

1925

KENYA

48012

24 OCT 25

A. J. DEYMAN

CONF 179

30th September 1925

773

Mr. C. G. ...

Mr. ...

Mr. ...

Mr. ...

Asst. U.S. of S.

W. S. ...

Perm' U.S. of S.

946 1.12.25

Perb U.S. of S.

2.12.

Secretary of State.

LANDS ALIENATED FROM NATIVE RESERVES.

Now forwards copy of a note by Commissioner of Lands, with memoranda setting out historical facts regarding delimitation of U1 (Machakos) and Lumbwa Reserves. Almost all boundaries now agreed upon and a final declaration will be made after suitable interval.

Previous Paper

O.A.C 43956

MINUTES

See also Serial 557862

Minutes within

H. H. Allen

I don't recall ... of the ... already ... I agree that we had ... can't - e.g. ... have got. ... ?

Also 51362

24.11.25

Subsequent Paper

5044

Yes, write & ask for ... information it is necessary to have to ... Reserves &

Amend leaf cover p. 100 & 101

172

This was kept for the despatch referred to in paragraph 3. It now appears that that despatch has been cancelled and 51362 circulated herewith substituted for it. In his memoranda in 21287 Mr. Maxwell, the Chief Native Commissioner, raised serious questions in regard to these two reserves; and, although the Acting Chief Native Commissioner and the Commissioner of Lands have now come to an agreement it scarcely seems sufficient, in view of possible criticism here, for the past history of these matters to be dismissed quite so summarily as in paragraph 4.

An inch of map is worth a ream of description; and I have not found it possible to get any clear idea of the position from the enclosures to this despatch. I would, therefore, suggest that the Governor should be asked to send home:

A. Copies of the maps (already prepared) which show the agreed boundaries in the case of these two reserves, indicating on the map in each case (i) the boundaries to which Mr. Maxwell objected in 21287, (ii) the areas which he ~~has~~ considered had been improperly excluded, (iii) to what extent the boundaries now agreed coincide with or differ from any line of boundary previously approved by the Secretary of State; and

B. A brief statement from the ^{Acting} Chief Native Commissioner of his reasons for accepting the lines of boundary now agreed, in so far as ^{they are} ~~is~~ not in accordance with the views expressed by Mr. Maxwell in his memoranda.

W. M. C.
2/1/25



GOVERNMENT HOUSE,
NAIROBI,

CO
4312
KENYA
24 OCT 25

30th September, 1925.

KENYA.

No. 179

Confidential.

775

Sir,

I have the honour to refer to my Confidential despatch No.50 of 13th April last with which were enclosed schedules relating to lands alienated from Native Reserves since 1912 together with separate memoranda by the Chief Native Commissioner on the subject of Alienations of Land from the Ulu (Machakos) Native Reserve and from the Lumbwa tribe.

2. In accordance with the last paragraph of my despatch I now enclose for your information a copy of a note by the Commissioner of Lands on this subject together with separate memoranda prepared by him setting out the historical facts relevant to the delimitation of these two reserves as they exist today.

3. As you are aware, the final settlement of the boundaries of all native reserves has been occupying the attention of Government for some time, and it is now the case as you were informed in my despatch No.1156 of 30th instant that the Chief Native Commissioner and the Commissioner of Lands have agreed on the boundaries of almost all the reserves/

RIGHT HONOURABLE
LT. COL. L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1

C.A.C.
21287
75

reserves: maps illustrating these have been signed by both and the descriptions will very shortly be published in the Official Gazette of the Colony for general information and criticism. The final declaration will follow after an interval of three months.

4. In view of the fact that agreement has been reached in the case of the two reserves under discussion, I do not now consider it necessary to go further into the past history of the delimitation of these areas.

I have the honour to be,

Sir,

Your most obedient humble Servant,

W. J. Finlay

ACTING GOVERNOR.

DEPARTMENT OF LANDS,

P. O. Box No. 139.

Nairobi.

2nd April, 1935.

In reply please quote No. 163 C.Y.
and date.The Hon. Acting Colonial Secretary,
Nairobi.Your No. 22235/11/45 of the 14th
August, 1934.

The attached memoranda state the actual facts in respect of the Lumbwa and Machakos Reserves, i.e. the facts revealed in my records.

2. Over and above these bare facts of history I should like to make two comments in Mr. Maxwell's "Lumbwa" Memorandum

(a) In paragraph 2 of that Memorandum only three Muhroni farms (and not five) have been taken out of the Reserve and are still out of it.

(b) The 1909 description of the Lumbwa Reserve was furnished by the then Provincial Commissioner, and subsequent Chief Native Commissioner, Mr. Ainsworth, and the land subsequently alienated to Europeans was not a part of the Reserve as thus described. It must be a matter of opinion as to whether Mr. Ainsworth or Mr. Maxwell are right as to the propriety of that boundary.

3. As regards the Machakos Reserve, I have set forth its history at some length, but the one point of importance appears to be that the Mwa Hills area was included in the 1906 description under the Outlying Districts Ordinance, and though it seems doubtful as to what historical right of possession was enjoyed by the Wakamba, it would certainly appear that subsequent to 1906 it was occupied by natives.

- 2 -

I would point out however that it would appear that they moved by consent, and that the sanction of the Secretary of State was obtained to the readjustment of boundary.

4. On this point of sanction, I would refer also to Sir H. C. Belfield's Despatches No. 314 of 3rd April, 1914, and No. 233 of 7th April, 1913.

5. I am still endeavouring to arrive at a final settlement of the Lumbwa boundary with the Hon. Chief Native Commissioner who has suggested a number of important modifications of it recently.

(Sd.) A. G. BAKER.

for COMMISSIONER OF LANDS.

Drafted by Commissioner of Lands.

DH.

LUMBWA NATIVE RESERVE

Official Gazette 15. 4. 1909. p. 180. Closed District under Outlying Districts Ordinance, 1902. Revoked by Proclamation of 6th June, 1912 (Official Gazette 15th June, 1912, p. 440).

Official Gazette 30. 7. 1919. p. 510. Provisional Notice under Crown Lands Ordinance, 1915.

(7) The areas now numbered L. O. 3977, 3978 & 3979 were included in the Lumbwa Proclamation of 1909 and also in the provisional notice (under Crown Lands Ordinance, 1915) of 1919. The latter must however be regarded as an error; the 1909 Proclamation having been cancelled by the Nyanza Province Proclamation of 1912, there was no Native Reserve Boundary legally in existence and apparently this was realised in 1919 and the 1909 boundary was reprinted under the Crown Lands Ordinance, 1915, without revision. When the 1909 boundary was gazetted Mr. Ainsworth (P. C. Kisumu) was not aware that any of the land surveyed south of the Nyando was alienated, all the original four farms having reverted to the Crown some time back; but meantime the Land Office not realising that these were wanted for Native Reserve was committed to Marquardt as far as the above-mentioned area. In 1911 the question was raised by the P. C. Kisumu who finally wrote (No. 165/1909, 9th March, 1911, see L. O. File 670) "If however you are committed to Mr. Marquardt in this matter, I will, on hearing from you to that effect, endeavour to arrange some modus operandi". The C.N.C. in 1919 (Ref. No. ⁹⁰⁹ A.12/3/4 of 19th August, 1919, see Cd. Br. 1966/3) admitted that there was an error in the description at this point.

(8) Area between the Kericho-Scott (New) Road and the Kijugu River. (L.O. Nos. 3940 and 4088).

This area which is within the 1909 and 1919 Boundaries was included in the area to be surveyed for alienation in accordance with H.E.'s. No. 116 of 1913 and its exclusion from the

Lumbwa Reserve was definitely agreed to by the Hon. C.M.C. in his No. 248/A12/3/5 of 6.5.20 (see L.O. File 13733).

(9) Scitik Station and Government Reserve L.O.No. 959.

Scitik Post was decided on in 1907 and the area L.O. 960 earmarked therefor; in 1910 it was excluded from the Closed District (Official Gazette 15th January, 1910, p.24) and proclaimed as a Township in 1918 (Official Gazette, 14th August, 1918, p.670). L.O.No. 959 which was the remainder of Original Farm No. 5 Scitik was always regarded as a "Government Reserve" but for what purpose I have failed to discover; it was not excluded from the Native Reserve in 1919.

- | | |
|--------------------------------------|---|
| Official Gazette 1.7.1906, p.234.) | } Closed District under
Outlying Districts Ordinance, 1902. Revoked by
Proclamation of 4th May, 1920 (Official Gazette
5th May, 1920, p. 499). |
| Official Gazette 1.3.1910, p. 86.) | |
| Official Gazette 15.12.1912, p.108.) | |
| Official Gazette 9:6.1920, p.554 | Provisional Notice under
Crown Lands Ordinance,
1915. |

After many attempts I am convinced that it is impossible to determine the 1906 Western boundary, between the Athi River and Sultan Hamud, with any degree of accuracy. The description is very vague and cannot be traced on any map contemporary or otherwise; the line shown on my plan is largely based on an old plan in the office of the Senior Commissioner, Ukamba. (see copy in File Cd. Nr. 2464/2, 25th March, 1924, or S.A.37 H. 65); the areas concerned are dealt with in paras. (26) to (30).

(26) Athi River to Koma Rock. The 1920 boundary between these points appears to be a "give and take" line, as compared with the 1906 boundary, in order to follow the Mutuoyi River; it would be quite impossible to say whether the Native Reserve has gained or lost, owing to the vagueness of the 1906 description.

(27) Mua Hills. This area was undoubtedly taken out of the 1906 Native Reserve. In 1908 Mr. Ainsworth (then P.C. Kisumu) was asked his opinion and wrote "The Mua Hills have always been part of the lands belonging to the Wakamba. When I arrived in Mashaka in 1892 I found the hills almost entirely uninhabited for fear of Masai raids; when such fears were allayed by our presence in the country, the Wakamba asked for and received permission to occupy the land. They have been in occupation since 1895. The salt marked 'A.B.C.' on the survey map would represent some of the best grazing on the hills, and to allow it to be taken for the natives' and granted

to settlers would be, I consider, not only an iniquitous thing but also a grave injustice, and in this country such acts as these will, if anything ever is, be the cause of a rising of the people". In view of this and the report of Mr. Isaac (Ag. P.C.) the Secretary for Native Affairs (Mr. Hollis) strongly opposed the alienation. A few months later Mr. McClellan, Ag. Secretary for Native Affairs advocated alienating 20 or 30 thousand acres inducing the natives to accept compensation. Mr. Isaac strongly protested (26th May, 1908) against this reversal of policy in Mr. Hollis's absence. In accordance with these strongly expressed opinions the Commissioner of Lands wrote a minute on 4.7.1908 deprecating any action until the requirements of the Native Reserve had been definitely settled. Meanwhile a number of 20 acre plots in the Hills were marked out as residential sites for farmers holding land on the plains to the west of the hills, on account of the unhealthiness of these farms for Europeans. The natives in the hills now expressed a desire to move, and writing 7th December, 1908, the P. C. Usanta (Mr. Hobbie) reported that one chief and his village had already gone and the remainder were anxious to go if suitable sites could be provided for them. "They acknowledged that the land was not originally owned by the Tribe and eventually said that if the Government recommended them to move that they would agree to do so providing that sufficient ground for themselves and their stock was allotted to them elsewhere..... They one and all definitely agreed to the recommendation that they should move, the whole question was freely discussed, no pressure or menaces were employed and every person present was encouraged to have his say. I can thus confidently recommend to H. H. that as the inhumanity of these hills have met us in such an ineluctable manner the arrangement arrived at should be ratified by him and that the area should be thrown open to European settlement". (P.C.'s. No. 241/12, 7th December, 1908, see

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to settlers would be, I consider, not only an iniquitous thing but also a grave injustice, and in this country such acts as these will, if anything ever is, be the cause of a rising of the people". In view of this and the report of Mr. Isaac (Ag. P.C.) the Secretary for Native Affairs (Mr. Hollis) strongly opposed the alienation. A few months later Mr. McClellan, Ag. Secretary for Native Affairs advocated alienating 20 or 30 thousand acres inducing the natives to accept compensation. Mr. Isaac strongly protested (26th May, 1908) against this reversal of policy in Mr. Hollis's absence. In accordance with these strongly expressed opinions the Commissioner of Lands wrote a minute on 4.7.1908 deprecating any action until the requirements of the Native Reserve had been definitely settled. Meanwhile a number of 20 acre plots in the Hills were marked out as residential sites for farmers holding land on the plains to the west of the hills, on account of the unhealthiness of these farms for Europeans. The natives in the hills now expressed a desire to move, and writing 7th December, 1908, the P. C. Umuata (Mr. Hobley) reported that one chief and his village had already gone and the remainder were anxious to go if suitable sites could be provided for them. "They acknowledged that the land was not originally owned by the Tribe and eventually said that if the Government recommended them to move that they would agree to do so providing that sufficient ground for themselves and their stock was allotted to them elsewhere..... They one and all definitely agreed to the recommendation that they should move, the whole question was freely discussed, no pressure or menaces were employed and every person present was encouraged to have his say. I can thus confidently recommend to H. E. that as the inhabitants of these hills have set us in such an amiable mood the arrangement arrived at should be ratified by him and that the area should be thrown open to European settlement". (P.C.'s. No. 241/12, 7th December, 1908, see

Sec. M.P. 2569/1908). On 19th January, 1909 (see Sec. M.P. 2569/1908) the Secretary for Native Affairs (Mr. Hollis) writes "As I pointed out in my memorandum of 28th ultimo on the subject of Native Reserves, various large areas have from time to time been gazetted as Closed Districts under the Outlying Districts Ordinance, 1902, in order to enable the Government to decide what land should eventually be set aside for the Natives when the requirements of the different tribes were better known. It has generally been thought advisable to close larger areas than will be actually required for the Natives as it is easier to throw open portions of a District than to recover possession of land which has once been alienated. The Machakos or Ulu and the Kikumbulu Closed Districts are amongst the areas set aside in 1906 with a view to the formation at a later date of native Reserves, and now that more is known of the inhabitants we can proceed to declare as Native Reserves such areas as are adequate for the present requirements of the Natives and as may afford scope for reasonable expansion in the future", and recommends that the Mue Hills should be taken out of the reserve in view of the existing circumstances (as set forth above in Mr. Hobley's report). A revised description of the boundary was attached to Mr. Hollis's memorandum; this received the sanction of the Secretary of State in his No. 357 of 29th June, 1909, (see Sec. M.P. No. 2569/1908) with a suggestion that the area now known as L.O. No. 1491 (see para. 29) should be excluded from the reserve.

At the end of 1909 the survey of the Mue Hills for allotment was put in hand and the new boundary of the Native Reserve was gazetted in 1910.

10726
109

(28) Machakos Township. This was not definitely excluded from the 1906 Native Reserve Boundary. It had however been proclaimed a Township a short time previously (Official Gazette 15.5.1906, p.190) with a radius of 3 mile from the Collector's Office. Subsequently (Official Gazette 22.12.1906, p.1157)

L.O. No. 1491/2 was proclaimed as an extension of the Township to provide a commonage.

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Recently a practical boundary was substituted for the 4 mile circle, without increasing the area, and this together with the whole of L.O. No. 1491 was gazetted as Machakos Township (Official Gazette, 23rd July, 1924, pp.643, 644).

(29) L.O. No. 1491. This was surveyed at the same time as the Mwa Hills; and at a meeting held 25th March, 1911, of the Secretary of Native Affairs, P.C. Ukamba, and Assistant Land Officer it was proposed by the first named that Farm L.O. No. 1491 shall be reserved as a Government Reserve. A small corner of this (L.O. No. 1491/1) was granted to the Ulu Settlers' Association as a Sports Ground in 1912. The exclusion of L.O. No. 1491 was proposed by the Secretary of State in his No. 357 of 29th June, 1909. (See Sect. M.P. 2569/1908). - (See also No. 28.)

(30) Areas between L.O. No. 1491 and Sultan Hamud.

The 1910 (and 1920) boundary for this section is, like (26) obviously a give and take boundary; and likewise also the 1906 boundary cannot be accurately traced; it is certain however that only about one-third of the wedge now known as L.O. No. 4869 between L.O. No. 362 and L.O. Nos. 1731 and 363 was included in the 1906 boundary. This was recently advertised for auction, but withdrawn on account of an objection from the Senior Commissioner, that a portion was required as an outspan and quarantine reserve.

(31) Southern and South-eastern boundary. In Mr. Hollis's Memorandum (see Sect. M.P. 2569 /1908) he says referring to the Machakos or Ulu Closed District (of 1906) "Nobody lives in the Southern part (South of the River Ndanki" i.e. the Kiangini) "and it is unnecessary any longer to reserve this area, parts of which have been applied for by European settlers". Accordingly the 1910 boundary (see para. 30) followed the

Kiangini River to the Athi. In the 1912 (and 1920) boundary the south-east corner was excluded - the boundary leaving the Athi by the Thwaki River - presumably for the same reason, viz. that the area so included was uninhabited.

- Mr. Cliffe 2.xii.25
- Mr. J. J. Jones 4/12
- Mr. Bottomley 4/12
- Mr. E. J. Harding
- Mr. Strachey
- Mr. J. Shuckburgh
- Mr G. Grindle
- Mr C. Davis
- Mr S. Wilson

and

£ Paid
4851

- Mr. Ormsby-Gore
- Earl of Clarendon
- Mr. Amery

7. December 1925

Sir.

DRAFT.

Conf.

I have pleasure to acknowledge the receipt of Mr. Deane's Conf Despatch No: 179 of the 30th of September with regard to the final settlement of the boundaries of the Ulu (Machakos) and Lumbwa Native Reserves.

Governor Grigg

44 on 50444/25

2. In order ^{that I may} gain a clearer idea of the position, and

24/11

Mr.
Mr.
Mr.
Mr. E. J. Harding.
Mr. Stacey.
Mr. J. Shuckburgh.
Mr. G. Grindle.
Mr. C. Davis.
Mr. S. Wilson.
Mr. Ormsby-Gore.
Earl of Clarendon.
Mr. Amery.

DRAFT.

(iii) ~~to~~ ~~the~~ ~~boundaries~~ ~~now~~ ~~agreed~~ ⁷⁸⁷
upon coincide with or
differ from any line of
^{suggested or}
boundary previously [&] approved
~~by~~ ~~me~~.

3. I should also be glad
to receive a brief
statement showing the
reasons ~~for~~ ^{has guided} which the
Acting High Chief Native
Commr. ~~has been able~~
in
~~to~~ accepting the boundary &
lines now ^{agreed upon} [⊙]
~~inasmuch as these differ~~
~~from those previously~~
~~approved.~~
(Signed) L. S. AMERY.

PUBLIC RECORD OFFICE

C0533/333

END

TOTAL EXPOSURES →

PUBLIC RECORD OFFICE

C0533/334

ORDER NO. ⇒ 777
CAMERA NO. ⇒ 19
OPERATOR. ⇒ JM
REDUCTION. ⇒ 12
EMULSION NO. ⇒ 311081
DATE. ⇒ 6/8/71

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Kenya

1925

VOL. 7.

(12541) 2200/20 1,000 10/30 N. & S. 144. Co. 64

DESP. NO.	DATE	SUBJECT
Conf.	1st Oct.	£3,500,000 Loan & Proposed £3,000,000 Loan.
1241.	"	Review of Forestry Policy.
1244	5th	Able seaman W. J. Salson. Absent without Leave.
1245	"	Loss of S.S. "Swahili".
1246	"	Congestion on Transportation System.
1247	"	Report of Journey down the Tana River in 1909.
1251	5th	Voi-Kwatani Concession.
1252	"	H. S. Galra Hariam. Pension.
1258	6th	Masin Gikhu Railway.
1263.	8th	Uganda Railway.
1266	"	Railway Construction Harard.
Feb.	9th	Recruitment of Labour from Neighbouring Territories.
1269.	"	Mr. Denham's Emoluments whilst acting as Governor.
1270.	"	Medical Department. Report 1924.
Conf.	"	Native Reserves.
Feb.	10th	Jubaland Boundary Commission.
1274.	"	Population Census, 1926.
Feb.	12th	Makupa Viaduct.
"	"	Coast Agency.
1276.	"	Grogan Forest Concession.
Conf.	"	Crown Counsel in Attorney Genl's Dept.
"	"	Specific Loan Bill.
Feb.	14th	M'Baraki.
1299.	16th	Commercial Master. Arab school, Mombasa.
1303.	17th	Makupa Viaduct.
1305	20th	Karanga Da Kariuki. gratuity.
1308.	"	Harare Dept. Uganda Railway.
Feb.	22nd	M'Baraki.
"	24th	Mhindini Port. Commission of Enquiry.
Conf.	26th	Jubaland Boundary Commission.
Feb.	30th	Transport of Cotton.

(12561) 22202/20 2,000 10/35 M. A. S., Ltd., Gp. 581

DESP. NO.	DATE	SUBJECT
7el.	26th Nov.	Medical, Sanitary, etc., Staff, 1926.
+ 87.	"	Memo. on Fruit growing.
499.	30th	Annual (Blue Book) Report, 1924.
504.	2nd Dec	Mr. Hamed Bin Mohamed. Revised Pension.
7el.	4th	M. Baraki.
611.	"	Death of Mr P. F. Whiting.
7el.	5th	Conservator of Forests for Kenya and Uganda.
	7th	Meat Banning.
	9th	£ 3,500,000 loan, and proposed £ 3,000,000 loan.
	10th	Defence Force Ordinance.
	15th	Makupa Viaduct.
	21st	Government House, Mombasa.
	22nd	Railway order-in-Council. Local order.
el.	"	Proposal to Appoint an Architect.
	25th	Banking Agreement with All. Bank of India.