the premises for any purpose not expressly or by implication authorised and in particular not to get or remove any minerals mineral oils precious stones or any ores from the premises.
12. The Licence shall contain covenants on the part of the Governor
 - (a) Not to grant any other person a Licence to cut bamboos in or over the land the subject of the Licence.
 - (b) To permit the Licensees under the direction of the Conservator of Forests and subject to the Ordinances Rules and Regulations for the time being in force governing the use of water to use the waters of any streams within the area for the purpose of the Licence but not so as to pollute the same or to diminish the flow or divert the course of any stream beyond the

boundaries of the land.

13. The Licensees shall pay the Government royalty for the time being in force on all bamboos cut for the purpose of sale.
14. The Licence to be subject to such Forestal conditions as the Conservator of Forests shall think fit to impose.
15. The Licence shall include the right to use such timber in general within the area other than Muzaiti (Cordia Uababaranaia) and Amangara (Podocarpus Nilanilanaus and Podocarpus Gracillior) as may be required for building and fuel for the purposes of the Licence for a period of Five years from the date of issue and thereafter subject to such charges and conditions as may be imposed by the Conservator of Forests.
16. The Licensees shall be permitted to erect Factories and other necessary buildings on such sites within the area as may be deemed necessary for the purposes of the Licence subject to the approval of the Conservator of Forests.
17. The Licensees shall be at liberty at the expiration of the Licence or at the expiration of any further term which may be granted or at the sooner determination thereof to remove any buildings machinery or works which the Licensees may have erected or built on the land comprised in the Licence making reasonable compensation for all damage done to the premises by such removal.
18. The Governor shall be at liberty to authorise the cutting of bamboos and timber necessary for Government works.
19. Nothing contained in the Licence shall be deemed to limit or affect the rights of the Government or of a prospector or Lessee of mining rights under the laws for the time being in force relating to mining.
20. The Licensees shall at their own expenses keep an Agent in the Protectorate whose address shall be notified to the Conservator of Forests on whom all Notices and Directions under the Licence can be served.
21. The rights and interests of the Licensees shall in addition to the specific conditions set out above be subject in all respects to the Forest Ordinances Rules and Regulations for the time being in force.
22. The Licensees agree to pay the cost of the Licence amounting to Rupees Sixty.

PROVINCE OF UKAMBA

DISTRICT OF KIKUYU

Locality North East of Kijabe.

Scale: 4 Miles = 1 Inch.

Chasway, Dashwood, Lenon & Ellis

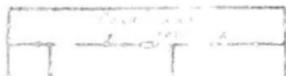
Re-Subdivision No. (Bamboo Concession)

of Subdivision No.

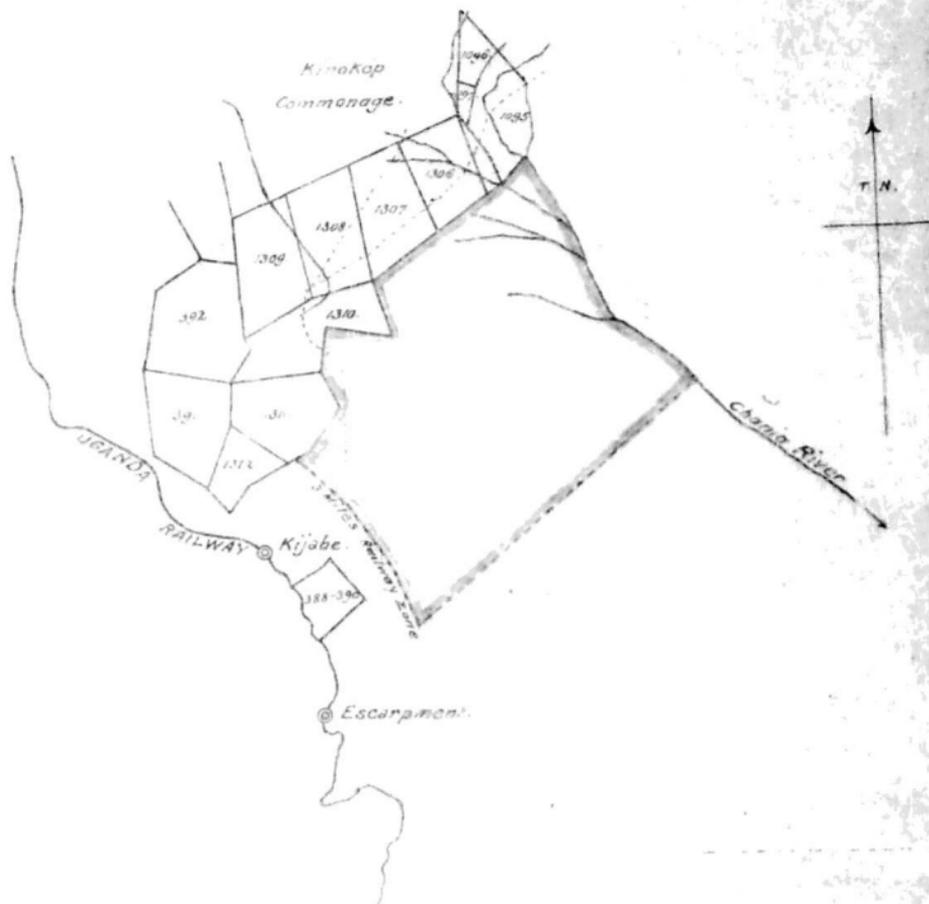
of Section No.

L.O. Portion No. 466.

Area: to be 50 000 Acres within the area edged red comprising 67000 Acres (approx.)

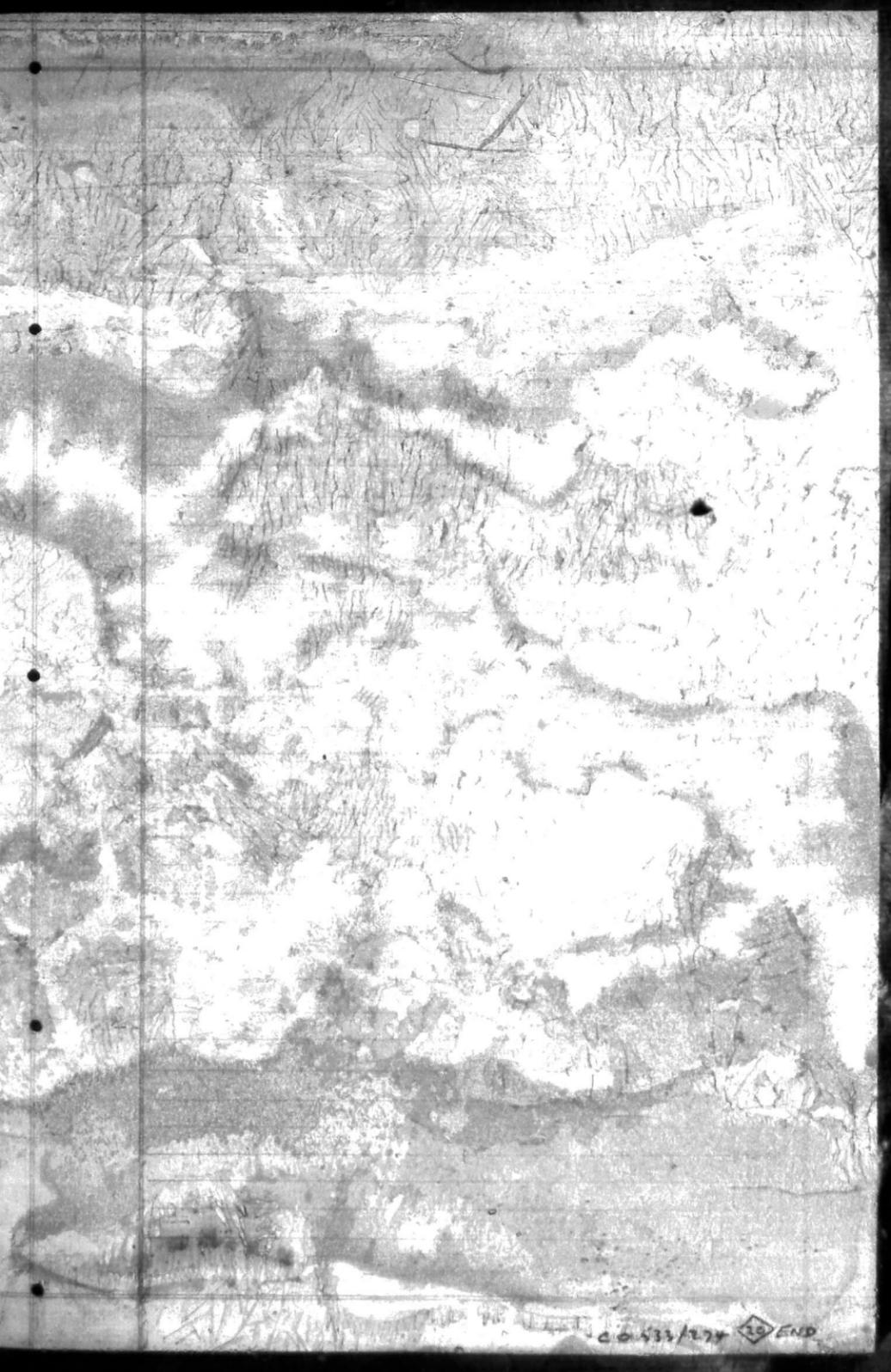


Bearings			Distances	
°	'	"	Feet	



1910
 Deputy Director of Surveys, Colonial Branch.

No 6006.



Filed

1920

Crown

with

*C. E. B. Dashiwood and
Others*

Duplicate

Agreement

for Bamboo Concession

*Land Department
Nairobi*