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18233

1932

18233

KENYA

KENYA - UGANDA BOUNDARY.

C0533
426

SUK-KARIMOJA TRIBES.

CLOSED
UNTIL ~~1933~~

1577/29
(W. 115)

127	297/5
Pirbright	287
Mauch	29
Robert Gray	4/8
John	5/8
John	8/8
John	19/8
John	24/4
John	2/8

1823

18233

1932

18233

KENYA

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426

SUK-KARAMOJA TRIBES.

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~~1932~~

1577 of 29
(with 115)

207	29/1/32
Priestman	28/7
Master	30
Robert Wray	4/8
John	
White	5/11
Winters	8/8
the 32nd	19/10
(29)	1/11
W. G. ...	24/11
...	4/12

18233

Refers to the state of affairs on the SUK-KARAMOJA Boundary and encloses conclusions & recommendations of Prov. Comms. of Province, Uganda, and Turkana, Kenya, regarding the necessity for an alteration of the boundary. Comments on the administrative difficulties and has agreed that the the question of land available for the SUK be considered by the Land Commission, but would be glad to have general concurrence with proposals adopted & in contemplation.

The original Kenya-Uganda boundary ran along the River Turkwel, the Turkana and Suk Tribes being on the east and the Karamojong on the west, but the Suk Tribes had grazing lands ^{also} the west of the River. The question ^{of administration} was discussed between the Governors of the two territories in 1919 who finally decided to recommend an inter-boundary protectorate running well to the west of the River Turkwel (see despatch of 11.7.1919 in 52811/1919 and the sketch map enclosed). It will be noted from this correspondence that military opinion was in favour of maintaining the Turkwel River as the boundary.

Stage A

It was subsequently ascertained that the boundary proposed would deprive the Karamojong of their grazing grounds, and, in consequence of this, a revised boundary nearer the Turkwel, but to the west of it was proposed in the despatch of 29.9.1920 in 54349/20 Kenya, see also the sketch map enclosed.

Stage B

This boundary was approved and defined by the Order-in-Council of 1926, vide Schedule 3 of the Order and the large sketch map attached.

Stage C

It now transpires that the approved boundary still deprives the Suk of grazing and the Karamojong of water, and it is therefore proposed to revert temporarily to a position approximating

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Stage B

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Stage C

It now transpires that the approved boundary still deprives the Suk of grazing and the Karamojong of water, and it is therefore proposed to revert temporarily to a position approximating

to that obtaining in 1919, by which the River will form the inter-protectorate boundary. (except for the Kacheliba section)

* There is no record of the arrangement mentioned in para.7 as having been adopted in 1921 by which a District Commissioner of one territory was vested with magisterial powers in the other.

There seems, however, to be no objection in principle to the appointment of an Administrative Officer of the Uganda Service to be temporarily in administrative charge of the area of the Colony of Kenya concerned: the matter appears to be mainly one for a legal opinion.

~~Section 8 of Chapter 7 of the Laws of Kenya appears to provide for a contingency of this nature so far as criminal matters are concerned and~~

It will presumably be necessary to appoint the officer to be a District Commissioner of Kenya Colony, so that he can exercise powers under the Courts Ordinance 1921 and also as regards the remission of sentences of native tribunals and any other powers conferred by legislation on District Commissioners or Administrative Officers.

It seems unnecessary to go so far as to regard the effect of these proposals as causing a temporary reversion of the area in question to the Uganda Protectorate -

it

3

it seems sufficient to approve in principle the proposal that the area should be temporarily administered by an Administrative Officer of the Uganda Service, who should be given such administrative appointment and such powers under Kenya legislation as may be necessary for the purpose and to await the Governor's recommendations regarding the financial arrangements necessitated by this course.

? Subject to any legal observations, approve in this sense.

H. P. O'Neil
28/7/32

* It will be seen from 26625/21 Uganda that and from 57847/21 Uganda that civil administration was not taken over to the Kericho District until about June 1921 and that the boundary between Kericho (Uganda) and Kacheliba (Kenya) was then unsettled.

H.P.?

Clearly no permanent appointment can be made till Sir Norris Curtis has reported - say in 3 months' time. The Governor seeks general approval for the temporary arrangement described, of which the only one calling for consideration is the proposal to invest a local Uganda magistrate with jurisdiction over an area which

is politically part of Kenya.

The Gov. can appoint
anyone subject to approval
where necessary. After all every
new officer is not in the Kenya
Gov. service till he is appointed
by the Gov.

J.

I am not clear what statutory or other
power resides in the Kenya Govt. to appoint
a person not in the Kenya Govt. service to
exercise jurisdiction and some administrative
functions on its behalf. But the Government
appears to be satisfied that there is no
legal objection, and no one has any
interest in questioning the arrangement.

It may be assumed from this
dispatch that the Uganda Govt. agrees.

Reply as proposed

J. M. M. M.
29/7.

1a

Please see ~~note~~ Memorandum of Mr. Fitzgerald
with which I agree. The officer
mentioned would of course become
a person in the Kenya Govt. service
(as well as in the Uganda service), I
 presume there is nothing to prevent
this under Uganda Law.

J. M. M. M.
4/8.

The letter agrees that we may
convey S.G.'s general approval to the arrangement
desired, as a temporary measure.

We might ask for a report on the situation
in order to make sure.

83/1/1/1/1
Prepared by
and checked

J. M. M. M.
8/8

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Reply as proposed

R. H. [Signature]
29/7.

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R. H. [Signature]
4/8.

The Admin. agree that we may
convey S. G. S. general approval to the arrangement
described, as a temporary measure.

We might ask for a report on the situation

in the next month.

R. H. [Signature]
5/8

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any one subject to approval
where necessary. After all every
new officer is not in the Kenya
Govt. service till he is appointed
by the Gov.

J.

8/8 Uganda
Proposed to
and received

C. O.

Mr. Priestman *8/8*Mr. *J. Ross*Mr. *Allen*

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Mr G. Grindle.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

KENYA

NO. *588*

GOVERNOR

*11* August 1932

Sir,

I am etc. to ack. the receipt of your despatch No. 310 of the 24th of June on the subject of the position along the Suk-Karomoja boundary.

2. I ^{approve} generally the arrangements described in your despatch under reply as a ^{purely} temporary measure, and I shall be glad to be ^{happy} furnished with a report on the situation in 12 months' time.

I have etc.

(on the Secretary of State)

R. W. HAMILTON.

18233/32 Kenya

24

C. O.

C.D.
R 8-AUG
D 10

Mr. Priestman *8/8*
Mr. *Jussim*
Mr. *Allen*
Mr. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Mr. G. Grindle.
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DRAFT.

KENYA

NO. 588

GOVERNOR

for the Secretary of State)
Signed: R. W. HAMILTON.

195

Mr. Priestman suggests that the problem might be solved by appointing an officer of the Uganda Service to be a District Commissioner of Kenya Colony. The Governor appears to have met the situation by appointing, presumably under the provisions of section 6(1) of Kenya Ordinance No. XVI of 1931, the Uganda officer to be a Magistrate.

There is no legal objection to either course. The effect of Mr. Priestman's proposal would be to confer automatically on the Uganda officer qua District Commissioner all the powers vested in a District Commissioner by the Kenya Courts Ordinance. The solution adopted by the Governor limits the activities of the Uganda officer to the exercise of the jurisdiction conferred on Magistrates by the Ordinance.

But presumably
he has also given
the Uganda officer
(or officer) admin-
istrative powers
by duly appointing
him (or them) administrative
officer(s) under the
Kenya Act.
R.G.N.

W. J. Fitzerald
5/10/32



KENYA.

No. 3/0

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
18 JUL 1932

24th JUNE, 1932.

Lo. 16603
25

Received 688 11 AUG 1932

Sir,

With reference to Kenya despatch No. 281.A. of 6th March, 1926, I have the honour to draw your attention to the recent discussions which have taken place between His Excellency the Governor of Uganda and myself, over the state of affairs which have obtained along the Suk-Karamoja Boundary for some years past.

2. It will be recalled that after some 15 years of discussion a new boundary was delimited in 1922 and considerable correspondence followed on points of detail before it was proclaimed under the Kenya Colony and Protectorate Boundaries Order-in-Council of 1926.

3. Ever since this boundary has proved a source of constant trouble because while the Suk tribe have plenty of water and no grazing the Karamojong have plenty of grazing but no water; especially is this so in the area lying South and South West of Kaddan in Karamoja where grazing is plentiful but the nearest water is the Sum or Turkwel River in the Suk country along the banks of which there is no grazing. This condition has effected the Suk more than the Karamojong and, in spite of heavy fines nearly every year, the Suk have continued to trespass. They would rather risk being caught and suffer heavy

THE RIGHT HONOURABLE
MAJOR SIR PHILIP GULLIBRISTON, P.C., G.B.E., M.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

heavy fines than see their cattle die of starvation on one side of an arbitrary line, on the other side of which grazing is plentiful and usually not in use.

4. Because of this endless trouble His Excellency the Governor of Uganda and I arranged that the Provincial Commissioner, Turkana Province, and the Provincial Commissioner of the Eastern Province, Uganda, should discuss the whole problem.

5. These discussions commenced at Jinja on the 22nd November, 1931, and were concluded on the 18th December 1931. In their joint conclusions and recommendations - a copy of which I attach - the two Provincial Commissioners suggested that an area of approximately 1,500. square miles in extent and containing a population of approximately 8,500 Suk should temporarily revert to the Uganda Protectorate because they considered it essential that in order to settle the difficulty the Natives concerned should be under one Administration. You will observe, also, in paragraph 10. of the recommendations that the Chiefs and Elders agreed to this.

6. Because of the urgency of the matter the Governor of Uganda and I have considered it necessary to put into effect these decisions as soon as possible, but on the understanding that the arrangement is a temporary measure. The Provincial Commissioners concerned have been instructed accordingly. They have also been asked to examine the question of the collection of Hut and Poll Tax from the Suk concerned and to make recommendations for any financial adjustment which may appear necessary.

7. One difficulty which arose was the question of the Legal Jurisdiction which would have to be exercised

by the Uganda Administrative Officer over that area of this Colony temporarily in his charge. It was clear that it would not be practicable for the Laws of Uganda to be extended to any part of Kenya or to vest in the Uganda Magistrate jurisdiction outside the boundaries of the Protectorate. The solution, however, seemed to be to appoint the Uganda Officer to be a Magistrate exercising jurisdiction over the part of the area to be administered by him lying in this Colony so long as that Officer was empowered to administer the Laws of Kenya and that he was under the Kenya Judicial Authorities. To this course there appears to be no legal objection and a similar procedure was adopted in 1921 and 1922 when the District Commissioner, Kacheliba, was vested with powers of an additional District Magistrate and District Judge of the 1st Class for the District of Karamojong because at that time the Kacheliba area west of the Suam River was still in Karamoja.

See
59847/214/mand
No trace of 2
reference to
in the former

8. Since these discussions His Excellency the Acting Governor of Uganda has requested that the Land Commission which has been recently appointed in Kenya be invited to give special attention to the question of the land available for the Suk. I have agreed with his proposal and the Secretary of the Commission has been instructed accordingly. No final decision would therefore appear possible pending Sir Morris Carter's Report, but I should be glad to have your general concurrence with the proposals adopted and in contemplation.

I have the honour to be,
Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.

GOVERNOR.

9

CONCLUSIONS REACHED AND RECOMMENDATIONS MADE
BY THE PROVINCIAL COMMISSIONER, EASTERN
PROVINCE, UGANDA, AND DISTRICT COMMISSIONER,
TURKANA PROVINCE, KENYA, WITH RESPECT
TO THE DIVISION BETWEEN THE KARAMOJA AND SUK TRIBES.

1. We met at Jinja on 22nd November, 1931, at which Meeting were also present Mr. E. Ashton Warner (Uganda), Captain Slade Hawkins, District Commissioner, Suk, and Captain Turpin, District Commissioner, Karamoja, 1916-1920.
2. We met again at Lekitunyala on the Suk-Karamoja boundary on 11th December, 1931. The party then consisted of in addition to ourselves Mr. Boulderson, late Provincial Commissioner, Turkana, Captain Slade Hawkins, Captain Freston, District Commissioner, Karamoja and Captain Turpin.
3. We toured together until 19th December, 1931, and interviewed Chiefs and Elders and had constant and free discussions.
4. We have come to the conclusion that the matter of extended facilities for grazing to the Suk and possibly water to the Karamoja in the area of the present boundary can only be satisfactorily dealt with if the people concerned are under one Administration.
5. As to which Administration they are eventually to be, we submit separate recommendations to our respective Governments.
6. In the meanwhile as a trial we recommend a reversion to the old boundary of the Tarkwel (or Sum) River from its junction with the Bukwa River to the bottom of the Tarkwel Gorge at Lekwien, thence following the existing boundary between the West Suk and Southern Turkana Districts to Kellibak, a point on the Karamoja-Turkana boundary. The Township of Kacheliba to remain in Kenya.
7. We realize that this is a somewhat indefinite boundary and we intend it to be so, as it is impossible to give a more accurate description until more definite information and maps are available, which may necessitate minor alterations.
8. We recommend that this be recognized as a working arrangement only and that no boundary be published until a trial has proved this to be satisfactory.
9. If it is considered necessary we recommend that the District Commissioner, Karamoja, be given legal powers on the area between the existing boundary and the suggested working boundary.
10. The suggested alteration to the boundary has

been

10
END

been placed before the Chiefs and Elders concerned and they have agreed.

11. We would ask that very early consideration be given to these recommendations, as we are of the opinion that there is a risk of a freeze on the boundary unless an early decision is given. It will, in fact, be extremely difficult to keep the peace as it is.

SD: ARTHUR M. CHAMPION,
PROVINCIAL COMMISSIONER,
TURKANA PROVINCE,
KENYA.

18th December, 1951.

SD: A.C. WEATHERHEAD,
PROVINCIAL COMMISSIONER,
EASTERN PROVINCE,
UGANDA.
