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Governor  
Command  
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1910  
14 March

PROPERTIES OF THE SULTAN OF ZANZIBAR ON THE MAINLAND

Transmits copy of Mr Hollis' report containing his recommendations as the result of discussion with Mr Lyne. Asks for telegraphic instructions as to whether he is to recognise claims made by the Sultan's Government to any land or building which His Highness held by reason of his Sovereignty and not in a private capacity. Is far from satisfied that the Z'bar Govt is justified in making such claims.

previous Paper.

W  
1924  
9

- Mr. Risley
- Mr. Read.

The Governor wishes to know by telegraph whether, in dealing with the properties <sup>claimed</sup> granted by the Sultan of Zanzibar on the mainland, he would be justified in refusing to recognize a claim made by the Sultan's Government to any land or building which His Highness owned or over which he had control by reason of his sovereignty and not in a private capacity.

The agreement of the 14th December 1895 relating to the possessions of the Sultan on the mainland will be found at page 968 of the accompanying volume (No. 87) of State Papers. It is provided in that agreement that the administration of these possessions shall be entrusted to officers appointed direct by H.M.G., to whom alone they shall be held to be responsible; that these officers

copy to go to 16 April  
To go to 5 May 1909

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12276

Sovereign (but substantially belonging to the public) and lands & buildings owned privately by the Sovereign as an individual, is probably far less sharply defined than it is in England -

I think it probable that a potentate like the Sultan of Zanzibar was able to make some pecuniary profit out of some lands & buildings which we should undoubtedly hold to be public lands & buildings (e.g. rent paid for an official house by the Govt. of the East Ind. Co., may have gone straight into the Sultan's pocket), and on this ground he wd claim those lands & buildings as his private property.

We must therefore guard against the destination of the profits being used as a criterion as to the character of the property - subject to this being understood when we write to the Govt. eventually, I agree with Mr Butler

JJA

8/4

+ J  
H. J. R.  
14/11

Mr. J. J. R.

Agree

14/14

14/14

To do as proposed

at once

Dr 15

GOVERNMENT HOUSE,  
NAIROBI. APR 10  
BRITISH EAST AFRICA.

March 11th 1910.

EAST AFRICA PROTECTORATE.  
Confidential (22).

194

My Lord,

40  
2/20  
1/9

I have the honor to inform Your Lordship that in accordance with the instructions contained in Your Lordship's despatch No. 529 of June 16th 1909 negotiations have been entered into with His Majesty's Agent at Kassiber with regard to the claims made by the Government of His Highness the Sultan to certain lands and buildings in this Protectorate.

2. In pursuance of an arrangement made with Mr. Clarke Mr. Hollis was instructed to discuss the claims, which had been submitted by the Sultan's Government, with Mr. Lyne the Director of Agriculture for the Kassiber Protectorate who visited East Africa in January of this year for the purpose.

A copy of Mr. Hollis' report containing his  
recommendations

THE RIGHT HONOURABLE,

THE EARL OF CREVE, K.G.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

recommendations as the result of such discussion is enclosed.

3. Your Lordship will observe that it is recommended that certain of the claims made by the Zanzibar Government should be admitted on the ground that there is evidence to show that the land or houses were the property of the Sultan prior to the date when the Administration of His Highness's Mainland dominions was taken over by the British Government.

4. As at present advised, I am far from being satisfied that the Zanzibar Government is justified in claiming the right to hold and control, as against the Administration, any land or buildings solely on the ground that such land or buildings were under the control of the Sultan prior to the agreement of December 14th 1895 between Great Britain and Zanzibar. I have therefore thought it advisable to invite Your Lordship's consideration of this matter before proceeding further in the negotiations with the British Agent in Zanzibar.

5. Had the Sultan's Government claimed that the land or buildings were the private property of His Highness and

been able to substantiate such claim it might well be that this Administration should admit that the Sultan has the right to receive the revenues from such properties and, if he should think fit, to alienate the whole or any portion of them. It would seem however that the Zanzibar Government does not, and I understand could not base its claims on the ground that the land and buildings are the private property of the Sultan, but asserts its right to hold and control such land and buildings as property belonging to the Sultan's Government, i.e. claims that the Government of the Protectorate of Zanzibar should have control of public lands within the jurisdiction of the Government of the British East Africa Protectorate.

6. I would submit to Your Lordship that His Highness has, when transferring to the British Government the administration of his dominions within this Protectorate transferred to that Government the right to hold and control for the purposes of such administration all properties in the Protectorate which he as Sultan and not in a private capacity had before controlled and from which he had obtained revenue.

7. The Agreement of 1895 provides that the British Government shall have control over public lands, forts and buildings, and further that all customs duties, taxes and dues shall be accounted for to, and shall be expended by, that Government. It certainly would seem that land which was under the control of the Sultan by reason of his Sovereignty must be deemed to be public land and that the right to control such land, and to receive and expend the revenue derived therefrom is now vested in the British Government.

8. Having regard to the fact that some of the claims made by the Sultan's Government relate to land situate in the Malindi district where enquiries into titles to land under the Land Titles Ordinance will commence immediately, it is desirable that the question as to whether the claims of the Sultan's Government should or should not be allowed should be decided at an early date. Until the principle which is to govern the question has been decided it is impossible that the claims should be settled locally. I

would

would therefore ask that Your Lordship will give the matter your early consideration and instruct me as to whether I should be justified in refusing to recognise a claim made by the Sultan's Government to any land or building which His Highness owned or over which he had control by reason of his Sovereignty and not in a private capacity.

9. I should be glad if possible of a telegraphic communication in the matter.

I have the honour to be,

Your Lordship's humble,

obedient servant,

  
GOVERNOR.

## INCLOSURE

Copy  
In Despatch No. 28 of 27/3 1910

SECRETARIAT,

Nairobi,

January 21st 1910.

Sir,

I have the honour to report that in obedience to instructions I have met Mr. R. E. Lums, the Director of Agriculture of the East Africa Protectorate, and have discussed with him the claims put forward by the Government of His Highness the Sultan of Zanzibar to various plots of land, buildings, etc., in the East Africa Protectorate. We are submitting similar recommendations to our respective Governments.

2. I propose to take the claims serial:-

ROMANA DISTRICT

1. NEOMANI:

This estate can be properly divided into three parts, which I have marked A, B and C on the accompanying plan. There can be no question regarding the ownership of A, i.e. the coconut plantation, which is bounded on the North by Sheriff Jaffer and Company, Mahmud Ullah, Ismael Rishani, Hamid bin Suliman and Hidedi, and on the west by the sea. The land was purchased by Seyid Majid from various persons, and the Sultan of Zanzibar has either received the produce or the rent of his plantation ever since. The "stony land", however, from the old Magazine post, the quarantine shed to Rashid bin Abdullah's on the south of the coconut plantation, (B), as well as the

land

THE SECRETARY TO THE ADMINISTRATION,

Nairobi.



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land on the east of the cocconut plantation, which is bounded on the east by Abdul Wahid's and Rashid bin Abdullah's and on which is a stone quarry, (C), is open to dispute. Mr. Lync states that the area marked B was formerly under cultivation, but the palms were cut down in Seyid's Said's time. It was not purchased by any of the Sultans of Zanzibar, but was taken by a former Livali of Mombasa, Ali bin Masur, in the sixties from Rashid bin Abdullah on the ground that Seyid Said had bombarded the town of Mombasa from this spot in 1857. In other words it was acquired for public purposes and it is as essential to H.M. Government for the defence of the harbour now as it was 50 years ago.

The area marked C is rocky land and for the most part covered with bush. It was however purchased in the sixties by the Livali of Mombasa on behalf of the Sultan of Zanzibar, and although there are no documents forthcoming Mr. Lync states that there are five ex-slaves of the Sultans of Zanzibar living on this land, as well as the grandson of Rashid bin Abdullah, who can bear witness to it having formerly belonged to and being still the property of the Zanzibar Sultans.

His Majesty's Government have always regarded both plots, B and C, as Crown property, though there is no record of how they became so, and it has presumably been assumed that they were waste or public lands. But seeing that the land all round is privately owned it is improbable that these plots were unowned.

In 1905 the Mombasa authorities opened a stone quarry on C, and although the Zanzibar Government protested at the time (vide Mr. Roger's letter of May 11th - extract

attached

attached) little or no notice was taken, and stone is still quarried there by our lessees.

Mr. Lync and I suggest as a compromise that B should remain the property of the East Africa Protectorate, whilst C should be handed over to Zanzibar. B is not only required for purposes of defence but a portion of it has been marked off and used for a long while as a quarantine station. As the Mombasa Rifle Range is situated on C, and has been there undisturbed for a great many years, the Zanzibar Government should concede this land in perpetuity to His Majesty's Government and grant to H.M.'s Government the facilities for keeping the butts and range in repair, such as the free supply of stone from the quarry.

It is possible that the eastern boundary of both B and C will be disputed by Abdul Wahid and the descendants of Rashid bin Abdullah.

B. MGISIMA MNUKWA.

Like the preceding estate this claim can be properly divided into three parts, which are marked D, E and F on the accompanying plan.

His Majesty's Government do not dispute the right of the Sultan of Zanzibar to the western portion (F). The rest of the area is shown as Protectorate land on the maps of Mombasa Island. It is not known, however, how the greater part of it came to belong to us. The most easterly portion was given by Seyid Khalifa at the suggestion of Consul Smith to the Imperial British East Africa Company about 1889 in order that a landing mark might be built for ships entering

entering the harbour, and Mr. Lyne's contention, which sounds plausible, is that as the eastern and western portions (D and F) belong or belonged to the Zanzibar Government the central portion (E) formed part of the same property.

This estate together with the Kisumu estate, which will be mentioned presently, were seized by Seyid Barghash about 1863 from the then Livali of Mombasa, Mohamed bin Abdullah, in payment of a debt of Rs. 18,000/-.

As a compromise Mr. Lyne and I suggest that H.M.'s Government should relinquish their claim to E, provided that no papers can be found in support of their claim, and that the Zanzibar Government should relinquish their claim to D. The boundary would then be the footpath leading to the ferry. But the Zanzibar should permit H.M.'s Government to continue to use rent free such land as is required on E for purposes of a cattle quarantine station as well as the shore for the erection of boat sheds.

The Tissa Saifa also claim E and possibly a part on the whole of D. They base their claim on the fact that another Livali of Mombasa named Mohamed bin Suliman, forcibly took his land from them, but as Mohamed bin Suliman was Livali some 30 years ago, their claim is not likely to meet with success when it comes before the Recorder of Titles. It however supports the Zanzibar claim to the whole area as Mohamed bin Abdullah could only have come into possession of this land by inheriting it from Mohamed bin Suliman.

3.

MEMORANDUM

His Majesty's Government do not claim this estate. It was purchased by Seyid Barghash from Salim bin Mohamed El-Bajuni.

4. MIRAOCHI.

His Majesty's Government do not claim this estate. As stated above, it was seized by Seyid Barghash from Mohamed bin Abdullah, a former Liwali of Mombasa.

5. Gorokani, Kaka Kuu.

This was a house which belonged to Khalifa (bin Ali?) and which was formerly used by the Masrui as a civil jail. It has now been pulled down and the land on which it was built leased to an Indian by H.M. Government. It was taken possession of by Seyid Barghash when he conquered the Masrui.

During Sir Arthur Hardinge's tenure of office Mohamed bin Khalifa, the son of the original owner, submitted a claim for this building, but Sir Arthur Hardinge, who settled the case himself, decided that it belonged to the Government. The Zanzibar claim rests on the fact that he did not specify to which Government it belonged. But as the house was used as a jail, and even under the old agreement only such buildings as the Sultan reserved for his private use belonged to him, this building and its site was obviously handed over to H.M. Government under the 1895 Treaty.

6. Liwali of Mombasa's House.

This house originally belonged to Ali Sarafi who died leaving only his wife. Seyid Majid bought out the wife's share of the property ( $\frac{1}{3}$ ) and under Mahomedan law inherited the remainder. Seyid Majid used to stay in this house when he visited Mombasa, but since his death in 1870 it has not been used by any of the Sultans of Zanzibar.

It is obviously one of the public buildings made over to H.M. Government in 1895 by Seyid Hamud bin Thwain.

7. Open space of ground between Liwali's house and Road.

This is the site of a house which it is stated Seyid Barghash purchased for 500 dollars. The house has since been demolished, but if the purchase was a private transaction as Mr. Lyne believes to be the case, the plot is without doubt the property of the Government of His Highness the Sultan.

This land has been exchanged by H.M.'s Government with Salim bin Khalifa, the Liwali, for land elsewhere. If it turns out that the plot is really the property of the Zanzibar Government, some compromise must be made.

8. KIBOKONI AND MAKADARA.

The Government of His Highness the Sultan of Zanzibar claim as their property a large plot of land extending from Mombasa Club to the Sports Club and including on the one side of the Mombasa-Kilindini Road all the land in the Makadara District and on the other side all the land up to the Railway.

They base their claim on the belief that Seyid Said took this land from the Magrui (between 1857 and 1858), but they have no proofs. It was taken over by the Imperial British East Africa Company from the Sultan of Zanzibar as public land in 1887 and has been regarded as belonging to H.M. Government since 1895.

The Zanzibar Government only wish to claim such fragments of this large area as have not been alienated or built upon by H.M.'s Government but these amount to 20 acres or more. The land however has been regarded as

public

285  
public land since 1887 and there is nothing to show that  
private  
was the property of the Sultan of Zanzibar or was  
acquired by a former Sultan for anything but public purposes.  
Unless therefore evidence can be produced to show that the  
land was privately acquired the claims cannot be submitted.  
9. Old Forts and Batteries and the site of the Town  
of the Masherifu (erroneously termed Masrui town).

According to the 1896 Agreement, public lands, Forts  
and buildings became the property of H.M.'s Government. Neither  
the site of the old town nor the Forts and batteries were  
privately owned by the Sultans of Zanzibar and the claim  
falls to the ground.

NATIVE DISTRICTS:-

10. Plot of ground near Mr. Jones's house.
11. Kivanja Upande wa Jiva.
12. Mbuyu Majengeo.
13. Sabaki.
14. Mapimo.
15. 16. Marikobuni 1 and 2.
17. Gongoni.
18. Magarini.
19. Kitupa Kisa.
20. Galana.

His Majesty's Government make no claim to any of  
the above shambas, unless it is held by the Recorder of  
Titles that as some of them have been allowed to go out of  
cultivation, they have been abandoned and are therefore  
liable to forfeiture. In some of the above mentioned  
properties the boundaries are disputed by private persons:

in others the heirs of one Salim bin Ali El-Yakubi may contest the claims of the Zanzibar Government.

21 and 22. Faka Mwata and Miskoni.

These shambas we have been unable to locate but I do not think H.M.'s. Government is likely to lay any claim to them, if they have not been abandoned.

23. Fuwani.

This village is outside the ten mile limit, but a number of Arabs have sent their slaves to cultivate land there. The Land Court will presumably hear no claims outside the Sultan's dominions.

24. Marafa.

This village, which is a long way outside the ten mile limit, is in the new Nyika Reserve. Mr. Lyne is recommending the Zanzibar Government to withdraw this claim to this area.

25. Fundi Jan.

H.M.'s. Government do not claim the two plots alleged to belong to the Government of His Highness's the Sultan of Zanzibar; but these, like some of the Malindi plantations would appear to have been abandoned as they have not been cultivated for a great many years.

MANHINI:-

26. Liwali's house and compound.

Like the Liwali's house in Mombasa this is a public building and the claim cannot be admitted. The plot of ground surrounding the Liwali's house is claimed by the sons of Syid bin Ahmed, the former Liwali, as their private property.

BOMA WA UPANDE.

27. Site of Market Place.

This is public land and the claim cannot be allowed.

28. Shamba.

There is unfortunately no information available regarding the ownership of this estate. It is known to cover a large area on which are several huts and it is said to be in charge of one Hamed bin Suliman Al-Busaidi and to support 122 ex-slaves of Sultan Barghash. I have heard of a Government shamba as Boma Upande but not a Zanzibar Government one and I suggest that nothing be done in this matter until the District Commissioner at Malindi has been able to visit and report.

LAMU.

29 & 30. Site of Fort and Market Place.

These are public buildings and public lands and the claim cannot be admitted.

31. Stone House in charge of Hamed bin Sud.

This house belonged to an Abyssinian woman, named Bahari Sen, who died without heirs before the advent of the I. E. East Africa Company. Her property was therefore inherited by the Crown, i. e. by the Sultan of Zanzibar, but was kept by the Liwali, Sud bin Hamed, and was inherited from him by his son, Hamed bin Sud, who is now in possession. I do not think H. M.'s Government can very well claim this house now, and I am of opinion that the Zanzibar Government would also find difficulty in proving their claim.

32. Piece of ground to the South of Lamu.

H. M.'s Government has no claim to this estate which was given by the people of Shella to Seyid Majid. It has,

however



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however, been in the possession of the Bin Hamed family for a great many years and I understand that they claim to have exchanged it with another Sultan of Zanzibar for a plot in Zanzibar.

- 33. Site of old jail at Shella.
- 34. Site of old jail at Sfu.
- 35. Site of old jail at Fasa.
- 36. Site of old jail at Kipini.
- 37. Site of old jail at Kan.
- 38. Site of old jail at Burkan.

These are public lands and the claim cannot be admitted.

WITU.

- 39. Plot of ground in the occupation of Sultan Qsari.

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The Zanzibar Government have no right to this area and Mr. Lyne is recommending them to withdraw their claim.

Sd/- A.C. HOLLIS

Secretary for Native Affairs.

ZANZIBAR.

May 11th 1905.

EXTRACT.

.....

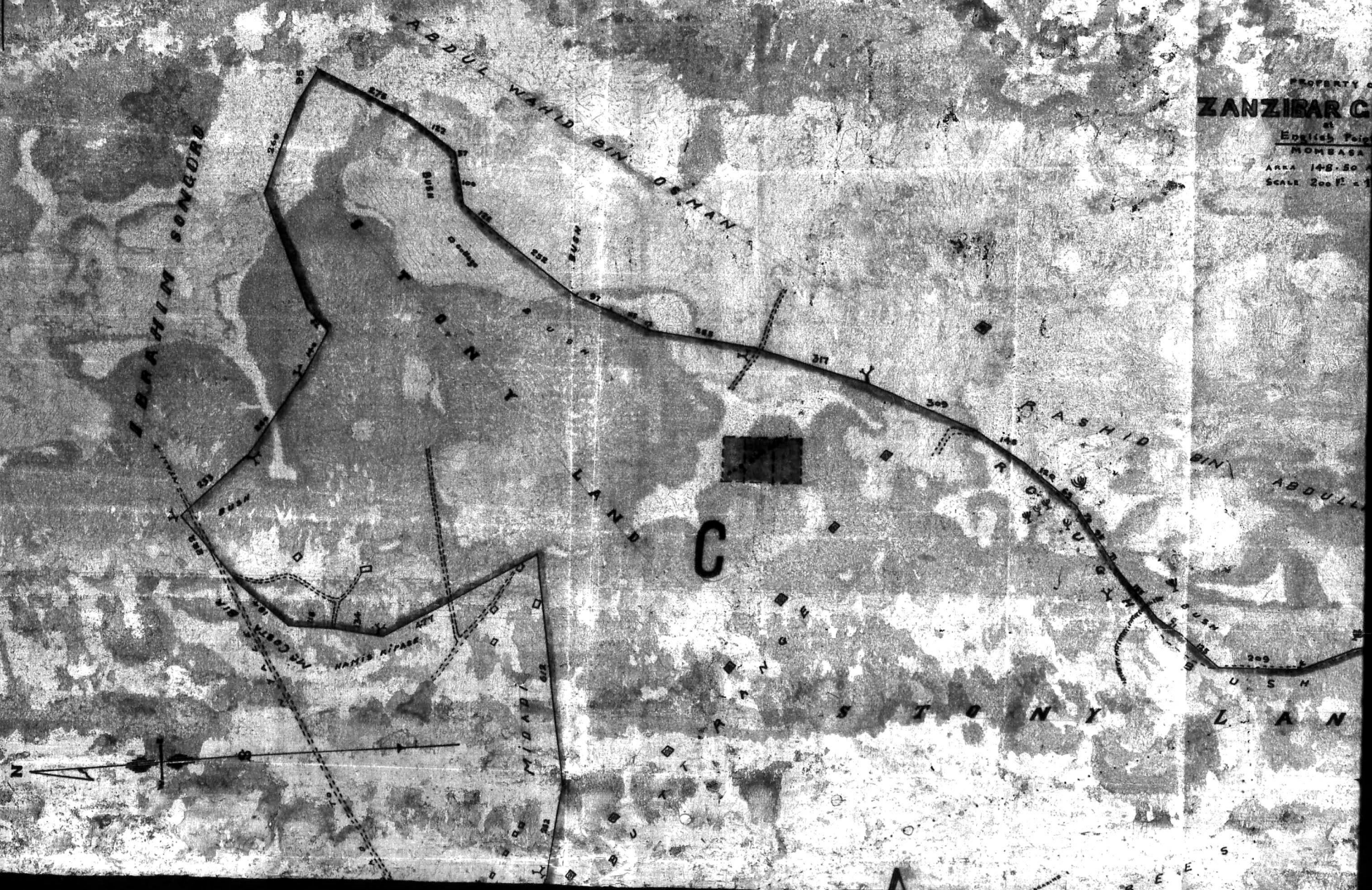
I see in the April 1st number of your Gazette a Notice to the effect that a Government Stone Quarry will be opened at Mkomani (English Point) on April 10th 1905.

English Point is a Zanzibar Government plantation which is therefore in my opinion entitled to any revenue which may be derived from this quarry.

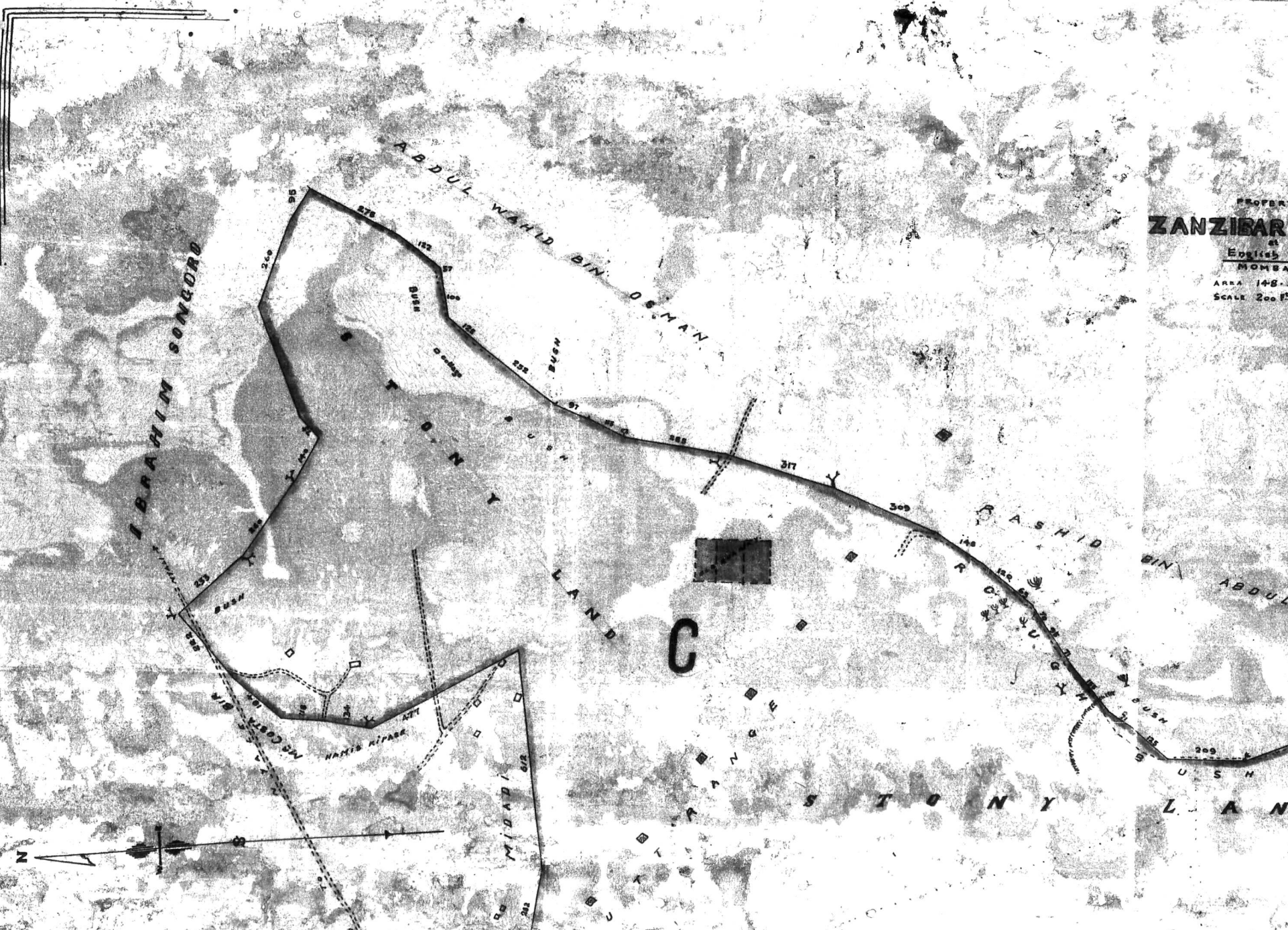
Have you any suggestions as to how we might settle this matter to our mutual benefit.

Sd/- A.S. ROGERS.

PROPERTY OF  
**ZANZIBAR C**  
at  
English Point  
MOMBASA  
AREA 148.50  
SCALE 200 F. = 1



PROPERTY  
**ZANZIBAR C**  
at  
English Po  
MOMBASA  
AREA 148.50  
SCALE 200 F



IBRAHIM SONGORO

ABDUL WAHID BIN OSMAN

RASHID BIN ABDULLAH

STONY LAND C

MIDADI



HAMIS KIPAKI

BUSH

CAMP

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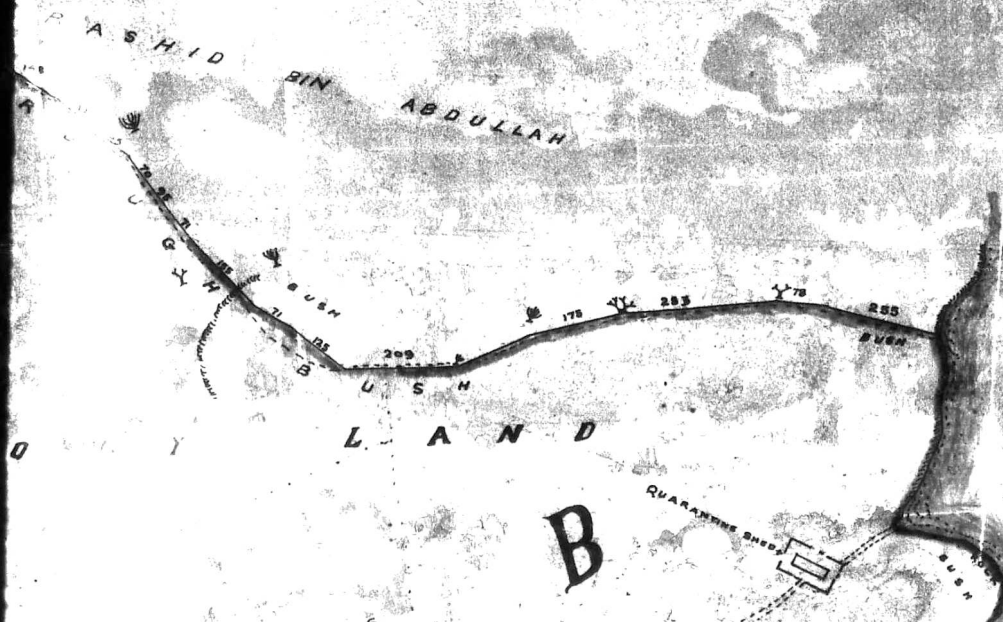
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PROPERTY OF  
**ZANZIBAR GOVERNMENT**

ESTABLISHED FORT (MKOMANI)  
MOMBASA

AREA 148.50 ACRES  
SCALE 200 FT = 1 INCH



S T O N Y L A



RAHMAT ULLAH, IMSE RIHANI

SMITH JAFFER & Co.

MIDADI

A



WELL



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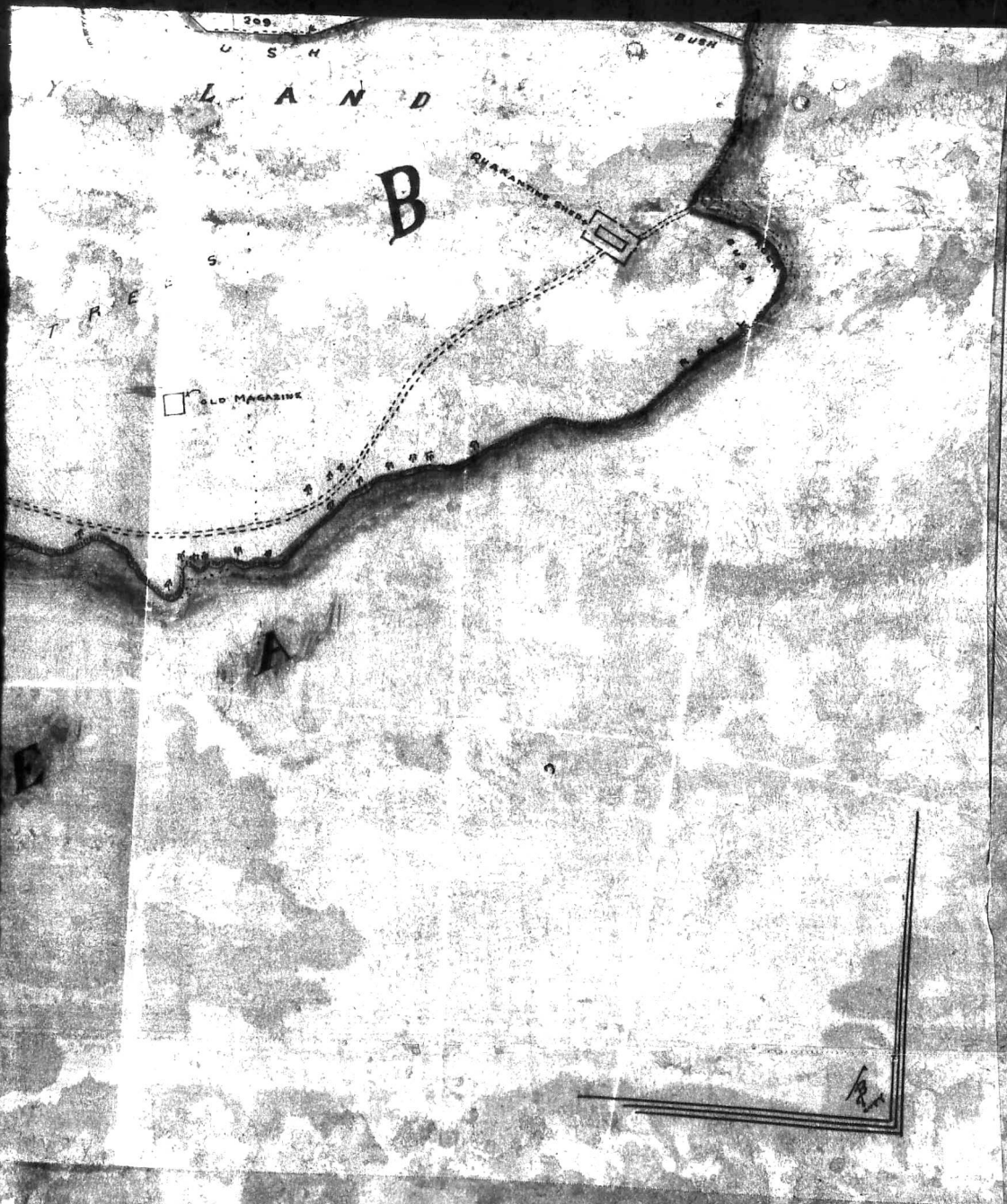
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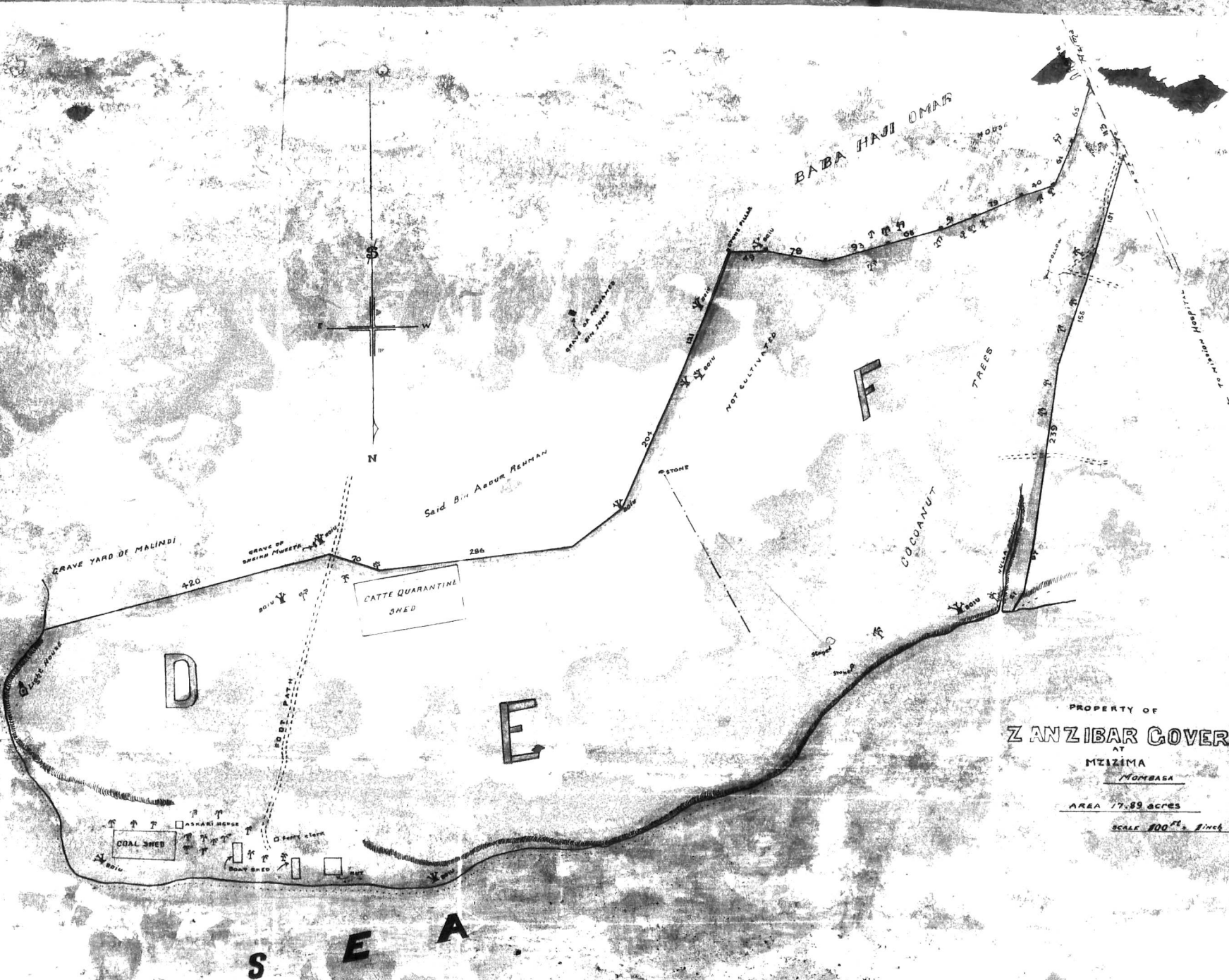
C O C O A N D T

S E A

SANDING BEACH







PROPERTY OF  
**ZANZIBAR GOVERNMENT**  
 AT  
**MIZIMA**  
 MOMBASA  
 AREA 17.89 ACRES  
 SCALE 100<sup>FEET</sup> TO AN INCH



Genl 9826 Cab

DRAFT.

U.S.P.S.  
F.O.

ansd 12276

Imag

16 April 1890.

MINUTE.

- Mr. Parkin 15/4
- Mr. Butler 15/3
- Mr. Fiddes.
- Mr. Just.
- Mr. Cox.
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Seely.
- Lord Crewe.

Sir, With ref. to the L<sup>d</sup> p. this dept. of the 15<sup>th</sup> June

I am directed by the Comd<sup>g</sup> Genl  
to transmit to you, to be laid  
before Sec. Sir L. Grey,

a copy of a des<sup>ch</sup>. with its  
enclosures from the Genl.

of the Comd<sup>g</sup> relating to  
claims made by the Govt.  
of H.H. the Sultan of  
Zanzibar to certain lands

and buildings in the Prov<sup>nc</sup>.  
I am  
to enquire whether  
Sir

From Genl. Sec. Comd<sup>g</sup>. 11/4/90  
(except map) 9826

Copy for Comd<sup>g</sup> 5 May 70.  
12564

Mr E. Grey agrees  
that Lord Crewe  
may inform the  
Governor by telegraph  
that he would be  
justified in refusing  
to recognise the claims  
made by the Zanzibar  
Govt. to any land  
or building, which  
the Sultan owned  
or over which he  
had control by  
reason of his  
sovereignty & not  
in a private capacity.



Lieut. Grey agrees  
that Lord Crewe  
may inform the  
Governor by telegraph  
that he would be  
justified in refusing  
to recognise a claim  
made by the Zambian  
Govt. to any land  
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in a private capacity.

