

EAST AFRICA PROT

C. O.
19140

19140

REC'D
2 JUN 05



to or Individual.

page to K.

1909

8 June

Previous Paper

18043

Concession of land

Sends copy letter to Council of Lands regarding present position of negotiations. Receipt the final of the two alternative proposals - enclosed letter subject to modifications suggested by Council of Lands Affairs.

W. Reed.

We have had no substantial news of this affair for two years. In his letter of the 27th of March 1907 (1106) Sir K. Mackenzie stated the arrangement he desired, & the C.A. were instructed to prepare an agreement. The thing dropped in the Aug 1907 (27979) so far as the C.O. was concerned, & apparently for about another year so far as the C.A. were concerned (27979) the C.A. then wrote to say that it appeared that Sir K. Mackenzie appeared to think that the lease would

Recd 19 June 1905
copy to a 10 842 10025
10566

10566

be granted locally.

Suddenly (1894/09) Mr. Fowler appears on the scene & endeavours to rush the C.A. & us into making an agreement which wears a very different look from that prepared on the basis of Sir H. Mackenzie's letter of the 27th of March 1907, which we were prepared to go through with. The main difference is (see attached draft in 1894), that he cuts out all the preliminary agreement about the provision of funds & goes back to our letter of the 10th of April 1906 (on $\frac{M}{1725/06}$) which merely sent a statement showing the conditions on which he got ^{then} was planting land for cotton growing in the puta district & went on to say that in all cases the negotiations for a lease must be initiated in the pt.

Everything is now in a tearing hurry according to Mr. Fowler. If he isn't able to proceed in the next few days, he will lose another season or more. He has been to see you once, one twice, within the last few days, to say this & similar things.

We must not be fluffed. We must
insist on

(1) getting to know from the D.A.C.
exactly how things stand in the plea
with reference to this question.

(2) retaining the obligation as to
the provision of capital which in this case
took the place of ~~for~~ confidential
enquiries as to financial standing.

As he is excited, we wish to
avoid any imputation of delay here.
I think we might reasonably send ^a the
further telegram, of which I submit a
draft. But we must be firm, I think,
on the two main points referred to above,
and we must scrutinise very closely
any other alterations which Mr. Foulkes
may desire to make in the agreement
originally drafted.

H.B.

June 10

47, VICTORIA STREET,
WESTMINSTER.

SW



2/2/09

June 2nd 1909.



The Under Secretary of State for the Colonies,
Colonial Office, LONDON, S. W.

Sir,

Reference to the call Mr. Foulkes and I made upon Mr. Reed yesterday, I enclose, as requested, a copy of the last letter received by me from the Commissioner of Lands at Nairobi, the original of which Mr. Reed has seen.

On behalf of Lady Mackenzie and Mr. Foulkes, I write to say that of the two alternatives mentioned in paragraph 5 of Colonel Montgomery's letter, they are prepared to accept the first with the modifications suggested by Mr. Hollis the Commissioner of Native Affairs, which are to the following effect:-

That the boundaries defined by the Government Surveyor in consultation with Mr. Foulkes, be adhered to so far as regards the Gabaki River on the North and the Jolani Road on the South, but that the extreme Eastern boundary shall be determined by the local usage when formed, so that is the boundary in dispute owing to Native rights.

Should you not be able to grant the exact Eastern boundary fixed by the Surveyor, which includes the disputed area, and should the portion in dispute be moved more to the westward, then compensation should be made by the Eastern boundary being extended proportionately so that the 20,000 acres already granted may be retained.

2347-11

↑ increase
the terms of the
agreement drafted by Sir K. Macdonald
letter of 27 March 1907 that for the
the present basis of discussion

With reference to the lease, what the trustees are anxious to do is to conform strictly to the terms set forth in Lord Elgin's letter to us of April 10th. To these terms they agreed to be bound, and it was on those terms that they went out to secure the land and to mark the boundaries. It was also on the understanding that no large an expense has been incurred up to now.

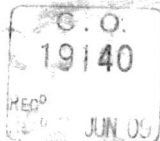
It is most important that permission be granted for work to be commenced as soon as possible, and I will therefore act as if a grant were in your favour unless you feel under a duty to expedite matters as much as possible, and the same lease proposed so that we may not miss another season.

I am, Sir,
Very respectfully,
Yours faithfully,
Murdoch Macdonald

* No 133 of 1907 in reference to 844

Under Secretary State for the Colonies,
Colonial Office, LONDON, S.W.

✓



~~- 0027 -~~

Office of the Commissioner of Lands,
Nairobi.

21st January 1909.

Sir,

I have the honour to reply to your letter of the 19th. November regarding the land which you have applied for in the Malindi District.

2. It is true that the Land Officer gave Mr. Foulkes a permit to occupy 20,000 acres; this was done at Mr. Foulkes' request after he had shown Mr. Barton Wright a telegram he received from the District Officer. The telegram ran as follows:-

"I wired to Land Officer re your application. I will
" inform you on hearing from him. No local objections
" exist if natives have spaces reserved for development of
" their shambas."

Mr. Foulkes will have seen from this that there were a number of natives on the land whose claims would have to be considered.

Mr. Foulkes was also written to on the 18th. February 1907 that forest areas might have to be deducted.

3. The land has been gone over several times by Surveyors and District Officers, and all inquiries have shown that there are many native claims on the land for which Mr. Foulkes received a permit to occupy. This has been pointed out the last time in a letter which the Land Officer wrote to Messrs. Byron & Harrison on the 6th. July 1908 stating that the two areas of 10,000 acres would be granted, provided there is sufficient land available on

survey, and provided that this land is clear of native and other claims.

4. A few days after this your solicitors, having received your letter of the 22nd. June, wrote practically in the terms of it on the 17th. July, stating that their clients did not recognise that the Government had any right to deprive them of land which had been previously granted to them. They did say that you might be prepared to take other land in lieu of any that might be found to belong to natives; but this was left an open question. The whole case was then considered by my legal adviser, and the letter written of which you complain. It was written in order to make our position clear, but you were told that your case would still be considered if land could be found for you.

5. The position is in effect this. You have asked for a large area and we have told you we will give it you. The land you want is partly waste land with no claims, partly waste land with claims, and partly under the cultivation of natives. How far the claims will be proved we cannot say until the Land Court has tried the cases. We have every wish to give you the area you asked for, but we can only do it in one of two ways.

If you must have land at once we will survey the area you have asked for and make it over to you, but subject to all rights which may be proved on any part of it. In this case you may find yourselves left with much less land than you have applied for.

Or if you will wait till the Land Court has decided claims, we will do our best to give you the full amount you want, though not necessarily in one block.

If you are prepared to accept one of those two

OFFICE LONDON

...the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...
...of the ... of the ...

CC
11/14

1914-0

EAP

78

RECEIVED
929

[Handwritten scribbles]

DRAFT

Telegram Jewryard

11 June

Sent 2:45 PM
11/6/09

Jackson
furness

Nairdi

June 2002

With ref to my tel. 3rd June
underfloor

MINUTE.

- Mr. Butler June 18
- Mr. Read 18
- Mr. Just.
- Mr. Anstobus.
- Mr. Cox.
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Seely.
- The Earl of Crewe.

state position of
per forest
negotiations as to
rephrased amulettly
Mackenzie concessions

a. fully as possible

by telegraph

stipulation

[Handwritten signature]

Confidential

79

Nairobi

June 17th 1907

Dear Macnaghten,

In confirmation of my telegram of 4 days date I am sending you semi-officially certain papers containing the depositions of some of the witnesses in the inquiry held by Judge Bailie into the charges against Silberrad as taken by the Agent and subsequently sworn to by the Deponents before me, the Provincial Commissioner of Kenya. I think there is very little doubt that Routledge represented himself as a Government Officer in order to influence the evidence of the witnesses in the original inquiry and

and that both he and two
"loached" them and instructed
them as to what they were
say, in order to strengthen
case.

That case, it must be remem-
bered, was very weak at the
outset, as the incident of the
potomac woman only came
the knowledge of the Routledge
after they had brought them
charges, which originally rest
on the evidence of the two
Hielth and Hancera. The
ledges had evidently made up
their minds that that evidence
was to be of the nature

by them.

30

The papers were seen by the
own Advocate who, while ad-
mitting that they established
a part of the witnesses having
been furnished with beyond any
doubt, was sceptical as
to their having much legal value
and considered that it would
not be advisable to try to make
of public life of them, more
particularly in view of the state
of "I gave false evidence
cause I thought Mr. Routledge
was a Government Officer" certain
on the face of it this statement
was a poor compliment to the
police, though I think there is
doubt that it merely indicates
tendency, almost invariable
amongst natives, to reply to questions
put

put by a Government Officer
the sense which they think
desires.

This tendency is well known
to all our magistrates and
make the necessary allowance
for it in trying cases. Roubillat
was equally aware of it and
made use of it for his own
poses.

If confronted with the
cloud paper, he would not
say that they had been obtained
by intimidation. This I need
scarcely say was not true.

However, you and your
will doubtless know how to
make the best use of this
information.

Very sincerely yours

Whitson