

38259

CO 533/48.4
KENYA

38259

2

2

ESTATES

ESTATE OF MR M. E. DOBBIE

Previous

1936

Subsequent

1938

297

2/4/37

Mr. Paskin

12/21

Mr. Flood

12

Mr. Duncan

15/11/37

Mr. [unclear]

Mr. Duncan

16/11/37

Sir C. Bottomley

17/11/37

Sir [unclear]

11

S [unclear]

17

Sir C. Paskin

17/11

C.D. 308.

23/11

297

18/12

R. 80

21/1

R. 298

25/1

297

1. Sir T. Moore

10th Nov. 37

The letter from Mr. Dobbin's solicitors asking
that steps should be taken to return Mr. Dobbin's
Capit etc.

To Sir T. Moore
Mr. Packin

11th Nov.
(1 am?)

DESTROYED UNDER STATUTE

I attach a letter which the Secretary of
State has received from Sir Thomas Moore, M.P.,
regarding an estate in Kenya.

Mr. Ormsby Gore would be glad to be advised
as to the reply he should send.

G. C. Gray

11.11.37.

The Secretary of State has had previous
correspondence on this case with Sir T. Moore
(see 38259/2/36), and we had a report on it from the
Governor in October last.

This case was also present in our minds
at the time of our discussion with Sir Ernest Pass
on the 14th of January about the case of
Miss Bright Williams, and was mentioned in
paragraph 7 of the note of that discussion.

In his despatch of the 8th of July (No. 17
on 38259/1/37) the Governor reported that he still
saw no reason why the Government of Kenya should
assume any moral liability in the case of
Miss Bright Williams, but in the despatch of the
15th August the Governor was told that the Secretary
of State would feel difficulty in defending a refusal
by the Government of Kenya to make any attempt to
reach an acceptable settlement with Miss Bright Williams.

and

1. Sir T. Moore 10th Nov. 37

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Mr. Paskin.

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and

and the Governor was asked for an early reply. It is now over 18 months since the Bright Williams case was first raised in a letter to the Prime Minister, and it seems to me that it is high time that the Government of Kenya made up its mind to do something about it.

I submit drafts for consideration.

J.J. Paskeir

12.11.37.

Kenya is in a *difficult* dilemma. The elected members would not agree to vote money for such cases and there is nothing else that can be done. There is no hope of getting much out of the mortgages.

I agree as to the drafts, & send them via Mr. Duncan.

J.E.W. Flood
12.11

I agree with the terms of the attached drafts to the Governor & to Col. Moore.

15/11/37 A. Duncan.

The situation is now completely altered. In the bundle of newspaper cuttings received yesterday from Kenya, there is an account of a discussion in the Legislative Council on the 4th of November when ^{the} Government invited Council to vote a sum not exceeding £15,000 in order to reach an equitable settlement

settlement with minors, whose money had been lost or could not be realised owing to investments in land by the Kenya Public Trustee. Lord Francis Scott said that he did not think the resolution should be interpreted to the effect that Government should be liable to repay all money lost by the Public Trustee, and other members also said that it was not right that Government should invariably make good money lost by the Public Trustee in good faith.

Mr. Bemister and Major Cavendish-Bentinck took this view also. Major Grogan said that it was Government's fault for not devaluating the currency. Colonel Kirkwood said that it would be better to take low rates of interest in order to safeguard capital. Mr. Conway Harvey took the sensible view that the money was not necessarily lost and agreed that the motion might be supported. The Attorney General said that there was no blame attached to anybody, but that it was time the minors, who had been kept out of their money, got something. Eventually an amended motion was carried as follows:-

"It is hereby resolved that the Hon. Treasurer to be authorised to advance from the public funds of the Colony such sum or sums as may from time to time be required not exceeding £15,000 aggregate in order to take over on an equitable basis certain mortgage investments made on behalf of minors, who, on attaining their majority, seek repayment of capital sums administered during their minority by the Public Trustee and invested in agricultural property." The Acting Treasurer assured the Council that all cases had been taken into account and that the

figure

figure of £15,000 would not be exceeded. It will be noted that the resolution is confined specifically to the case of minors, whose property has depreciated owing to investment in agricultural land in Kenya. This is all that we ever suggested and is satisfactory.

With regard to the amount required, it is to be noted that Miss Bright-Williams' estate amounts to £7,500 and Mr. Dobbie's to £14,700 not allowing for £2,500 due for arrears of interest. These two would easily eat up the £15,000 and more, but I think the explanation is that it will be possible to get out of the Land Bank advances which can be used to repay the minors. We know this was so in the case of Miss Bright-Williams' mortgages and, no doubt, it would also be so in the case of Mr. Dobbie's. It has also to be noted that one of the mortgages in Mr. Dobbie's estate (for £3,000) was expected to be discharged by the end of this year. In another case where the mortgage was for £4,000 it was hoped to recover a considerable portion by taking proceedings in bankruptcy. The Public Trustee said that there was every reason to think that with the sale of the farms and the amount recoverable through bankruptcy there would be little loss to the Trust, if any.

All this is very satisfactory and alters considerably the kind of reply which we can make to Col. Moore and the despatch to Kenya, but it is at least odd that Kenya should not have

have told us that they intended to take this action and should have left me to find it from a casual turning over of newspaper cuttings. Probably, the explanation is that they waited until Mr. Harrold got back and he knew quite well the attitude we took here on these cases and, no doubt, persuaded Government.

Revised drafts herewith.

J. C. O. Flood
16/11

This is very interesting and very satisfactory.

16/11/37
H. Duncan.

It gives us a good answer to Sir T. Moore. It will be interesting to see what settlement is reached in these cases, no trend is kept as usual loss - unless as a gross sacrifice of income.

W.C.S. 17/11

reel
17.11.37

2nd To Sir Thomas Moore (1 Amud) - 30/11/38
3rd To Kenya 1027 (1/1 + 23) - 18.11.37
Gene. 23 NOV 1937

1/1 for one, talked over the
case of Mrs Bright-Williams
with him.

H.D.

I have written to
the Secretary

Root
1298/2, 2A

C. O.

38259/2/37

G. D.
N 39/10V
D 23

35

Mr. Flood 16/11

Mr. Dimes 16/11/37

Mr.

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley 17.11.37

Sir J. Shuckburgh.

+ Perm. U.S. of S. (1) 11.37

Parly. U.S. of S.

X Secretary of State. (10 m 1936 file)

See (27) 6 F.V.

DOWNING STREET.

23 November, 1937.

DRAFT.

KENYA

~~CONFIDENTIAL~~ No 2057

GOVERNOR

Sir,

With reference to my despatch No. 1032 of the 28th of December last, I have etc. to enclose for your consideration a copy of further correspondence with Lieutenant Colonel Sir Thomas Moore, G.B.E., M.P., in regard to the estate of Mr. Stephen Dobbie.

2. The newspaper report, to which I have referred, is that contained in the "East African Standard" of the 4th of November, a copy of which was enclosed in the Secretariat Note of the 8th of November, No. 3D/MISC.16/2/II.

3c. of
rec. to
No. 1 with

N°1

1/2 handwritten.

FURTHER ACTION.

Copy reqd. on
38259/1/37

I have no doubt that you will forward in due course any comments which you may wish to make, and I assume that, since the necessary resolution has been passed by the Legislative Council, the Public Trustee will now get into communication with Mr. Dobbie, ~~and~~ Miss Bright-Williams, and any others, who may be affected, with a view to reaching an early settlement. I am glad to see from the statement made by the Attorney General, as reported in the course of the debate, that the total liability is not expected to exceed £15,000. I assume that it is the intention to take over the mortgages and by obtaining advances from the Land Bank in suitable cases, or by other means, to secure sufficient sums to reach a settlement with the minors.

3. I am very glad that the Legislative Council has seen fit to adopt the resolution. I trust that the financial loss to Government will prove small, and I am confident that the action which the Kenya Government is taking-

will

C. O.

Mr.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parli. U.S. of S.

Parly. U.S. of S.

Secretary of State.

will relieve some real cases of hardship due to causes which could not be foreseen, while it also shows a firm confidence in the future of Kenya. I have, etc.

(Signed) W. ORMSBY GORE.

DRAFT.

FURTHER ACTION.

217

C. O.

Mr. Flood 16/11/37

Mr. Duncan 16/11/37

Mr.

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley. 17.11.

Sir J. Shuckburgh.

Perms. U.S. of S. 17.11.37

Parly. U.S. of S.

X Secretary of State. 17.11.37

For the Secretary of State's signature.

18 November, 1937.

Dear Moore

2 drafts

DRAFT.

LIEUTENANT COLONEL

SIR THOMAS MOORE, C.B.E., M.P.

Thank you for your letter of the 10th of November about your constituent, Mr. Stephen Dobbie, whose father's estate was invested in land in Kenya by the Public Trustee of the Colony. About a year ago I had a report on the case, and I asked the Acting Governor to arrange for the Public Trustee to send as complete information as possible in regard to the estate and the mortgages to Mr. Dobbie's solicitors, so that they might be able to advise their client with full knowledge.

In order to make the matter clear, I may say that the Kenya Public Trustee had full legal authority

1.11.37
 (orig. encl. = (1), 1)
 keeping copy

copy to Kenya (3)

FURTHER ACTION.

authority, conferred by Rules made under the Kenya Public Trustee Ordinance, to invest funds in local agricultural mortgages. At the time that the investments were made they were considered to be very sound and, indeed, advantageous owing to the high rate of interest which could be secured on such mortgages. No-one could have foreseen the effect of the world slump which began a couple of years later and, in Kenya, was accentuated by a plague of locusts and several consecutive years of severe drought. As a result, the farming community in Kenya has been going through a very hard time from which it is only now emerging, and money invested in agricultural land ~~proved to be~~ ^{because} most insecure. Foreclosure on the mortgages would not have served any useful purpose since no purchaser would have come forward. Several farms all through the Colony were abandoned

C. O.

Mr.
Mr.
Mr.
Sir H. Moore.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Permu. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

FURTHER ACTION.

abandoned, including one of those in which Mr. Dobbie's money was invested, and the farmers who kept going found themselves unable to pay interest on their loans.

I have been considering, in consultation with the Governor, the question whether there is ^a/~~is~~ real or moral obligation on the Colonial Government to come to the assistance of people in Mr. Dobbie's position, and within the last few hours, I have learned from a report in a newspaper that the Government of Kenya ~~are~~ propose to take steps to ^{settle} ~~satisfy~~ the claims of minors whose money was invested by the Kenya Public Trustee in agricultural land in the Colony. I cannot say more at the moment because I have not received

received a despatch from the Governor,
~~have no reason to doubt~~
but I am satisfied with the accuracy
of the report and I ~~am~~ ^{expect} sure that your
constituent will soon receive proposals
from the Kenya Public Trustee, which it
is to be hoped will settle the matter
satisfactorily.

I return your letter from Mr Dobbie's
solicitors.

(Signed) W. ORMSBY GORE.

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From LIEUT.-COL. SIR THOMAS MOORE

C.B.E., M.P.

49, ALBEMARLE STREET,
W.1.

RECEIVED
C. O'BRIEN

10th November, 1937.

Dear Ormsby-Gore,

I wonder might I ask you to cast your eye over the enclosed letter ~~from~~ a Constituent of mine, Mr. Stephen Dobbie. *enclosed*

I have discussed this matter with Mr. Dobbie and it certainly appears to me that a wrong exists which should be righted, and now that this young man has legally come of age there should be no further justification for withholding the legacy left by his father. I quite admit that there may be difficulties in Kenya, but surely they are not insuperable?

The mere fact that the Public Trustee is in charge of the Estate should be a guarantee that there exists no grounds for suspicion or doubt on the part of Mr. Dobbie or his Solicitors; but that actually does exist at the present time.

I am sure, however, that I need only place the matter in your hands in order to have the whole question put on a proper basis and the balance of the capital collected, ^{and} returned to this country where it can be utilised for the purpose for which the Testator intended it.

Yours sincerely,

Thomas Moore

The Rt. Hon. W.G.A. Ormsby-Gore, M.P.,
The Colonial Office,
Downing Street,
S.W.1.

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Alred
copy to be returned

copy to Kenya. B

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42, Bank Street,
Kilmarnock.

1st November, 1937.

Lieut-Col. Sir Thomas Moore, C.B.E., M.P.
House of Commons,
London.

Sir,

re Matthew Dobbie's Estate, Kenya Colony.
S.E. Dobbie.
Trust Cause No. 1 of 1937.

Our client Mr. Stephen E. Dobbie, Alloway, Ayr, informs us that he had an interview with you on Friday last with regard to his late father's estate, and he has requested us to send you some detailed information as to the position.

Mr. Matthew Dobbie, his father, who was in business in Nairobi for many years, met his death by accident on 19th October 1926. His wife had died at the birth of our client who was his only child. The latter had been brought to Scotland when very young and has lived with his Aunts, the Misses Dobbie, ever since. His father left a Will by which he bequeathed the one-half of his estate to his three sisters, the Aunts above referred to, and the other half to Stephen. The Trustees nominated by the Will, who were local men in Nairobi, did not see their way to accept office and accordingly the estate was taken possession of by the Public Trustee at Nairobi and since then it has been in his hands. The Public Trustee at that date was Mr. W.M. Keatings but as he died in August last the estate is now under the charge of the Acting Public Trustee, Mr. Fisher (or Fish).

According

According to the Public Trustee's Statements the amount of the estate as realised was a little over £30,000 and the Aunts' one-half was duly remitted through ourselves and suitably invested by them on this side. The other half was retained by the Public Trustee to be administered until the son attained 21 years of age which he did in March 1936. The Public Trustee alone took charge of the investing of the minor's share, and neither we nor the Aunts were consulted. From the Accounts sent periodically to this side it was seen that practically the whole £15,000 had been given on loan to farmers in Kenya Colony on mortgages at a rate of interest averaging about 7½%. From the income there was quarterly sent to the Aunts for the maintenance of the minor sums at the rate of first £300 per annum and latterly, when his education was proving expensive, at the rate of £360 per annum, and such payments were continued till his minority expired. There should, therefore, in ordinary circumstances have been roughly £8,000 of surplus revenue accrued during the ten years of administration after deducting the allowance above referred to.

We have pointed out to the Public Trustee on various occasions that the relatives on this side were disappointed that he should have placed practically the whole Trust funds on loans over land and have pointed out that what they desired was security rather than a high rate of interest so that the funds should be available when the young man came of age. Of course, neither we nor the Aunts could control the Public Trustee, but on more than one occasion we expressed the wish that the funds should for preference be placed in Government Stock. It may be that in making the loans in question the Public Trustee

Trustee was carrying out a Government policy and using trust funds for the encouragement of farmers in Kenya. Whatever was the reason, the result has been most unsatisfactory, for although a couple of years before Stephen reached El we wrote to the Public Trustee reminding him of the period when the funds would fall to be transmitted to this side we have only been able to recover to date roughly £6,000. On several of the mortgages interest has not been paid to the Public Trustee for a considerable time, and in a letter which we addressed to the Public Trustee on the 7th ulto. we asked for information with regard to the various loans. On 16th ulto. the Acting Public Trustee in acknowledging our letter simply stated that he had to inform us that he had "referred the question of the amounts due by Messrs. Williamson, Harper and Fletcher (three of the borrowers) to the Government of this Colony and understand it will receive sympathetic consideration." He added "As soon as a reply is received from Government intimating their decision on this matter a further communication will be addressed to you advising you of the result." A further mortgage, that of Cartwright of £4,000 is in a very unsatisfactory position. The debtor had offered to pay £3,500 for a discharge of the £4,000 and ^{of} arrears of interest (which would amount to over £2,000 additional), and as it seemed that the Public Trustee could do nothing better Mr. Dobbie was prepared to authorise him, and did authorise him, to accept the £3,500 but this offer of Cartwright's would

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seem now to have been withdrawn.

We think that as his father's monies were in the keeping of a Government official the lad was entitled to expect that the funds would be made available to him intact when he became of age, and his whole future plans are seriously threatened. If therefore you could do anything on his behalf Mr. Dobbie would esteem it a great favour.

We are,

Yours respectfully,

(Signed) Mackintosh & Bain.

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