

38066

12

1936

EO.533/465
KENYA

38066

Italo. Ethiopian Dispute

Suggested refuge. camp in Kenya

Previous

Subsequent

297

The expenditure for the relief of Hatties
in Turkey is given as \$12,000 as provided.

Adm.

We are still awaiting a reply to a telegram
to the Resident and if necessary will communicate with
you later about this.

I shall be grateful for a very early
intimation of your reaction to our proposals as the
time in which the payments must be made is getting
short. telephone message will suffice.

Yours sincerely,

W. H. BOYCE.

The expenditure for the relief of Hattusa
in Turkey is given as \$10,000 as provided.

Men.

We are still awaiting a reply to a telegram
to the President and if necessary will communicate with
you later about this.

I shall be grateful for a very early
intimation of your reaction to our proposals as the
time in which the payments must be made is getting
short. telephone message will suffice.

Yours sincerely,

(104) W. H. BOYCE

CYPHER telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 25th March 1936. Received 3.54 p.m 25th March 1936.

No 86 Secret.

Your No 65 Estimated cost of emergency expenditure up to 31st March exclusive of R.A.F. expenditure is £15,500 allocated as follows:- Military £8900 Police £3350 Miscellaneous £3250.

38066/1/36

Kenya

G. B.
17 MAR

C. O.

Mr. ~~de Balth~~ ^{14/3}
Mr. ~~Bye~~ ^{14/3}
Mr. ~~Lee~~ ^{16/3}

Sir C. Parkinson N. Pashin 16/3 6

Sir G. Tomlinson

Sir G. Bottomley

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

86

March, 1936.

DRAFT. Conan.

Kenya.

No. 181

Governor.

~~(Library (for com) not kept)~~
Copy to DEPT No 13

Sir,

I have etc to enclose
herewith for your information
a copy of the Supplementary
Statement recently presented to
Parliament to meet provision also
also for the grant in aid to
Kenya during the year 1935/6
of a sum of £14,000 in respect of
special missions taken in
connection with the State.

Drafts.

FURTHER ACTION.

Copy for Dept
Copy to DEPT info L.F.

Abyssinian dispute.

2 It will be clear from

the footnote to page 6 of the supplementary
statement that Parliament has been informed
that the Comptroller and Auditor General
will be furnished with the audited
accounts covering this service and with
any report thereon by the Director of
Colonial Audit. This requirement, normally
applicable in the case of all grants from the
Imperial Exchequer, is for the purpose of supporting
the appropriation account of the Vote for Colonial
and Middle Eastern Services for which the Colonial
Office is responsible.

3. I have accordingly to request that I
may be supplied with four copies of the ^{audited} accounts
containing expenditure for which the above grant has
been made. I have also to request that the Auditor
may be asked to append his personal signature
to the audit certificate covering the account on
each of the copies forwarded to me.

Mr. E.W. Smith. 14/3.
Mr. Boyse. 14/3.
Mr. Lee. 16/3.
Mr. Paskin. 16/3 at once.

38066/7/36.

PARAPHRASE TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya.

(Sent 7.0 p.m., 16th March, 1936.)

No. 65. Secret.

(5) Please see my telegram No. 34. Supplementary estimate will be available for issue before the 31st of March. It is proposed to make cash issue before that date to Crown Agents for account of Kenya Government. In order that amount issued may accord as nearly as possible with actual money spent by Kenya I shall be obliged if you will telegraph as soon as practicable and in any case not later than 27th March an accurate estimate as possible of expenditure likely to be incurred by 31st March.

3 drafts.

Copy for a/c.

9 47
End March, 1936.

Dear Swan,

In the course of the debate on the Committee of Supply on Thursday last, Mr. J. H. Thomas undertook that, before the report stage, an opportunity would be taken to consider the question whether it would be possible under International law for this country to submit a claim to Italy for the repayment of the whole or any part of the cost of maintaining in Kenya the Italian native deserters who recently took refuge there. Please see column 771 of Hansard of the 27th February.

We have discussed the question with the Foreign Office, and Sir William Malkin, the Foreign Office Legal Adviser, has now prepared a memorandum, of which a copy is enclosed, setting out his opinion on the point. In the absence of Sir Gratian Buxho, Malkin's memorandum has been shown to Duncan, the assistant Legal Adviser, and he is in full agreement with it.

Robert A. Swan, Esq., O.B.E.

Mr.

Mr. Thomas will be very much obliged if Sir Donald Somervell (who intervened in the debate last Thursday) would consider this memorandum and the conclusion arrived at in the last paragraph. If Sir Donald agrees with Sir William Malkin's opinion, he assumes that he will be prepared to make a statement on these lines in the House when the Report stage of the Vote is taken this week.

Yours sincerely,

(Signed) C. D. BOYD

8

This question relates to a certain number of native deserters from the Italian forces who crossed into Kenya and are being detained there under supervision in a camp. They are therefore persons whom His Majesty's Government are not bound, under the rules of neutrality which are being applied in this connexion on a de facto basis, "to intern"; they have been allowed to remain in Kenya because, for humanitarian reasons, it was considered ~~un-
advisable~~ ^{unwise} to compel them to return to Italian territory, and they are being maintained in a camp because, in the interests of the colony, it would be undesirable to have them roaming about without any supervision. They are therefore to be regarded as "deserters" and not as "internees".

The law as regards persons in this position is thus stated in Oppenheim's International Law, 8th Edition, Volume II, page 583:-

"Different from the case of fugitive soldiers is the case of fugitive deserters. If they desert and cross the neutral territory for the purpose of joining the enemy, their case is hardly different from the case of men who pass through neutral territory, intending to enlist in the army of a belligerent. For this reason they need not be interned if they come individually; but they must be interned if they come in a body. On the other hand, if they desert without any such intention, they need not be interned, even though they come in a body."

The practice of the Dutch and Swiss Government in this respect during the war is thus described in Fauchille's "Traité de Droit International Public" 8th Edition, Volume II, page 690:-

"Le gouvernement néerlandais, pendant la guerre de 1914, décida que les déserteurs des forces armées belligérantes, perdant le caractère de belligérants vis-à-vis de l'Etat neutre sur le territoire duquel ils se sont rendus, ne devaient pas être internés, mais devaient être laissés en liberté, à la condition que leur défection fût bien établie. La Suisse toléra sur son territoire les déserteurs des armées en guerre en leur imposant un lieu de résidence et en exigeant d'eux certaines garanties pour les inconvénients de droit public et de nature économique résultant du fait de leur présence" (arrêté du Conseil fédéral des 30 juin, 1916 et 14 novembre 1917)."

In these circumstances it is not considered that Article 11 of Hague Convention No. 5, (Neutral Powers and persons in land

warfare) is applicable in the case of deserters who, ^{in the case,} enter neutral territory without any intention of joining the enemy forces. That article imposes on the neutral Power "which receives in its territory troops belonging to belligerent armies" a definite obligation to "intern" them, but deserters in these circumstances are not regarded as "troops belonging to belligerent armies" for the purpose of this article. The neutral is entitled if it likes to allow such deserters to remain on its territory and to exercise such measure of supervision over them as they think proper, but it is under no obligation to "intern" them. If so, it follows that the provision in Article 12 of the Convention "at the conclusion of peace the expenses caused by the internment shall be made good" is not applicable either. This, moreover, is reasonable; for ~~while~~ a neutral is compelled to intern belligerent troops in consequence of its neutrality obligations it is obviously right that the neutral should not have to bear the expense of internment; but in the case of deserters the neutral is under no obligation to intern them, and the belligerent from whose forces they have deserted would presumably be quite content to get them back again, so that if the neutral prefers, for sufficient reasons, to maintain the deserters in its own territory, there is no reason why the expense involved in doing so should be made a charge upon the belligerent.

For the above reasons it is not considered that we have a legal right under international law to reclaim from the Italian Government the expenses involved in maintaining these deserters in Kenya.

AIR MAIL

KENYA
No.
SECRET



51
GOVERNMENT HOUSE
NAIROBI
KENYA

15th February, 1956.

Sir,

117/5

With reference to your Secret telegrams No. 532 of the 18th November, 1955, and No. 54 of the 12th February, 1956, I have the honour to transmit a statement of emergency expenditure for 1955 induced by the Italo-Ethiopian situation, under the heads Military, Police and Miscellaneous. This statement has been compiled from returns submitted to the Treasurer by the officers concerned, but he is not yet in a position to check its accuracy.

I regret that I am unable to give any particulars regarding Royal Air Force expenditure, but I suggest that approximate figures may be obtainable from the Air Ministry.

Amund (12)

2. As regards the estimate of similar expenditure for the first quarter of 1956, I submit a purely tentative figure of £5,145 allocated as follows:-

- Military £ 2,500
- Police £ 1,500
- Miscellaneous £ 1,145.

I regret that it is impossible to give more precise figures at this stage.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General

G O V E R N O R.

THE RIGHT HONOURABLE
J. H. THOMAS, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

EMERGENCY EXPENDITURE ON DEFENCE, 1955

Head.	Details.	Rs.	Cts.	Rs.	Cts.
<u>Military</u>	Reconnoistants and Allowances	1,872	31		
	Transport Expenses of Reconnoistants, etc.	5,209	08		
	Transport of troops	71,819	45		
	Hire of camels for transporting rations	7,044	55		
	Arms, Equipment, Uniforms, etc.	5,250	22		
	Miscellaneous stores	5,859	11		
	Outfit allowances	19	00	92,410	50
<u>Police</u>	Pay of extra police for R.A.F.	10,328	56		
	Rail fares of extra police to Muzki	150	50		
	Rations to extra police	2,118	75		
	Arms & Equipment for extra police	1,472	71		
	Uniforms for extra police	2,453	70		
	Miscellaneous stores & transport	2,712	75		
	Petrol, oil, etc. for lorries	4,117	15		
	Hire of motor lorries	7,032	07		
	Mileage allowance, camel hire etc.	1,75	31		
	Subsistence allowance to officers & special patrol	1,000	00		
	Fodder	1,000	00		
Frontier Allowance to extra const.		76			
<u>Police Extraordinary</u>	Purchase of two motor lorries	5,700	00	60,000	00
<u>Miscellaneous:</u>					
<u>Administration</u>	Travelling in connection with preparation of landing grounds	1,689	24		
	Labour on construction of petrol store	40	00		
<u>Miscellaneous</u>	Preparation & Maintenance of landing grounds for R.A.F.	16,004	48		
	Overspan Telegrams	5,925	45		
<u>Post Office & Tels.</u>	Overtime in respect of telegraph traffic	47	47		
	Carried Forward:	12,598	53	145,404	40

Head.	Details.	Rs. Cts.	Rs. Cts.
	Brought Forward:		1,5,404:40
Public Works	Construction of first store	40:	0
Recurrent	Telephone charges	124:	13
Secretariat	Expenditure incurred but not yet allocated on roads, buildings and landing grounds	7,641:	56
	Tents supplied to I.A.S. from medical stores	1,180:	00
	Inland telegrams	550:	65
			55,752:97
			<u>177,157:57</u>

SUMMARY:-

Factory	50,000	
Office	50,000	
Secretariat	<u>75,000</u>	
	1,177,157	17,550:13:57

C.O.

Mr. Lee. 27. 1. 36.

38066/7/36 Kenya. Secret.

Mr. Flinn 27

Mr. Boyse [initials]

Semi-official for Mr. Boyse's signature

Sir C. Parkinson

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Shuckburgh

Comr. U.S. of S.

Party. U.S. of S.

Secretary of State.

Downing Street.

29th January, 1936.

DRAFT.

Dear Speed,

E.B.B. SPEED, ESQ., M.C.
TREASURY.

I have already written to you about the emergency expenditure necessary in Somaliland on account of the Italian-Abyssinian war. This letter deals with such expenditure in Kenya.

To Gov. 17th Jan. 1936.
(2)

Fr. Gov. 25th Jan. 1936.
(3)

I think that the position will be clear to you if I enclose copies of recent telegraphic correspondence with the Governor.

You will see that, exclusive of any R.T.A.F. expenditure, the cost of emergency measures in the Colony up to the 31st March next is

estimated

FURTHER ACTION

C.O. 8
Mr. Lee. 27. 1. 36.

38066/7/36 Kenya. Secret

Mr. Flinn 27

Mr. Boyse ms 9/11

Sir G. Parkinson

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

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29th January, 1936.

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TREASURY.

To Gov. 17th Jan. 1936.
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Fr. Gov. 25th Jan. 1936.
(3)

Dear Speed,

I have already written to you about the emergency expenditure necessary to Somali on account of the Italian-Abyssinian war. My letter deals with such expenditure in Kenya.

I think that the position will be clear to you if I enclose copies of recent telegraphic correspondence with the Governor.

You will see that, exclusive of any R.A.F. expenditure, the cost of emergency measures in the Colony up to the 31st March next is

estimated

FURTHER ACTION,

estimated at £14,000, and that the
monthly estimate for emergency expenditure
thereafter (assuming no change in the
position and exclusive again of R.A.F.
expenditure) is put at £1,000 a month.

You will see also that the
Governor states definitely that Kenya
in the present circumstances cannot afford
the emergency expenditure which it is being
called upon to meet. I am asked by the
Department to say that they fully endorse
this view. The financial position of

Kenya will be well known to you. *On its*
1936 estimates Kenya has no money
to spare.

Yours sincerely

(Sd) Lord Bryce

35
Cypher Telegram from the Governor of Kenya to the
Secretary of State for the Colonies.

Dated 25th January, 1956.

Received 9.40 a.m.
25th January, 1956.

No 26. Secret.

Your telegram to 11 of 17th January Secret.

Answers to your queries are

1. £14,000.
2. I do not consider that the Colony can reasonably be asked to bear any share of this emergency expenditure. In existing circumstances Colony cannot afford it.
3. Officer Commanding Royal Air Force is unable to give figure of excess cost but suggests that approximate figures might be obtained direct from the Air Ministry.
4. £1,000.

Mr. Flood 17.1
Mr. Lee 17.1
x Sir C. Bottomley 17. at once

2 56

33066/35

CYPRUS TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya.

Sent 9 p.m. 17th January, 1936.

No. 11. Secret.

119

My telegram 18th November No. 332 Secret. in order to help preparation of supplementary Estimate which may be presented to Parliament in February please telegraph as soon as possible

- (1) Estimated total of emergency expenditure incurred during financial year up to 31st March exclusive of Royal Air Force.
- (2) What proportion can be borne by Kenya without assistance.
- (3) If possible what is excess expenditure of Royal Air Force
- (4) Estimated monthly amount which will be expended after 31st March assuming situation does not alter materially.

7 edit (3)
I think we might see if Kenya can produce figures.

Original Copy on 1918/35-31/4/30
URGENT

Treasury Chambers,

Whitehall, S.W.1.

10th January, 1936.

Dear Boyse,

You will remember that it has been decided to take a Supplementary Vote in February to meet that part of the emergency expenditure in the Colonies which cannot be borne by the Colonies themselves. I am aware that you have not yet received estimates from all the Colonies concerned, but you no doubt have some idea of what the figure is likely to be, and I should be most grateful if you could let me have an early note giving what you regard as the maximum figures for Malta, Aden and Somaliland. Perhaps you would also say whether it is still considered probable that Kenya will be in a position to pay for her own charges with the exception of the charges for the acrobplanes. It is clear that if the present state of emergency does not end soon there will be continued emergency expenditure in the financial year beginning on the 1st April next. The supplementary will only cover such expenditure up to the 31st March. If, therefore, you could also say what you consider to be the maximum monthly expenditure in each Colony after April 1st, it would be of assistance to us here. This expenditure should properly be provided for in the Estimates for 1936.

Yours sincerely,

(Signed) E. B. J. SPEED.

J. H. BOYSE, ESQ., O.B.E.,

COLONIAL OFFICE.