

1923

KENYA

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28979
RE 11 JUN 23

DATE

2 June 1923

West. Leslie

CIRCULATION :-

~~Secretary~~
Batterbee

SUBJECT

Letter W.S.B.S. regarding the
policies of the E.A. Plantations
(Kenya Colonies) Ltd. in view
of contemplated cessation of
judicial aid

U.S. of S.

U.S. of S.

U.S. of S.

Secretary of State

Previous Paper

MINUTES

~~Page 628698~~
W.S. 61/65. 23

Regulations for record

Meeting

10/11

11/11/23

W.S.

12/11/23

10/11

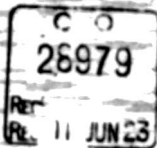
Subsequent Paper

~~10/11/23~~
12/11/23

20 EGERTON TERRACE

O.W.S.

2nd June 1923.



Dear Sir

I enclose a letter which was addressed by constituents of mine to Mr Pennefather, and he has handed the letter to me. The course suggested of putting a question down as to the intentions of H.M. Government in regard to the Cession of Jubaland might embarrass the Government, and I think you would prefer me to approach you by letter. Could you let me know what the position is in regard to such concessions as my constituents have?

Yours sincerely,

Copy

79 Coleman Street,

London, E.C. 2

May 18th, 1923

Dear Sir,

re The East African Plantations (Kenia Colony
Limited

Referring to a recent interview with Mr. J. L. Browne of Liverpool (Brown Drakeford and Company, Cotton Exchange) a Director of the above Company had with you we are now instructed as Solicitors of the Company to place before you the following facts:-

This Company owns two concessions or Grants of land in the Jubaland Province of the Kenia Colony known respectively as Halwalood comprising some 6000 acres and Towata of about 14,958 acres. The Halwalood lease is for 99 years from the 1st of June 1911 and the Towata Lease for 99 years from the 1st of July 1919, but the latter lease was agreed to be granted some years ago but was held up for various causes. In 1915 the Pact of London was entered into in virtue of which Italy entered the War on the side of the Entente and Great Britain agreed to give to Italy "some equitable compensation particularly as regards the Settlement in her favour of the questions relating to

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to the frontiers of the Italian Colonies of Eritrea Somaliland and Libya and the neighbouring colonies belonging to France and Great Britain." It will be seen that this Pact was not in contemplation at the time when the Halwalood lease was granted and the Pact was not made public or known to our Clients or their predecessors in title when the arrangements were originally made to grant the Lease of the Towata Estate. Our Clients and their predecessors have spent very large sums of money in the development of these properties, but more particularly Halwalood as Cotton Plantations being encouraged by the inducements that were held out to encourage Cotton Plantations within the British Empire. The result of their expenditure of moneys and time has been that the Plantations are now approaching the productive state when our Clients might reasonably hope to reap the reward for their exertions and expenditure but now if the property is ceded to Italy they will be excluded from the Empire and will undoubtedly suffer very serious loss and damage.

Without going into details they have already found a difficulty in raising capital as Investors here are reluctant to put money into Company whose estates and properties are or will become under Foreign jurisdiction and examples of this

this have already occurred as recently a firm of high standing in the City who had practically arranged certain finances for the Company have withdrawn from the business in consequence of hearing of the proposed cession to Italy through an article that appeared in the "Times" of the 2nd instant. We may mention that the Company has an issued capital of £150,000 in shares of £1 each all of which are held by British subjects and the majority of the shares are held by shareholders residing in Liverpool and district. Under these circumstances our Clients would solicit your assistance and support in their claim for compensation.

We would suggest that the first step to be taken should be to ask the following questions in Parliament.

1. Whether it is proposed to proceed with the Cession to Italy of Jubaland in the Kenia Colony.
2. If such cession takes place will compensation be paid by the British Government to those concession holders in the ceded territory who have expended capital and labour in the development of cotton growing for the Empire of which their properties will thus cease to form a part

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If

If there is any further information that we can furnish we shall be pleased to do so or to call upon you to further discuss the matter if you will kindly arrange an appointment for that purpose.

Yours faithfully

(sd) KENNEDY, LINDO & CO

C. de F. Penfather, Esq. M. P.

25 Victoria Street

London, S. W. 1

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Yours faithfully

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C. de F. Penefather, Esq. .M. P.

25 Victoria Street

London, S.W. 1

Downing Street,

June, 1920

My dear Sir

Leslie Scott, K.C., M.P.

I have your letter of the 2nd June, about the Jubaland Estates held by the East African Plantations Limited and I send you ~~an account of the subject which has been published in the Daily News~~ these estates were formerly held

James Milner

copy to be as a name See

by Mr. C.S.M. Gabriel and Mr. Nesbitt, and ~~we~~ ^{it is} not know at what date their interests were transferred to the Company, of which the Colonial Office first heard at the end of 1921. Owing

to publication in the ~~Daily~~ ^{News} newspapers, the proposal to cede the territory became known to Mr. Gabriel in 1919, and communications followed in the course of which he was taken into full confidence as to the arrangements contemplated. The correspondence ended with a letter to Mr. Gabriel of the 21st of May, 1920, in which he was informed that "If the Italian Government

"should be approached and refuse to purchase your rights and property in Jubaland, Lord Milner would not be

prepared

Bottomley. 5/6/23.

*Book 576
11/12/23
March*

*... complete party. You
... not to suggest
... not to be
... "him", but if, as I think,
... and his stand at London,
... being its present position,
... some kind of action, we
... not in a position.*

21400/20

prepared to consider any application
for compensation from, or purchase by,
His Majesty's Government or the Government of
the East African ^{Protectorate [Kenya]} Territory, nor would he
be willing to agree to your suggestion
that in addition to payment for your
land and rights by the Italian Government,
if such payment is made, you should be
given other land in British East Africa
or elsewhere of like extent or equal
value."

Since the date of that
letter, anything which has been done with
regard to the property or its ~~assignment~~
has been done with full knowledge on
the part of the original owners and
presumably of their assignees of ~~which~~
~~was in prospect with regard to~~ ^{proposed} cession.

correspondence with Messrs
Kennedy, Lindo & Company began at the
end of 1921. At an interview on the
1st December of that year, the position
was fully explained to Mr. Kennedy and
various suggestions were made by him for
the wording of the draft Convention with
Italy, in order to save the position of
the

K/58506/21

(-)

the Company when the Country was ¹⁰⁴
transferred to the Italian Flag.

(The correspondence at that
time turned entirely on the question
of what the position of the Company
would be after cession, and there ~~was~~
no question of compensation from His
Majesty's Government.

2507
23

In a letter of the 17th of
May of this year, Messrs Kennedy, Lindo
and Company drew attention (presumably
as a result of ^{the} recent financial
transactions) to the damage which they
anticipated through the cession, and
they stated that, owing to the long
delay that had taken place since the
previous correspondence, the Directors
of the Company had been under the
impression that the proposed cession
had been abandoned. ~~I am afraid that~~
The Secretary of State cannot be
responsible for impressions which
could have been ^{dis}pelled by a simple
telephone message to the Colonial
Office.

In

the River area, will take effect, subject

of course to the ratification by Parliament of the Convention with Italy.

(2) No compensation will in any case be paid by the Imperial Government or the Government of Kenya, to the concession holders on the transfer of the territory to Italy.

I do not think that it can be admitted that the change of flag constitutes any definite damage on which a legal claim can be based, but if I am wrong the Company can prove it.

Yours sincerely,

With regard to cotton, I fear that we can claim little credit for encouraging cotton growing within the Empire until the Empire Cotton Growing Committee was appointed. That Committee reported in 1919 (Cmd. 523 of 1920)

Jshd omit #1/3.

With care to exclude any off. of interest from the Committee Report, but in view of I omit reference to this as important in para 33 of the Report.

In the letter which has been

S. L. Scott

communicated to you, Messrs Kennedy, Lindo

and Company do not refer to the previous

Sir Leslie has probably

correspondence at all, and you have, I

~~expect~~ concluded that the Company itself

has been kept as much in the dark over

the international proposals as one must

presume the *fact* has been, to which

they refer in the third paragraph of

their letter.

On the particular question raised

all that can be said is

at the end of their letter ~~can only say:~~

1) The arrangements for the cession

of Jubaland to Italy form one of ~~the~~

several *questions* points in a post-war settlement

in regard to which international negotiation

has continually been, and is still, in

progress. There are various points of

administrative difficulty in connection

with the cession which have to be arranged

with Italy, but assuming that the general

settlement is completed, it may be taken

as certain that the cession of a great

part of Jubaland, including the whole of

the

THE JUBALAND ESTATES HELD BY THE EAST AFRICAN
PLANTATIONS LIMITED.

These estates were formerly held by Mr. C. S. M. Gabriel and Mr. Heskitt, and it is not known at what date their interests were transferred to the Company, of which the Colonial Office first heard at the end of 1921. Owing to publication in the Italian newspapers, the proposal to cede the territory became known to Mr. Gabriel in 1919, and communications followed in the course of which he was taken into full confidence as to the arrangements contemplated. That correspondence ended with a letter to Mr. Gabriel of the 21st of May, 1920, in which he was informed that "If the Italian Government should be approached and refuse to purchase your rights and property in Jubaland, Lord Milner would not be prepared to consider any application for compensation from, or purchase by, His Majesty's Government or the Government of the East Africa Protectorate (now Kenya); nor would he be willing to agree to your suggestion that, in addition to payment for your land and rights by the Italian Government, if such

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such payment is made, you should be given other land in British East Africa or elsewhere of like extent or value." Since the date of that letter, anything which has been done with regard to the property or its use has been done with full knowledge on the part of the original owners, and presumably of their assignees, of the proposed cession.

Correspondence with Messrs. Kennedy, Linde and Company began at the end of 1921. At an interview on the 1st December of that year, the position was fully explained to Mr. Kennedy, and various suggestions were made by him for the wording of the draft Convention with Italy, in order to save the position of the Company when the territory was transferred to the Italian Flag. The correspondence at that time turned entirely on the question of what position of the Company would be after cession, and there was no question of compensation from His Majesty's Government.

In a letter of the 17th of May of this year Messrs. Kennedy, Linde and Company drew attention (probably as a result of the recent financial transactions) to the damage which they anticipated through the cession.

It is stated that, owing to the long delay that had taken place since the previous correspondence, the Directors of the Company had been under the impression that the proposed cession had been abandoned. The Secretary of State cannot be responsible for impressions which could have been dispelled by a simple telephone message to the Colonial Office.

In the letter which has been communicated to Sir A. Scott, Messrs. Kennedy, Linde and Company do not refer to the previous correspondence at all, and Sir Leslie has probably concluded that the Company itself has been kept as much in the dark over the international proposals as one must presume the firm has been to which they refer in the third paragraph of their letter.

On the particular questions raised at the end of their letter all that can be said is:

(1) The arrangements for the cession of Jubaland to Italy form one of several questions in a post-war settlement in regard to which international negotiation has continually been, and is still, in progress. There are

various

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408

823A

Actual

to see Mr

Bottomley

re

James L Browne

date

Kenya Colony

WCS

4/3/24

NATURE OF BUSINESS.

Re above

Jutaland

(G.A. Haralson).

I asked if there was any hearing about making
arrangements I said that in connection, but that
it was too late they must blame me.
I said that in the question of compensation had taken into
account that they were not, that I was not
so behind that.

4 / 3 / 24

WCS

4/3/24

Bowling Street,

7th June, 1922

My dear Scott,

I have your letter of the 2nd June, about the Jubaland estates held by the East African Plantations Limited, and I send you a memorandum on the subject which has been prepared in the Department.

Yours sincerely,

(sgd) Devonshire