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Enclosure to O.A.S. 41601/21 Kenya.

Mr. Isaacson Kiptanui

533 261

Enclosure to AM Jeevanjee's letter

Mr Jeevanjee.

INCLOSURE

59

Dispatch No. 787 of 14.7.11

Reports to The R Hon.

H His Secretary of State for the Colonies

dealing with Lease for

- 1. The Market Plot } Mainly.
- 2. Elm Town Hall Plot }

with copies correspondence & documents
referred to therein.

I beg respectfully to ask you to give your favourable consideration to my request that I be granted leases of two plots in Nairobi known as the Market Plot and the Town Hall Plot, in accordance with arrangements with the Representatives of His Majesty's Government in East Africa in years 1903, 1904 and 1905.

As you will see from the Notes to the draft Market lease (a copy of which is transmitted with my report hereon) I am willing to accept the Market lease as drawn by the Government subject to the deletion of a clause with regard to "monopoly".

Were I agree to the clause above referred to as set out in the draft lease I should be, in my humble opinion, enabling the authorities in Nairobi to repudiate the obligations of the Government not to open a similar Market to the Jeevanjee Market so long as that market meets the requirements of the town. That this obligation exists is clear from the report of Mr. John Ainsworth, with whom the arrangements for building the market were made. As a large portion of the Market Reserve has not yet been built on it therefore cannot be contended that the present market does not meet requirements (copy of report is transmitted herewith).

With regard to the Town Hall Plot the correspondence and documents clearly show that I am entitled to a lease of this plot, or a grant of another plot in exchange.

That I have not been treated in a manner "consonant with the justice of the case" is clearly shown by the concluding passage of Mr. John Ainsworth's report made in 1913.

I have always endeavoured to assist the Government in every way, and have confidence that when you peruse the report, which I send herewith, showing the history of the case you will see that justice is done.

done.

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I have made every effort to settle the matter with the Authorities here, and my Advisers have also made every effort in the same direction, and in these efforts I believe I have had the support of His Excellency, Sir Edward Northey.

The actual position, however, is that those who are anxious to settle the matter have been thwarted by one or two parties who, unfortunately, have a large say in the matter, and who have persistently endeavoured to deprive me of my rights have treated me with much discourtesy, and have prevented the settlement of the matter in this country.

I only ask for justice and in view of the fact that it is a question of His Majesty's Government redeeming their promises to me I wish the matter settled out of Court, more especially as the most important witnesses have left the country.

I believe that the report sent here with sets out the facts fully and clearly, but if there is any correspondence not referred to therein which may be thought of importance by His Majesty's Government here I am only too anxious that the whole file be transmitted to you for consideration.

With confidence that you will give due consideration to my case,

I have the honour to be,

Your most obedient servant,

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REPORT OF A. M. JEEVANJEE ON FACTS RELATING
TO GRANT OF A LEASE OF THE "MARKET PLOT"
NAIROBI.

I was first approached in the year 1902 by Mr. John Ainsworth with a view to my erecting a Public Market and I agreed to erect a Market on the distinct understanding that I was to obtain a lease of the plot for 50 years with a right of extension if the buildings erected justified - I was also promised that no other Public Market would be permitted until such time as the Market to be erected by me should prove inadequate for the requirements of the town - The site of the Market was selected by Mr. John Ainsworth, a considerable area being reserved for possible extensions which might be required by the Government, and I erected the Market at my own expense according to plans approved by the Government.

The terms upon which the building was erected were shortly set forth in a Memorandum a copy of which is annexed hereto and marked "1".

No draft lease was submitted by the Government for any years after the building of the Market, and frequent requests were made for issue of a lease.

A Memorandum of "basis of Agreement" arrived at was sent to me on the 16th April 1920, with a letter of that date, (copy attached hereto marked "2"). In ork about the year 1912 the Municipal Authorities were endeavouring to authorize other markets although the reserve allotted to me had not been utilized and I, accordingly, instructed my lawyers to protest which they did (vide their letter copy attached hereto and marked "3").

My representatives have been constantly pressing for Leases of the various plots to which I was entitled and were put off from time to time on the ground that the question

my Leases had been referred to the Colonial Office.

My Lawyers brought the matter to a head by an interview with Mr. Barton Wright (the Land Officer) in January 1913 when they ascertained that a report had been sent to the Secretariat in June 1910 to be forwarded to the Colonial Office - but that it had never been forwarded to England and was discovered at the Secretariat with no note of its having been dealt with in any way.

My Lawyers then pressed for a settlement of the various matters which were in abeyance before the departure of Mr. Ainsworth for England (vide their letter of February 1913 copy attached marked "4" and copy reply marked "5").

Mr. Ainsworth was then invited by His Excellency the then Governor to make a report as to his recollection of what arrangements had been made and he made a very full report dated 31st March 1913 (copy report attached hereto and marked "6").

I need not go into this report in detail as it is very full but would draw attention to the fact that it distinctly states that it was agreed that "so long as the Market met the requirements of the Town the Municipality could not open a similar Market".

It shows the circumstances under which I built the Market and also, in its concluding paragraph, shows that I had not been treated in a spirit "Consonant with the Justice of the case".

With regard to the penultimate paragraph of the report - my objection was not to the opening of shops, but my being deprived of the sole right of "Public Market" until the accommodation reserved to me was exhausted owing to the increased requirements of the Town.

The Municipal Authorities were at this time doing

Everything in their power to make it impossible for this Market to be properly run and to deprive me of my rights.

Notwithstanding the contents of Mr. Ainsworth's report nothing was done to rectify matters and my Lawyers wrote a letter to the Land Officer asking for a draft lease of some sort to be submitted (vide their letter 9th August 1913 marked "7").

An acknowledgement was sent by the Land Officer on the 30th August 1913, but no draft lease was forwarded and the trouble with the Municipal Authorities continued.

In March 1914 correspondence took place with the Chief Secretary to the Government in connection with the attitude adopted by the Municipal Authorities and a further request for draft leases was made (vide copy of my Lawyer's letter attached hereto and marked "8") - The Land Officer stated that he was unable to issue a draft at the time as the Market had been closed for repairs. I had from time to time carried out extensive repairs and alterations and on complying with the requirements of the Director of Public Works a request for further structural alterations arrived from the Director who was also a very active member of the Municipal Committee - In view of these further demands my Lawyers wrote to the Director of Public Works stating that they were placing the matter before His Excellency - (vide copy letter 18th December 1914 attached hereto and marked "9").

The refusal to carry out further repairs pending the grant of a Lease was approved by the Chief Secretary to the Government (vide copy of letter from Chief Secretary dated 6th January 1915 attached hereto and marked "10").

A difference of opinion arose as to the area reserved for Market purposes and as I was aware that Colonel

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Coleman Montgomerie who had been Commissioner of Lands had made a report I applied for a copy and was eventually supplied with one. I attach a copy of his report (marked "11") in as it so far refers to the Market Site. No Draft Lease being forthcoming in February 1915, my Lawyers again wrote setting out the terms on which they would accept a Lease and asking for a draft.

A draft was eventually submitted on the 24th June 1915 (see copy letter 24th June 1915 marked "12"). This draft was very cumbersome and contained detailed provisions for management which could not suitably be included in a Lease - This draft lease was really mainly settled by the Municipal Authorities and had no plan attached. The additions made by the Municipal were eventually discarded by the Land Office Conveyancer as being unsuitable. The Draft was repudiated by my Lawyers in their letter dated 28th June 1915 (copy attached and marked "13").

On the 3rd July the Land Officer wrote my lawyers asking them to agree the draft lease cutting out the Municipal Authorities' additions (vide copy letter 3rd July marked "14").

A letter then was received by my lawyers from the Attorney General calling on them to accept the draft as drawn within 7 days (see copy letter 6th July 1915 marked "15").

A reply was written by my Lawyers to the Attorney General pointing out that they could not approve the draft as no plan was attached (vide copy letter 8th July 1915 marked "16"). (N.B. there had been a dispute as to boundaries).

This letter clearly shows the attitude which was adopted by me in the matter. A Draft Lease with plan attached showing the correct boundaries was eventually

furnished and approved as amended by my Lawyers.

I attach a copy of the draft lease showing the amendments made by my Lawyers and wish to draw particular attention to their note as to "monopoly" which shows that I was endeavouring to obtain any unfair or unreasonable concession. (See copy draft lease marked "17").

Just at this time - owing to the state of war which involved more serious work for the Government and also depleted our Lawyers' staff - my Lawyers arranged to hold over all contentious matter while the war lasted although they expressed their intention of referring the whole matter to the Secretary of State for the Colonies.

They received a letter from the Chief Secretary thanking them for their undertaking.

Nothing further was done until 1919 when I saw His Excellency Sir Edward Marthey in London and arranged to have an interview with him on my return to East Africa.

His Excellency arranged interviews and expressed himself as anxious to settle matters - He - however - point out that he must not act on advice given to him. At His Excellency's suggestion my Lawyer Mr. Figgis had an interview with Mr. Muir Mackenzie (Crown Counsel) but - although I understand that Mr. Muir Mackenzie expressed himself as disposed to settle matters - a notification was received from the Colonial Secretary intimating that Government would not delete the clause complained of.

My Lawyers then were preparing a report for transmission to you when His Excellency asked Mr. Figgis to make another effort to settle matters with Crown Counsel.

Another interview took place at Mr. Muir Mackenzie's office and at Crown Counsel's suggestion Mr. Figgis wrote to him setting definite propositions with regard to both the Market Site and the Town Hall Site (Copy of letter attached and marked "18").

No reply was received from Crown Counsel, but eventually a letter demanding acceptance of the Lease as drawn and threatening action was received from the Acting Commissioner of Lands, (copy of letter attached and marked "19"). The position therefore is that, having postponed sending my report to you with a view to assisting the Government, I have received an ultimatum threatening legal proceedings. I can attach no other reason for this procedure than an endeavour to prevent your dealing with my case and to avoid the facts with regard to the manner in which I have been treated being laid before you.

The Acting Colonial Secretary has verbally assured my Lawyers that, although action will be filed, proceedings will be stayed pending your decision, but having regard to my treatment in the past and in view of the fact that I have had to deal on the same matter with the Attorney General - The Colonial Secretary and the Commissioner of Lands at various times I cannot feel secure until I have your decision.

The Market was built in 1904 and there could have been no trouble if the Lease had been issued by the Government at the right time.

The question at issue is one of equity, and I feel confident that on consideration of the facts as shown in the correspondence and in Mr. Ainsworth's report you will have no hesitation in saying that I should be granted a lease with the clause to which I object deleted.

I have spent £15,000 on the Market, and owing to the action of the Municipality am losing on the transaction.

I have always been and still am ready to meet the Government in every reasonable way for the benefit of the Community as a whole, but consider the attitude of the Government in this matter to be most unreasonable.

MEMO. of AGREEMENT entered into this day of
between Messrs. A. M. Jeevanjee & Co., of the one part,
and herein described as the first party, and H. M's Sub-
Commissioner on behalf of the Nairobi Township Committee
of the other part and herein described as the second party.
Whereby the 1st party having erected a stone and iron
building for use as a Public Market, and 1st party shall
keep the market in good order and repair.

The management of the market shall be in accordance
with the East Africa Township Rules, i.e., in the hands of
the 2nd party.

It is agreed that so long as the building is in
proper repair and order it shall be continued as the
Public market, and that no other market place of a
similar nature will be opened in Nairobi during such
occupancy. It is further agreed by the 1st party that
they will when reasonably required to do so extend the
present building to meet the market requirements from time
to time.

All rents for stalls shall be fixed by the Township
Committee with the concurrence of the Sub-Commissioner and
all such rents, together with any other rents, for offices
or rooms for any other part of the building shall be the
property of the 1st party.

All charges for water and light supplied to the
building shall be a charge against the 2nd party.

The 1st party shall not sell, let or hire or in any
other way dispose of the market or any part thereof without
the sanction and approval of the 2nd party, and no trades
other than those allowed under the Township Rules shall be
carried on in the market.

In reply please quote
No. 209/42/547/874.

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Land Department,

Nairobi.

16th April, 1910.

Sir,

With reference to your letter of the 9th instant, I have the honour to forward herewith a copy of the memorandum drawn up and signed by Messrs. Ainsworth, Jeevanjee and Barton-Wright, which was to constitute the basis for agreement for the Market Site. The document has, until recently, been in the Provincial Commissioner's Office, Mr. Hobley having transferred the papers to me.

I am, Sir,

Your obedient servant,

(sd) C. W. Campbell.

For Land Officer.

Hon. Mr. A. W. Jeevanjee.

Nairobi.

BASIS OF AGREEMENT.
)))))))

"A 50 years' lease of the land at a nominal rent to be granted to Messrs. A. M. JEEVANJEE & Company, on condition that the building on the land be used only as a public market, and that the building or buildings be kept in proper order and repair by Messrs. Jeevanjee.

Jeevanjee to submit to a clause that should at any time in the future and during the term of 50 years the local authorities make any reasonable request for increased accommodation to meet the then existing requirements that he, Mr. Jeevanjee, will build same, and for this purpose sufficient land to be reserved round the present building".

For further consideration.

"That should Messrs. Jeevanjee before the expiration of the 50 years rebuild the Market in stone an extension of the lease to 99 years to be considered".

ADDITIONAL CLAUSE.

"That should the Municipality ever agree or arrange to purchase the market that the lease would go over to the Municipality also".

No. 87/4

NAIROBI, 10th January, 1913.

Sir,

Re A. M. JEEVANJEE & CO's Right to Market
in Nairobi.

In reference to the above matter in which we believe you have now under your consideration, we would draw your attention to a notice in large print appearing in the Daily Leader of Wednesday, January 8, 1913, (on page 4) which announces that markets will be conducted three times weekly by Messrs. Messels & Co.

It is quite clear that the allowing of a Market at this time would be a direct contravention of the agreement come to with Mr. Jeevanjee when his Market was erected.

We would ask you to take such immediate steps in the matter as you may think necessary.

Yours obediently,

Ed. Locke, District Officer.

The Land Officer,
Land Department,
Nairobi.

No. 295/A

NAIROBI. 5th February, 1913.

Sir,

Re A. M. JENKINS - Market Agreement and Others.

In reference to my recent interview with you as to these agreements when it was agreed that you should approach His Excellency as to the advisability of having an interview at which all parties might be represented with a view to placing the agreements as to the various matters which have been left in an incomplete state for so many years upon a definite basis and as a result that the various leases which have been withheld may be granted. I was urged by my clients to have the interview at the earliest possible date, as we understand that Mr. Kinsworth who would be one of the most essential parties to be present is shortly leaving the Protectorate and it is most desirable that a final settlement of these matters should not be delayed.

Yours obediently,

(Sd) J. H. P. P. P.

Tonks, Dalry, Pigeis.

The Land Officer

Nairobi.

COPY.

No. L. 475 L/S

Land Department,

Nairobi, 15th February, 1913.

Gentlemen,

In re A. M. Jeevanjee & Co.

In reply to your letter No. 265/4 of the 6th instant, I would say that His Excellency whom I approached agreed with me that it was highly desirable that these old outstanding matters should be cleared up and I much regret that pressure of business has made it impossible to go into the clause prior to His Excellency's departure on "Safari". On his return early next month I will reopen matters.

I am etc.

(Sd) C. H. Campbell

For Land Officer.

Messrs. Tonks, Daly & Figgis.

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Copy of Memorandum by Mr. Ainsworth regarding
the Jeevanjee Market Site, Nairobi, File 209/425. 534

In 1902 after the outbreak of Bubonic Plague in Nairobi, it was decided to lay out a new Bazaar Site. The present site was selected. In the same year a question was raised with regard to the establishment of a Public Market other than a purely Native Market which was already established, wherein fresh food could be sold under sanitary conditions, there then being in existence a row of temporary booths erected along the North Side of Government Road (these booths were erected by Messrs. Jeevanjee & Co. to meet the temporary requirements of the town. Messrs. Jeevanjee & Co. drew the rents and the Municipality collected fees).

No funds were available for the building of a market, and it was impossible at the time to obtain money for the purpose. Consequently I interviewed Messrs. Jeevanjee & Co. (the only people then living in the town who were in a position to meet our requirements; this firm was established at Nairobi as Railway Contractors etc.) The firm agreed later on in the year to build a Public Market on a site to be pointed out by us for the purpose. I selected the site behind the Public Gardens then being laid out.

So far as I can gather from the papers now before me, and in so far as my memory will aid me at this distant date, the understanding was that a market should be erected, and that when erected it should be used as a Municipal Market. It was arranged that the market building would belong to Messrs. Jeevanjee & Co. but that it should be controlled by the Municipality, that the firm should take the rents for each of the stalls

were let, but that amount of rent per stall should be fixed by the Municipality. It was further arranged that the right to rent the stalls should be put up annually to auction and that the proceeds of such auction should be divided equally between the owners of the market and the Municipality. The owners were to keep the building in a proper state of repair to the reasonable satisfaction of the Municipal Committee. Messrs. A. M. Jayanjee & Co. were to have a 50 years' lease of the land on which the market stood, and a reasonable amount of additional land on the two sides and back for possible extensions and other business that might be connected with the market, and that inasmuch as the building to be erected was for the use of the Municipality, a nominal rent only should be charged, provided, however, that such land could not be used for any other purpose except a market or business connected therewith.

It was understood that so long as the building was maintained, and if necessary, added to, to the satisfaction of the Municipality, it would to the extent of the term of the lease, be used as a Market and that so long as the market met the requirements of the town, the Municipality would not open a similar market.

It was quite understood that the auction proceeds should be divided between the Municipality and the Owners, also that the stall rents should go to the owner, the Municipal fees going to the Municipality.

As regards the extent of land involved, there never was any mention as to the actual area. Owing to the fact that the entire arrangement was for the benefit and use of the Municipality, and not for private enterprise, the question of area at the time appeared of no particular importance.

I think it would

would have been quite possible that had a Surveyor been available at the time, he would have received instructions to have the area surveyed the area shown on the plan of 1904, (vide L.O. File N. 200/425). It must be further remembered, however, that at the time there was no Land Office, as such, or Survey Department in existence.

I personally regarding Messrs. A. M. Jeevanjee & Co. at the time were in the light of moneyed people willing to come to the aid of the Municipality, certainly not as pure philanthropists, but possibly as persons willing to meet our requirements with the hope that at some future date the outlay would bring some return. I certainly at the time did not think that there would be any immediate return in comparison to the expenditure involved.

The elder Mr. Jeevanjee after the erection of the market offered to the town a marble statue of the late Queen Victoria and further offered to erect walls and railing etc. round the Public Gardens opposite the market. This offer was accepted by H. M's Commissioner, and the work was subsequently completed. These various matters marked Mr. Jeevanjee as a man interested in the Town, and I feel convinced that had he not been met by all this opposition and difficulty, he would, amongst other things, eventually have handed over the market as a present to the Town with the proviso, probably that it be called the "Jeevanjee Market".

It is an undoubted fact the firm of Messrs. Jeevanjee & Co. came forward to the assistance of the Municipality at a time when we had no money and when no one would have invested any considerable sum in the place.

The

The firm may have had a long sighted policy. I think however, myself that they (the elder Mr. Jeevanjee more particularly) were more actuated by a desire to really help the Government at the time, and thereby bring their own and their affairs prominently to the notice of the Government.

I do not think even now that a settlement of the present difficulty is a question of money. I think it has more to do with the idea that certain rights are being denied, and as a consequence the firm feels that they are being subjected to injustice.

Mr. A. M. Jeevanjee at an interview on the 23rd July, 1906, subscribed to the following memo. as the basis of an arrangement:-

"50 years' lease of land on nominal rental, condition that building on same be used only as a public market, and that the building and "(or)" buildings be kept in proper order and repair by Jeevanjee. Jeevanjee to agree that at any time in the future, should the local authorities require it, and it be necessary, he will add to the present buildings sufficient to meet the requirements from time to time. For this purpose sufficient land to be reserved round present building.

- (a) A. M. Jeevanjee
- " John Ainsworth.
- " R. B. Wright.

As regards the holding of an Agricultural Show on the ground behind the market, I believe, that it was subsequently arranged with Messrs. Jeevanjee & Co., that we should use the back part of the market building which had no stalls, as a show room for vegetables, etc., and that outside ground should be

fenced

Fenced and cattle stalls, horse boxes and sheep pens should be built thereon by Jeevanjee, for the use of the Society, and that the Society should pay a sum of Rs.40 for the use of the room and ground for the show.

I believe that Messrs. Jeevanjee fenced the land to meet these requirements.

I Believe it has been suggested by Messrs. Jeevanjee & Co. that on the establishment of the Public Market no one was to be allowed to sell meat or other perishable goods at any other place other than in the market. This was never intended. By reference to the Rules, dated May 19th 1904, issued under the East Africa Township's Ordinance, 1903, provision was made for the opening up of shops for the sale of perishable foodstuffs. I personally drafted the original rules which were subsequently put into legal phraseology by the Crown Advocate (then Mr. Bagth). It will, therefore be seen that there was no idea or intention of confiding the sale of such commodities to the Public Market.

The foregoing would seem to close this matter so far as I am concerned. I cannot think of any other point that would be of interest. I would, however, remark that, in my opinion, had the matter been dealt with in 1904, in a spirit more consonant with the justice of the case, it would have been settled long ago.

(Sd) John Ainsworth,

Provincial Commissioner.

Kisumu, 31st March, 1913.

No. 140/7

Nairobi. 9th August, 1913.

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Sir,

A. M. JEEVANJEE & Co.

In pursuance of the interview which our Mr. Figgis had with you on the 29th ultimo. in company with Mr. F. M. Jeevanjee and his Nairobi Agent and having discussed the substance of the interview we now write you a confirmatory letter for the purpose of trying ~~you~~ to bring the various matters at issue to a head.

Re Lease of Market Plot.

No lease of this plot has yet been granted, and as there seems to be difference of opinions not only between the proposed lessees and the Government in East Africa at present but also between the various Government Officials who have had to deal with the matter. it would appear useless to prolong the controversy.

We would ask you therefore to have a draft lease prepared in the form in which the Government propose to grant it. If the lease and plan are in accordance with what our clients consider their agreements to be it will be returned approved and if it is not, we shall be in a position to have a final determination of what form the lease should actually take.

Yours obediently,

(Sd) Tenks, Daly & Figgis.

The Hon. The Land Officer,

Nairobi.

THE EAST AFRICAN COMPANY, LIMITED.

We are instructed by our directors, Messrs. A. H. Thompson & Co., to reply to your letter No. 2, dated the 10th of March, 1914 in reference to the above matter. Nothing but the minutes and correspondence copies of which are in the files of the Land Office our directors have nothing at this time as we are now defining the terms of their agreement with the Government. Mr. J. H. Thompson has been in India for some time and Mr. T. H. Johnson has just returned for India. So we can't give you an absolutely definite reply on this point.

You will remember that the whole question of the matter was only brought up last year when Mr. Ainsworth came up to give his statement as to the circumstances under which the agreement arrived at and a copy of the minutes of the meeting and Mr. Ainsworth's report can be obtained from the Land Office. The whole position as to the matter was unsatisfactory. We have been trying to do our best for some years, but have not been able to do so.

Our directors are quite satisfied as to what agreement was and it appears to me that the Government records should be such as to enable the Land Office to submit a draft lease.

We have pointed out some time ago that we were most anxious to have the Government's proposals, and all their agreements which have been made.

have written for with a view to get an outline
and copies of papers submitted in order that they
might be better acquainted with the question referred
to the Colonial Office. The objects are entirely
to be able to lay their case, if necessary, before
the Colonial Office and Mr. Phipps in England
and it will not be satisfactory if he has to deal
with the matter before the draft leases have been
submitted.

With regard to the particular subject of your
letter under reply we have as yet at present furnished
you with any information further than that which can be
obtained from the Land Office Files.

Yours obediently.

The Hon. The Chief Secretary.

To the Government.

Sir,

Re Sanitation Districts.

Your letters No. 25720 of the 29th November and No. 25721 of the 4th December, 1928, have been placed in our hands together with the remainder of the correspondence in reference to the subject mentioned.

Our officials have expended a considerable amount of money this year in carrying out substantial alterations in pursuance of your directions. They, as persons were under a legal liability to do this but they have not with the sanction of the Government so far.

It is quite reasonable however to supplement the earlier directions with a fresh instalment which would entail further considerable expenditure especially as they have not yet been covered with even a draft loan by the Government.

In the circumstances we are referring this matter to His Excellency for his direction. We shall endeavour to deal with the matter as expeditiously as possible.

Yours obediently,

(Sd) Seaks, Daly & Figgis.

The Director of Public Works,

London.

REPORT OF A. M. JEEVANJER ON FACTS RELATING TO GRANT
OF A LEASE OF THE "TOWN HALL PLOT" NAIROBI.

The Town Hall was built in the year 1904 by me at the request of the Government on the understanding that I should obtain a 50 years lease with a nominal rent for the 1st 10 years. There was considerable discussion as to the terms upon which the building should be leased to the Municipality and nothing definite was arranged until February 1905.

Two Draft Agreements with the Municipal Committee were prepared in 1904 copies of which are attached hereto and marked "1" and "2" - Neither of these drafts was agreed upon as is shown by a letter dated the 29th December, 1904, from the then Town Clerk to my firm (Copy letter attached marked "3"). My representative replied on the 11th January 1905

Various interviews took place, and eventually a form of lease was agreed upon and executed by my Agent on the 1st February 1905, and witnessed by Mr. Sanderson, (The Town Clerk) and Mr. E. Hargreaves (Assistant Town Clerk). I attach a copy of the deed marked "4".

This document was executed on foolscap and appears to be in Mr. Hargreaves' writing. My firm wrote on the 3rd August 1905 for issue of a Lease from Government, and Mr. John Ainsworth recommended the issue of a Lease (vide copy letter dated 5th August marked "5") - In the following month it would appear that some representatives of the firm of Tenks and Allen who formerly acted for me saw Mr. Ainsworth and wrote a letter dated the 20th September 1905 (copy attached and marked "6").

This letter does not correctly state the facts

and I never/

authorized such a letter being written. The arrange-
 ments re the Town Hall were made with the Municipal
 Authorities direct with ^{the} intervention of my
 Lawyers and Messrs. Fooks & Allen, when called upon
 could not produce any letter written to them re the
 Town Hall by me or my firm nor could they produce
 any entry of any attendance on them in reference to
 the matter prior to writing the letter of the 20th
 September 1905, and I have not been charged for any
 such interview - That they were not instructed in
 reference to the Town Hall is further evidenced by
 Mr. B. G. Allen's letter dated 2nd February 1915.
 (Copy attached marked "7"). The letter of the 20th
 September 1905 was obviously written without reference
 to me or my firm (notwithstanding the words "our
 client states") and in ignorance of the existence of
 the Lease executed on the 1st February 1905. I had
 erected certain residential buildings on the basis of
 a ten years agreement with option of purchase at
 contract price in lieu of granting a 50 years lease
 but no such agreement was contemplated in the case of
 the Town Hall. I attach a copy of one of my agree-
 ments of this nature marked "8" which is obviously of
 quite a different nature from the document executed
 on 1st February 1905.

On the 28th April 1910 an attempt to settle
 matters by interview with the Land Officer was made
 I refer to a copy of a minute of the interview made
 by the Land Officer marked "9". I have already said
 that Messrs. Fooks & Allen had no authority to write
 the letter of the 20th September 1905 and an offer was
 to accept another equally valuable plot in exchange

leaving the question of selection of site to the Government.

In spite of my request no lease has ever been granted and to my surprise my firm received a letter from the Town Clerk on the 25th March 1913 stating that the Municipality intended purchasing the plot and building for Rs. 14,750. They base their claim on the letter of the 20th September 1906 from Jenks and Allen above referred to and a memorandum of Mr. John Ainsworth (copy attached and marked "10").

The concluding paragraph of Mr. Ainsworth's memorandum shows that he was not very sure of his recollection, and, while I have no doubt whatever of the genuineness of Mr. Ainsworth's statement, his recollection is not in accordance with the facts as is clearly shown from the drawing of 3 draft agreements in 1904 and 1905.

I am informed that the Town Clerk subsequently refused to show the draft agreements to the Land Officer and am quite sure that Mr. Ainsworth had not got them before him when he wrote his memorandum.

I attach a copy of a Memorandum of Colonel Montgomerie (late Commissioner of Lands) dealing with the Town Hall (marked "11" which shows that he recognized my right to a lease of the Town Hall Plot or a Lease of a plot of equivalent value.

Being of opinion that the Land Officer had not the full facts before him my lawyers offered to supply him with copies of relevant documents vide copy letter 18th March 1913 marked "12" and received a reply dated 20th March 1913 (marked "13") showing that he had not the most important documents before him - my lawyers sent him copies of the documents on the 25th March 1913 and 1/

refer to letters marked "14" "15" and "16" "17" "18" to show the manner in which the matter was dealt with by the Town Clerk. 517

In view of the unsatisfactory position my Lawyers wrote to the Chief Secretary on the 17th May 1915 (copy marked "19") and received a reply on the 5th June (copy marked "20") - The Land Officer would not alter his decision and my Lawyers wrote the Chief Secretary on the 29th June 1915 expressing my intention of placing the matter before the Colonial Office.

As in the case of the Market Lease this matter was held over pending the termination of the war.

The remarks in my report as to the Market Lease also apply as to efforts to settle this matter in East Africa but the Government have refused to recognise that I have any right to the Town Hall Plot and have not replied to my proposal for grant of another plot in exchange.

I trust that on considering the facts as shown in the correspondence you will see your way to giving directions that a lease may be granted to me.

THIS DEED is made this _____ day of _____ 1912 between Messrs. A. B. J. & Co., Contractors of _____ in the East African Protectorate, (hereinafter called the Lessor) whose addresses shall be _____ (hereinafter called the Lessee) of the one part and the _____ (hereinafter called the _____) of the other part. WHEREAS that in the _____ of the said _____ and conditions here-
under contained and contained and on the part of the Lessee to be paid, performed and observed the Lessee in every thing with the Lessor all that usage and practice situate in the Township of Nairobi known as the Municipal Hall and Offices.

518

IN WITNESS whereof _____ from the first day of January 1912 and the term of ten years ending and _____ the yearly rent of Rs 1,000 payable quarterly in advance on the first day of January, the first day of April, the first day of July, and the 1st day of October, in each year.

And the Lessee do hereby covenant with the Lessor to pay the said rent hereinafter reserved on the days and in the manner aforesaid and will maintain the paint and cleaning as or in the said premises in good condition and repair. And will permit the Lessee and their Agents Surveyors and workmen at all reasonable times to inspect the same.

AND the Lessee DO HEREBY COVENANT with the Lessor and they the Lessor will keep the said premises in good condition and complete repair save and except the aforesaid painting and glazing thereon.

AND they the Lessee as long as they shall pay the said yearly rent and perform the covenants on their part shall lawfully hold and quietly enjoy the said premises

Witness

Should the
 to purchase within _____ years from _____
 first party shall take a lease of the land upon the
 and building which is surrounded by said _____
 the whole square yard for a term of ninety nine years at
 rental of _____ per annum and subject to a covenant

the payment of the rent and to the covenant to repair
 similar to that contained in the above agreement to a
 of re-entry in the event of the first party making
 breach of any covenant by him to be observed and pe
 by and to provide enabling the second party to purchase
 a building similar to that contained in this agreement.

Should the premises continue to be rented then the
 first party shall take out a certificate for the land and
 any rent paid by them for the land shall be added to the
 annual rent and paid by the second party.

During the

or any part

IN WITNESS WHEREOF the

have hereunto set their hands and

first above written.

1920

lease of agreement entered into this first day of
January 1904 between Messrs. A. M. Jeevanjee & Co of the
part and herein described as the first party and H. H.'s
Sub-Commissioner as Chairman of the Municipal Council of the
other part and herein described as the second party.

WHEREBY the first party agrees to build a Corrugated
Iron Sheet building on Masonry pillars in Nairobi on
Government land such building to be used as lower mail.

2 The total cost of the building not to exceed Rs.14,775
only and the first party agrees to let the building at a
yearly rental based on a calculation of 10 per cent of the
sum i.e. annual rental of the building will be
hundred and eighty only, but the second party
have the option of purchasing the

The Contractors bind themselves
and administrators to let for a period
commence after the building has been
to the Government).

The second party
keep the building in a

No ground rent shall
the buildings are to be let
the lease, after which the

ready to

be of

now proposing something at variance with their previous agreement with you, is not borne out by the facts as recorded in this Office.

I consider that my proposal of December 8th is a fair one, and I trust that the matter will be settled as quickly as possible for your own sake, as well as that of the Municipality.

Yours faithfully,

(Sgd.) E. L. Sanderson,

Town Clerk.

This indenture made this first day of February 1905 between Messrs. A. H. Survanjee & Co. Contractors of Mombasa and Nairobi, in the East Africa Protectorate (hereinafter called the Lessors which expressions shall include their heirs and assigns) of the one part and the Nairobi Municipal Committee (hereinafter called the Lessees) of the other part.

Witnesseth that in consideration of the rent, covenants and conditions hereinafter reserved and contained and on the part of the Lessees to be paid, performed and observed, the Lessors do hereby demise unto the Lessees all that building and premises known as the Municipal Hall and Offices and situate in the Township of Nairobi.

To hold the same unto the Lessees from the first day of January 1904 for the term of ten years. Yielding and paying therefore the yearly rent of Rs.1,200 payable quarterly on the first day of April the first day of July, the first day of October and the first day of January in each year.

And the Lessees do hereby covenant with the Lessors to pay the said rent hereinbefore reserved on the days and in the manner aforesaid and will repair any damages that shall occur in the said premises through their neglect and will permit the Lessors and their Agents at all reasonable times during the said term to enter upon the said premises and inspect the same. And will pay ^{to} the Government the amount of the ground rent charged upon the land occupied by the said premises during the said term, and will pay the amount of the water rate imposed upon the said premises during the said term.

And these Lessors do hereby covenant with the Lessees that they will make good the defects in the flooring and window frames of the said premises and will keep the said premises in good condition and complete repair externally and internally save and except when damage shall be the result of neglect on the part of the Lessees.

And that the Lessees so long as they shall pay the rent hereby reserved and perform the covenants on their part herein contained may hold and quietly enjoy the said premises during the said term without any interruption by the Lessors or any person claiming under or through them.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

Sd. Anthony Maria Jaccarino & Co.
 Abdulkassem Maria Jaccarino.

Witness

W. F. L. Henderson.

Ed. Edward F. Hargrove.

herely jointing and severally convenient with His Majesty in manner following that is to say:-

- (1) To pay the said annual rent hereinafore reserved at the times and in the manner aforesaid.
- (2) To bear and discharge all existing and future rates and taxes assessments duties impositions and out-goings and whatsoever imposed or charged upon the demised premises.
- (3) To use the buildings now standing on the said piece or parcel of land and any buildings hereinafter erected thereon for the purpose of a Public Market only.
- (4) To keep the said buildings and any further buildings so erected as aforesaid in good and tenantable repair and condition.
- (5) To build such further buildings as may be necessary for the purpose of the said Public Market from time to time to the opinion and at the written request of Government.
- (6) To set aside or allow or cause to be set aside on some convenient part of the demised hereditaments and premises suitable and sufficient space for ingress accommodation for the users of the said Public Market to the satisfaction of the Municipal Committee for the Town of Mairwa and to allow the said Committee and its servants and workmen full and free access thereto for the purpose herein provided for at all times during the term hereby granted.
- (7) Not to assign, sublet or otherwise part with the possession of the demised premises or any part thereof without the previous consent of the Governor in writing.
- (8) To pay the sum of Rs. 15/- for every such consent as last aforesaid.
- (9) To pay the costs of the preparation of this Indenture amounting to Rs.45/- PROVIDED always and it is hereby agreed and declared by and between the parties hereto as follows:-

- (1) That if at any time before the expiration of the term hereby granted the Lessee shall rebuild or cause to be rebuilt the said buildings comprising the aforesaid Public Market in stone on a stone foundation and roofed with iron or tiles or other approved material

COPY.

27th April, 1921.

V/O.

Mr. J. Blair Macdonald, Esq.
 Attorney General's Office,

Nairobi.

553

Sir,

Market and Town Hall.

In reference to our recent interview, I have seen Mr. A. M. Jeevanjee and find that, for the purpose of settling these long outstanding questions, he is prepared to put forward certain offers of settlement which appear to me to be most reasonable:-

REMARKS.

Mr. Jeevanjee has expended well over Rs. 100,000/- on these buildings and the plot is a most valuable one. It is also certain that if the market were run by the Municipality, it could be made a most paying proposition - whereas under the present arrangement of dual control, this is not the case. Mr. Jeevanjee offers:-

- (1) To sell his entire interest in the buildings and plots for £30,000.
- or (2) To lease the premises and plot for a monthly rent of £300
- or (3) To retain the lease and run the market on the following lines:-

- (1) Municipality to take taxes.
- (2) Rents to be in sole control of the owner.
- (3) Management to be in sole control of the owner.
- (4) Sale of similar commodities under licence from Government to be restricted to cases in which the Jeevanjee market cannot fulfil requirements of the Township, and only to be issued with the expressed approval of His Excellency the Governor.

P.O. Box. No. 139.

Land Department.

Nairobi, May 28th 1921

In reply please quote Nos J.7156 11 and 12

560

Gentlemen,

With reference to my No. 7156/11 of November 26th, enclosing proposed Lease, I am directed to inform you that unless the Lease for the above market is accepted and submitted before June 30th 1921, proceedings for ejection from the above site will be taken.

It is to be noted that this decision has been arrived at after full consideration of the offers made on behalf of your client Mr. A. V. Jervanjee in your V.O. of the 27th April 1921, addressed to Mr. Muir Mackenzie.

This notice is final.

I am,

Gentlemen,

Your obedient servant,

(sgd.) A. B. Townsend.

Ag. Commissioner of Lands.

W. S. Mess.
Nairobi

Nairobi, May 26th 1921

In reply please quote Nos J.7155 11 and 12

560

Gentlemen,

With reference to my No. 7155/11 of November 30th, enclosing proposed Lease, I am directed to inform you that unless the Lease for the above market is accepted and submitted before June 30th 1921, proceedings for ejectment from the above site will be taken.

I am to add that this decision has been arrived at after full consideration of the offers made at local level of your client Mr. A. N. Jervanjes in your V.O. of the 27th April 1921, addressed to Mr. Muir Mackenzie.

This notice is final,

I am,

Gentlemen,

Your obedient servant,

(sgd.) A. B. Townsend.

Ag. Commissioner of Lands.

W. J. Mackenzie
Nairobi

P.O. BOX 129.

COPY.

LAND DEPARTMENT

561

20th May, 1921.

In reply please quote No. P.1000 11 and date

Gentlemen,

With reference to my No. 7156 11 of November 24th enclosing expressed lease, I am directed to inform you that unless the lease for the above land is accepted and executed before 30th June, 1921, proceedings for appointment from the above site will be taken.

I am to add that this decision has been arrived at after full consideration of the offers made on behalf of your client Mr. A. M. Jermolov in your P.J. of the 27th April 1921, addressed to Mr. Muir Mackenzie.

This notice is final.

I am, Gentlemen,

Your obedient servant,

(Sd) A. E. Townsend.

Ag. Commissioner of Lands.

Memorandum, Public Works and Race.

Ministers.

Kairoi.

the first ten years being fixed at the same rate as prevailing for sites on Government land at the time when the building was started.

"I also recommend that Mr. Jaganjee's proposal to obtain an equivalent area elsewhere if this land is taken away, be granted."

The Honorary & the Municipal Council for their views".

REMARKS.

"Col. Montgomerie's note correctly sets forth the facts. I support the recommendations of the Municipal Council. I favour the recommendations made by Col. Montgomerie, but there will be considerable difficulty in allocating an equivalent area elsewhere and after all, Mr. Jaganjee would appear to have a very large share of Nairobi land, of every kind, and is not suffering any hardship if this concession is not given. Had this concession been more easily met, I would have asked that it be made, but for the reasons above stated, I think it would be advisable to refuse it.

No. 110, Part II.

565

Land Department,

Rangoon, 26th June, 1915.

Sir,

Re. Messrs. A. K. Jeevanjee & Co's
Market Lease, Rangoon.

I have attached a copy of the draft
lease herein. The draft was originally drawn by
this Department in view of the various alterations
thereto, as proposed by the Messrs. Jeevanjee & Co.
in their letter of the 15th inst.

Please consider this as the final draft of
the lease for your consideration, and if you have
any objections, please let me know.

I am, Sir, very respectfully,
Yours faithfully,
The Secretary.

THE SECRETARY
LAND DEPARTMENT
RANGOON

No. 226/7

Nairobi, 20th June, 1934.

Sir,

Re. Swynnerton Market Lease.

Our client has not perused the document submitted by you, and instructs us to return the same to you.

Our client cannot agree to accept or approve a lease document which is really an agreement for the conduct of a Market. We think you will agree that the whole portion of the matters dealt with in the document should, if agreed upon, be the subject of an entirely independent agreement.

Our client wishes a draft lease in accordance with the agreement entered into with Mr. Ainsworth himself and yourself.

It would be very inconvenient to amend the draft in the proposed lease as our client does not in any way recognise the same as a lease in the market.

We return the draft herewith.

Yours obediently,

(Sd) Tombs, Daly & Figgis.

Yr.
The Gen. The Land Officer,
Nairobi.

No. 1126.

Land Department.

Hawaii.

H. H. A. 3rd July, 1918.

567

Gentlemen,

Re. Joppanjoo Market Lease.

I have the honour to refer to your letter of the 25th ultimo herein, and note that your client does not recognize the Town Clerk in this matter, but should be glad to know if he agrees to the draft lease originally drawn by this Department, as shown in block carbon.

I return the draft lease herewith, and shall be glad if you will favour me with a reply at your earliest convenience.

I am, Gentlemen,

Your obedient servant,

(sd) Dundas, L. W.

for Land Officer.

Messrs. Tenks, Daly & Figgis,

Hawaii.

No. 500/5

Municipal Office,

Rainald, March 22nd 1918.

Messrs. Banks, Daly & Figgis,

Rainald.

Dear Sirs,

YOUR REF. ~~1000/1000~~

I have to advise you that the
Municipal Council have not yet received
the necessary amount of money for the
purpose of paying the wages of the
employees of the Council. I trust you
will be able to advise me of the
amount of money which you require.

Yours faithfully,
The Municipal Council

MINIST. P.O. Box No. 24.

July 24th, 1925.

561

(This letter is not "without prejudice" and will be admitted in court in the event of any action being taken by the Government)

Sir,

De Messieurs Messrs. etc.

Your letter of the 16th instant No. 12/255 to hand. We presume the heading "without prejudice" to be an error, as your letter is merely a notice that action will be taken if our client does not accept the Government's draft Lease within 7 days without amendment.

We had already communicated with the Hon'ble the Chief Secretary to the effect that our client wishes the question as to the draft lease to be referred to the Secretary of State for the Colonies.

There are several points in the draft lease which require consideration, and which we are not yet in a position to deal with.

In the draft submitted there is no adequate description of parcels, and further there is reference to a plan, but copy of the plan has been submitted.

We have written to the Hon'ble the Land Officer for these further particulars.

We quite admit that the question of the omission of the clause dealing with the right to monopolize the one as to which there appears at present to be a deadlock between our client and the Government, but we would point out that the omission of the clause in question could not affect the rights of the Government if we monopolize matters.

My client is not asking that a clause be inserted giving him a right to a monopoly, but he naturally objects to signing away that which he considers to be his rights by allowing an unnecessary clause to be inserted in his lease.

He instructs us to make it perfectly clear that, in asking for the omission of this clause, he is prepared to abide by the decision of the Secretary of State for the Colonies as to whether he is entitled to a monopoly.

We are writing the Chief Secretary to the same effect and a copy of this letter will be forwarded to the Secretary of State.

We have the honour to be,

Sirs,

Your obedient servants,

To,

The Hon. The Attorney General,

Nairobi.

L.O. No. 7188.

Mairubi, No. 86, dated 2nd August, 1905.

To

H. M's Sub-Commissioner,
E. A. P. Mairubi.

Dear Sir,

With reference to the application for an agreement
between you and the land owner of the plot.

We have referred the matter to the Land Office
and they inform us that the plot had been kept reserved, but in
agreement with the Sub-Commissioner an agreement (lease) will
be made.

Yours obediently,

(sd) A. M. Jeeva Rao.

L. O.No. 7188.

No. 227-11.

572

H. M's Sub-Commissioner's Office,
Nairobi, 5th August, 1905.

Sir,

I have the honour to transmit to you herewith copy of a letter I have received from Messrs. A. M. Jeevanjee & Co., in which they ask for a lease of the land now occupied by the Town Hall. I believe that the Green Advocate has given it as his opinion that a lease of the ground should be granted to Messrs. Jeevanjee, and I have to say that I am of quite the same opinion. I see no reason why an ordinary lease should not be granted.

I am aware that the Municipality contended that the site ought to be reserved to them for a Town Hall site, but under the circumstances, viz. that the building on the site belongs to A. M. Jeevanjee & Co., and that they are willing to rent the building to the Municipality for as long as they require it. I see no reason why the request made by Messrs. A. M. Jeevanjee & Co. should not be complied with.

I have the honour to be, Sir,

Your obedient servant,

(sd) John Alcorn,
H.M's Sub-Commissioner.

~~Sub-Commissioner~~

The Chief Surveyor and

Land Officer,

Nairobi.

rate of 10 percent on the contract price. If the person for whom he builds wishes to purchase the building he may do so at any time on paying the contract price.

If there was any intention in the present case of getting other or better terms than those on which our client invariably builds, they ought, in fairness, to have been specially brought to his knowledge and an agreement entered into regarding them. Certainly our client ought not to have been allowed to expend his capital on the building pending a definite arrangement being made.

We do not deny that the terms on which Mr. Jeewanjee builds are favourable to him, but on the other hand he is the only person in East Africa up to the present time who has taken the trouble to lay out capital in buildings for other people, with a view to purchase. If his terms do not suit either Government departments, public bodies or private individuals, they are under no obligation to accept them.

The value of the land was estimated to be Rs. 15,000 and the rent thereon Rs. 1,500 per annum. We understand that on one occasion, when Mr. [Name] was absent from Nairobi, his representative, without authority and without knowledge of the facts, offered a rent of Rs. 2,000 per annum. This is a clear case of our client of Rs. 100 per annum, but the arrangements having been made by his servant he does not wish in any way to go back upon it.

The suggestions now made on the one hand by the Land Officer, that our client should be refused any lease of the land, and on the other by the Municipality, that he should be given only a ten years' lease (in which case the building would belong to the Government at the end of the term) we can only characterize as perfectly unreasonable. As to your own suggestion that Government should be permitted to,

to buy at a valuation after a term of years, while we do not deny that in settled countries capitalists might be willing to agree to such terms, yet, in the present case, it would be serious deviation from the original agreement made with our client and contrary to his building custom and one which he would have agreed to if it had been put before him originally and which he cannot now entertain.

Mr. Jeevanjee asks for a lease for 99 years, the first ten years rent free, and therefore at a rent of Rs. 2 per month, unless and until the building is purchased by the Municipality at its original value.

We understand that the Crown Advocate will arrive here to-morrow and we suggest that a meeting should be arranged at which yourself, the Land Officer, and the Town Advocate, the ~~Surveyor~~ and ourselves would attend in order to go into and settle this matter, and also that of the Jeevanjee matter.

We have the honour to be,

Sir,

Your obedient servants,

W. G. & A. Allen.

J. Ainsworth, Esq: C.M.G.
H.M.'s Sub-Commissioner.
Nairobi.

EAST AFRICA PROTECTORATE.

Contract entered into this 3rd day of January 1901 between Her Majesty's Sub-Commissioner at Nairobi on the one part and Messrs. Jeevanjee & Co. on the other part.

Messrs. Jeevanjee & Co. contract to build three double bungalows of the same kind and description as built by the Uganda Railway for the Railway Subordinate, that is each bungalow to have three living rooms, 2 of 11 X 15 feet, and one 12 X 15 feet with front and back verandahs, and store and bath rooms each 8 feet square, for the sum of Three Thousand Rupees (Rs. 3000) each, and at the option of the first part the Contractor agrees to accept payment for one or all of the bungalows only after their completion, but should the bungalows not be purchased the Government will pay rent at the rate of Rs. 300 (Three Hundred) per annum for each bungalow remaining unpaid for, it is agreed that no rent paid be deducted from the purchase money.

(sd) A. M. Jeevanjee,

(Sd) John Ainsworth.

H.M. Sub-Commissioner.

TOWN HALL SITE.

Mr. Jovanovic refused to accept the conditions that a clause be inserted giving Government the option to buy back land by paying capital cost of building within the 10 years lease from himself to Municipality, though in Mr. Allen's letter of September 20th 1952, it is already shown that the basis of agreement with Government when he built the Town Hall embodied this condition. I had attempted to negotiate better terms and obtain the acceptance of taking over a valuation

(Sgd.) H. J.

22nd April, 1958.

(Enclosure)

COPY - ORIGINAL IN 209/548.

Proposed by Mr. Alsworth to the Nairobi Town Hall
built by Messrs. Jeevanjee & Co.

The Nairobi Municipality originally rented a building
in Mchavira Street, this building subsequently proved
inadequate for our work.

The necessity for a building to contain offices and
a library was especially felt. We could not obtain
any for the purpose, and Messrs. Jeevanjee & Co. were
approached.

Subsequently Messrs. Jeevanjee & Co. this
firm had already erected certain buildings for the

Government on Crown land; he to
pay the Government of 10 per cent on
the value of the building at any
time over
the term of the lease.

Messrs. Jeevanjee & Co. to have the right to
obtain a lease of the land occupied by the building etc.

So the arrangement for the Town Hall was
made by Messrs. Jeevanjee & Co. under a similar arrangement
to that which prevailed at the time in respect of buildings
erected for the Government.

(Sd) John Alsworth,

Provincial Commissioner.

Nairobi, 18th March, 1916.

Sir,

589

Re TOWN HALL -- A. M. JEEVANJEE & CO.,

In pursuance of our interview this morning I send list of the documents which I referred to. If you have no copies of any of these documents we shall be pleased to supply them:-

Two draft leases (not approved) 1904.
 Copy not signed J.A. 7th July, 1904.
 Copy not signed J.A. 2nd August, 1905.
 Letter Town Clerk to A.M.J. December 24th 1904
 Letter Town Clerk to A.M. Jeevanjee, December 24th, 1904.
 Letter - A. M. Jeevanjee to Town Clerk, 11th January, 1905.

Copy draft lease signed by A. M. Jeevanjee and witnessed by Town Clerk and Mr. Hargreaves.

I would be much obliged if you would let me have an extract copy of the original draft returned to the Town Clerk in response to his letter of the 13th January 1905 with any remarks or notes made by our clients.

Kindly let me have a reply at your earliest convenience, stating whether you consider the documents in question after the conclusion arrived at by the Government in any way.

Yours obediently,

(Sg) H. K. Figgis.

Tonks, Daly & Figgis.

The Manager,
 Mr. R. Barton Wright,
 (Urgent)

14.
 [Illegible]
 [Illegible], 20th March, 1918.

Dear Sir,

RE PRODUCE MACHINES - THE TOWN HALL.

In a letter written by the Town Clerk to A. H. [Illegible], dated the 10th January 1918, there is a request to return the original draft with your client's name to your office. In our correspondence with you [Illegible] the Town Clerk is also asked for this document and he states he is not aware of its whereabouts, and that he has a copy of the same and has [Illegible] to you.

It would be [Illegible] to you [Illegible] but we have a copy of this document, [Illegible] the [Illegible] of your client.

Yours faithfully,

[Illegible] [Illegible] [Illegible]

The Town Clerk,

[Illegible]

No. 12/500

WITHOUT PREJUDICE.

Attorney General's Office
Nairobi.

B. E.A. 6th July, 1918.

Gentlemen,

Re. Jeevanjee Market Site.

I have the honour to state that I have received instructions from the Government to inform you that unless Mr. Jeevanjee indicates, within seven days from the date hereof, that he accepts the terms of the draft lease of the above site submitted to him by the Hon'ble the Land Officer, proceedings will be taken forthwith on behalf of the Crown to recover possession of the land.

I have the honour to be,

Gentlemen,

Your obedient servant,

(sd) J. W. Garth,

Attorney General.

To Messrs. Tait, Daly & Vignie.

Advocates,

Nairobi.

No. 122/14.

Calcutta, 29th March, 1915.

Dear Sir,

Re TOWN HALL, PRODUCE MARKET.

As representing my firm in Madras I must take the strongest exception to the terms of your letter of the 25th instant. Your suggestion that we require the document for the purpose of making out a case is both unwarranted and most discourteous.

It is not my custom to "make-out cases" against anybody. I am, however, in asking for a copy of the document which shows the relationship between the various parties. The fact that you are the secretary of the committee does not appear in your letter to justify the terms of your letter.

Yours faithfully,

(Sgd.) E. K. Figgis.

Esq. Tonks, Daly & Figgis.

The Town Hall

Calcutta

No. 2742

Municipal Offices, 585

Belfast, 22nd March, 1915.

S. K. Figgis, Esq.,

c/o Messrs. Lewis Baily & Figgis,

Dear Sirs,

In reply to your letter of the 26th instant. I am surprised that you consider my letter of the 26th inst. discourteous. No reflection upon your firm is conveyed in the words used, and it is not suggested that there was anything improper in your attempting to make out a case against the Municipality as you are doing according to your own letter in the case of the Town Hall.

It is, however, unusual when parties are on the brink of litigation for one to request the other to lend him documents, the production of which will assist him in making out his case.

Yours faithfully,

(Sgd.) J. A. Watson.

Town Clerk.

No. 586

586

Municipal Offices,

Matsubi, March 31st 1918.

Messrs. Banks, Daly & Vignia,

Matsubi.

Dear Sirs,

Frederic Barkata, Town Hall.

With further reference to your letter of the 25th instant, having submitted the correspondence to the Municipal Committee, I am now directed to inform you that they regret that they cannot see their way to send you a copy of the minutes which agree to supply you with copies of papers in their possession relating to the lease of the Town Hall.

Yours faithfully,

(Sd/-) J. A. Gatera,

Town Clerk.

No. 100/15.

Nairobi, 17th May, 1915.

587

Sir,

A. R. JENNINGS - De Wain Hall.

Some time ago we wrote the Honourable the Land Officer in pursuance of your suggestion in reference to certain further documents which had come to our notice.

We have not yet received a reply to our last letter to you, but understand that the reason is that the Municipality through the Town Clerk have refused to furnish you with copies of certain particular documents.

The District Commissioner the Land Officer with copies of the further documents which came to our notice, and asked him to let us have a copy of an important document referred to in those letters which should have been in his possession.

We were surprised to find that he has not a copy of this document, but he advised us to apply to the Town Clerk.

This we did and were met by a blank refusal to supply a copy of this document.

Having regard to all the facts of the case there should not be any doubt on the part of any Department to withhold any document from the possession of those upon the services might affect in deciding on their course of action.

The document in question is an original draft lease which appears to have been returned by our clients to the Municipality with certain amendments marked on it.

On the information before us we consider our clients claim to a lease is good, but we would ask you to procure a copy of the document in question and furnish us with a copy of amendments made on behalf of our clients on a draft lease submitted which might materially affect our view.

Yours faithfully,
(Sd) Sime, Daly & Figgis.

To the Honourable,
The Chief Secretary, Nairobi.

1915

The Government,
Nairobi.

East Africa Protectorate, 5th June, 1915.

Gentlemen,

With reference to your letter of the 17th ultimo, I have the honour to state that I am unable to furnish you with copies of documents which may be in possession of the Town Clerk referring to Mr. Scavenger's alleged claim to the Town Hall site or building.

The question of Mr. Scavenger's claim will be reconsidered with regard to any further documents which may be discovered relating to the matter.

I have the honour to be,

Gentlemen,

Your most obedient servant,

(sgd.) G. C. Sperring.

Chief Secretary to the
Government.

Messrs. Tombs, Dalry & Figgins,

Advocates,

Nairobi.

23rd May, 1921.

His Excellency

Sir Edmund Northey, K.C.M.G. C.B.
Government House, Nairobi.

Your Excellency,

Re MARKET AND TOWN HALL - JERUVANJEE

You will remember that some time ago at your request I arranged to see Mr. Muir Mackenzie again in reference to the above matters, and postponed sending a report on the transactions to the Colonial Office in view of this arrangement.

I had an interview with Mr. Muir Mackenzie some weeks ago, and at his suggestion wrote to him on April 27th putting forward various proposals for a settlement, which appeared to me to be quite reasonable. I understand that since my interview the representatives of the Municipal Council have been heard, but I have not had any opportunity of ascertaining what they had to say.

I have had a letter from Mr. Muir Mackenzie, dated 11th Jeevanjee ~~has~~ learned (through the morning papers on Thursday last) that a confidential note had been sent to the Municipal Council of these matters which was alleged to be favourable to them. I can hardly understand this in view of the fact that I have had no communication as yet from the Municipal Council, and I have not put forward the proposals.

If these proposals are turned down, I shall be glad to have notification of that effect, so that I can immediately complete the report for transmission to the Colonial Office. I would also point out that the sending of this report was held over for a number of years, so that the Government might not be troubled with this matter while they had more serious subjects for consideration.

I quite appreciate your desire to have the matter settled and I have done my best, but the arrangement clearly was that the matter would not be discussed with the Municipality until Mr. Muir Mackenzie and myself had

Harlow, 6th June, 1921.

STANDARD TELEGRAPH AND TELEPHONE COMPANY (LIMITED)

The As. Commissioner of Lands,
Harlow.

592

Sir,

Mr. A. M. JEWELLER - 2005 HALL BUILDING - HARLOW.

We beg to acknowledge receipt of your letter No. J. 1100 of the 25th ult. It is somewhat difficult to understand the attitude of the Government on this matter in view of the correspondence with the various Departments concerned.

We intended our intention of referring this matter to the Secretary of State for the Colonies six years ago, but got postponed owing to the war and the Government during wartime. We again arranged to send the report home early this year, but deferred owing to the departure of His Excellency the Governor's request to Mr. Phipps to make one more effort to come to an agreement with Mr. John Robinson (then Comr.).

Mr. Phipps saw Mr. John Robinson, who appeared disposed to settle and at that suggestion our letter of the 27th April was sent to the Comr. and his client's interests. You state that our letter has been "Aly considered" but we may say that the only consideration the client has obtained is that our letter has - up to date - neither been acknowledged or replied to and its contents appear to have been considered by the Municipal Council and Executive Council without any opportunity being given either to Mr. Robinson or our firm to answer any objections, which may have been put forward to the Council set out in our letter.

We still propose placing the facts before the Secretary of State and would be obliged if you would let us know whether the course suggested in your letter under reply is to be taken as a matter by the Government in East Africa to transmit a report on the matter to the Secretary of State - in that event - we must advise our client to take immediate steps to refer the matter direct to the Secretary of State.

Yours obediently.

COPY.

P.O. No. 120

Land Department,
Nairobi.

16 6 2

In reply please quote No. 7168 and date.

Dear Sir,

Re Town Hall Building - Nairobi - A. M. Jeevanjee.

20

With reference to your letter of the 6th instant I am instructed to inform you that the terms conveyed in my No. 7168 of the 26th ultimo represent the decision of the Government arrived at after careful consideration of your letter of the 27th April and previous correspondence.

2. I am to add that Government has never declined to submit a report on the case to the Secretary of State and is ready to do so upon receipt of the same; but I am to inform you that the action contemplated in the decision above mentioned will not be deferred after the date given therein.

I am, Gentlemen,

Your obedient servant,

(sgd.) C. E. Mortimer,

for Ag. Commissioner of Lands.

Messrs. Daly, Figgis & Ross,

Solicitors,

Nairobi.

South June, 1931.

7/3.

The Acting Commissioner of Lands.

P.O. Box. No. 123.

Haikohi.

Sir,

Re Plot 425 - Market Plot, A. H. JEEVANJEN.

Your letter U. 7106 of the 16th instant is hand.

We note the contents and would point out that we did not suggest that the Government had up to date request to submit report, but wished to indicate that we had delayed sending a report at the request of the Government. This being the case, it seems peculiar procedure for the Government to file report subsequently, pending the transmission of a report to the Secretary of State.

We have, however, no answer of the Government and we hope to be able to submit a report in a short time.

Yours obediently

(sk) D. P. G. D.

Messrs. A. M. JEEVANJEE & CO.

File No.

595

WIFT PRESS NAIROBI

SUBJECT.

REFERENCE TO
YOUR
CORRESPONDENCE

*Correspondence and documents relating to
the subject of the above mentioned*

between Messrs A. M. Jeevanjee & Co., of the one part and herein described as the 1st party, and H. M.'s Sub-Commissioner on behalf of the Nairobi Township Committee of the other part and herein described as the 2nd party, Whereby the 1st party having erected a stone and iron building for use as a Public Market, the 1st party shall keep the market in good order and repair.

The management of the market shall be in accordance with the East Africa Township Rules, i. e., in the hands of the 2nd party.

It is agreed that so long as the building is in proper repair and order it shall be continued as the Public Market, and that no other market-place of a similar nature will be opened in Nairobi during such occupancy. It is further agreed by the 1st party that they will when reasonably required to do so extend the present building to meet the market requirements from time to time.

All rents for stalls shall be fixed by the Township Committee with the concurrence of the Sub-Commissioner and all such rents, together with any other rents, for offices or rooms for any other part of the building shall be the property of the 1st party.

All charges for water and light supplied to the building shall be a charge against the 2nd party.

The 1st party shall not sell, let or hire or in any other way dispose of the market or any part thereof without the sanction and approval of the 2nd party, and no trades other than those allowed under the Township Rules shall be carried on in the market.

In reply please quote

No. 209/42/547/874.

Land Department.

Nairobi, 16th April, 1910.

Sir,

With reference to your letter of the 9th instant, I have the honour to forward herewith a copy of the memorandum drawn up and signed by Messrs Ainsworth, Jeevanjee and Barten-Wright, which was to constitute the basis for ~~an~~ agreement for the Market Site. The document has, until recently, been in the Provincial Commissioner's Office, Mr. Hobley having transferred the papers to me.

I am, Sir,

Your obedient servant,

G. H. Campbell.

Cor. Land Officer.

The Hon. Mr. A. S. Jeevanjee,

Nairobi.

In reply please quote
No. 209/42/547/274.

Land Department.
Nairobi, 16th April, 1910.

Sir,

With reference to your letter of the 24th instant, I have the honour to forward herewith a copy of the memorandum drawn up and signed by Messrs Alnsworth, Jeewanjee and Bartenwright, which was to constitute the basis for ~~an~~ agreement for the Mokol River. The document has, until recently, been in the Provincial Commissioner's Office, Mr. Hobley having transferred the papers to me

I am, Sir,

Your obedient servant,

W. H. Campbell.

For Land Officer.

The Hon. Mr. A. M. Jeewanjee,
Nairobi.

Copy.

593

Bases- Basis of Agreement.

" A 50 years' Lease of the land at a nominal rent to be granted to Messrs A.M. Jeevanjee and Company, on condition that the building on the land be used only as a public market, and that the building or buildings be kept in proper order and repair by Messrs Jeevanjee.

Jeevanjee to submit to a clause that should at any time in ~~future~~ the future and during th term of 50 years the local authorities make any reasonable request for increased accommodation to meet the then existing requirements that he, Mr. Jeevanjee, will build same, and for this purpose sufficient land to be reserved round the present building ".

For further consideration.

" That should Messrs Jeevanjee before the expiration of the 50 years rebuild the Market in stone an extension of the lease to 99 years to be considered ".

ADDITIONAL CLAUSE

" That should the Municipality ever agree or arrange to purchase the Market that the ~~lease~~ lease would go over to the Municipality also".

No.87/4.

3
499

Nairobi, 10th January, 1923.

Sir,

Re A.M.Jeevanjee & Co's Right to Market
in Nairobi

In reference to the above matter which we believe you have now under your consideration, we would draw your attention to notice in large print appearing in Daily Leader of Wednesday, January 8th 1923 on page 4 which announces that markets will be conducted three times weekly by Messrs Wessels and Co

It is quite clear that the allowing of a Market at this time would be indirect contravention of the agreement made with Mr. Jeevanjee when his Market was erected.

We would ask you to take such immediate steps in the matter as you may find necessary.

Yours Obediently

(Sd. Wessels Daily And Wiggins)

To The Land Officer

Land Department
Nairobi

Nairobi, 10th January, 1923.

Sir,

Re A.M.Jeevanjee & Co's Right to Market
in Nairobi

In reference to the above matter which we believe you have now under your consideration, we would draw your attention to notice in large print appearing in Daily Leader of Wednesday, January 8th 1923 on page 4 which announces that markets will be conducted three times weekly by Messrs Wessels and Co

It is quite clear that the allowing of a Market at this time would be indirect contravention of the agreement come to with Mr. Jeevanjee when his Market was erected.

We would ask you to take such immediate steps in the matter as you may find necessary.

Yours Obediently

33 Brooks Daily And Higgins

To
The Land Officer

Land Department
Nairobi

No. 295/4

Nairobi, 5th February 1913.

600

Sir,

Re A.M. Juvanyics - Market Agreement and Others

Inference to my recent interview with you as to these agreements when it was agreed that you should approach His Excellency as to the advisability of having an interview at which all parties might be represented with a view to placing the agreements as to the various matters which have been left in an incomplete state for so many years upon a definite basis and as a result that the various leases which have been withheld may be granted. I am urged by my clients to have the interview at the earliest possible date, as we understand that Mr. Ainsworth who would be one of the most essential parties to be present is shortly leaving the Protectorate and it is most desirable that a final settlement of these matters should not be delayed.

Yours obediently,

(Sd.) E. K. Figgis.

Tonks, Daly & Figgis.

To

The Land Officer,

Nairobi.

5
Copy

No. L1475 L/S.

Land Department,

Haikobi, 15th February, 1913

601

Gentlemen,

in re A. M. Jeevanica & Co.

in reply to your letter No, 296/4of the 5th instant I would say that His Excellency whom I approached agreed with me that it was highly desirable that these old outstanding matters should be cleared up and I much regret that the pressure of the business has made it impossible to go into these cases prior to His Excellency's departure on safari. On his return early next month I will reopen matters.

I am, & c,

(Sd,) C H Cambell,

For Land Officer.

Messrs Tenks Daily & Figgis.

in 1902, after the outbreak of Bubonic Plague in Nairobi
it was decided to lay out a new Basaar Sites.

The present sites was selected. in the same year a question
was raised with regard to the establishment of a public
Market other than a purely Native Market which was already
established, wherein fresh food could be sold under sanitary
condition, there then being in existence a row of temporary
booths were erected by Messrs. Jeevanjee & Co to meet
the temporary requirements of the town. Messrs. Jeevanjee
to draw the rents and the Municipality collected fees).

As funds were available for the building of a market
at the time it was impossible for at the time to obtain money
for the purpose. Consequently I interviewed Messrs. Jeevanjee
& Co. (the only people then living in the town who were in
a position to meet our requirements, this firm was establi-
shed at Nairobi as Railway contractors, & Co) The firm agreed
later on in the year to build a public Market on a site to
be pointed out by us for the purpose. I selected the site
behind the Public Garden, then being laid out.

So far as I can gather from the papers now
before me, and in so far as my memory will aid me at this
distant date, the understanding was that a market should be
erected, and that when erected, it should be used as a Muni-
cipal Market. It was arranged that the market building would
belong to Messrs. Jeevanjee & Co but that it should be
controlled by the Municipality. that the firm should take
the rents, for which the stalls were let, but that the amount
of the rent per stall should be fixed by the Municipality. It
was further arranged that the right to rent the stalls should
be put up annually between the owners of the market and the
municipality

It was further arranged that the right to rent the stalls should be put annually to auction and that the proceeds of such auction should be divided equally between the owners of the Market and the Municipality. The owners were to keep the building in a proper state of repair to the reasonable satisfaction of the Municipal Committee. Messrs A. N. Jeevanjee & Co. were to have a 50 years' lease of the land on which the market stood, and a reasonable amount of additional land on the two sides and back for possible extensions and other business that might be connected with the market; and that inasmuch as the building to be erected was for the use of the Municipality, a nominal rent only should be charged, provided, however, that such land could not be used for any other purpose except a market or business connected therewith.

It was understood that so long as the building was maintained, and if necessary, added to, to the satisfaction of the Municipality, it would, to the extent of the term of the lease, be used as a market and that so long as the market met the requirements of the town, the Municipality would not open a similar market.

It was quite understood that the auction proceeds should be divided between the Municipality and the owners, also that the stall rents should go to the owner, the Municipal fees going to the Municipality.

As regards the extent of land involved, there never was any mention as to the actual area. Owing to the fact that the entire arrangement was for the benefit and use of the Municipality and not for private enterprise, the question of area at the time appeared of no particular importance. I think it would have been quite possible that had a Surveyor been available at the time, he would have received instructions to have surveyed the area shown on the plan of 1904, (V. L. G. File No. 209/425). It must be further remembered, however, that at the time there was no Land

Land Office, as such, or Survey Department in existence.

I personally regarded Messrs Jeevanjee & Co. at the time were in the light of moneyed people willing to come to the aid of the Municipality, certainly not as pure philanthropists but possibly as persons willing to meet our requirements with the hope that at some future date the outlay would bring some return. I certainly at the time did not think that there would be any immediate return in comparison to the expenditure involved.

The elder Mr. Jeevanjee after the creation of the market offered to the town a marble statue of the late Queen Victoria and further offered to erect walls and railings, etc., round the Public Gardens opposite the market. This offer was accepted by H. M. Commissioner, and the work was subsequently completed. These various matters marked Mr. Jeevanjee as a man interested in the town, and I feel convinced that had he not been met by all this opposition and difficulty, he would, among other things, eventually have handed over the market as a present to the Town with the proviso, probably, that it be called the "Jeevanjee Market".

It is an undoubted fact the firm of Messrs Jeevanjee & Co. came forward to the assistance of Nairobi at a time when we had no money and when no one would have invested any considerable sum in the place. The firm may have had a long-sighted policy. I think, however, myself that ~~the elder~~ they (the elder Mr. Jeevanjee more particularly) were more actuated by a desire to really help the Government at the time, and thereby bring their name and their action prominently to the notice of the Government.

I do not think even now that a settlement of the present difficulty is a question of money. I think it has more to do with the idea that certain rights are being denied, and as a consequence the firm feels that they are being subjected to injustice.

Mr. A.M. Jeevanjee

Mr. A. H. Jeevanjee at an interview on the 23rd July, 1906, subscribed to the following memo, as the basis of an arrangement : -

" 50 years' lease of land on nominal rental, condition that building on same to be used only as a public market and that the building and "(or)" buildings be kept in proper order and repair by Jeevanjee. Jeevanjee to agree that at any time in the future, should the local authorities require it, and it be necessary, he will add to the present buildings sufficient to meet the requirements from time to time. Part For this purpose sufficient land to be reserved round present building.

(sd). A. H. Jeevanjee.
" John Ainsworth.
" R. B. Wright. "

As regards the holding of an Agricultural Show on the ground behind the market, I believe, that it was subsequently arranged with Messrs Jeevanjee & Co., that we should use the back part of the market building which had no stalls, as a show room for vegetables, etc., and that outside ground should be fenced and cattle stalls, horse boxes and sheep pens should be built thereon by Jeevanjee for the use of the Society, and that the Society should pay a sum of Rs.40.- for the use of the room and ground for the show. I believe that Messrs Jeevanjee fenced the land to meet these requirements.

I believe it has been suggested by Messrs Jeevanjee & Co. that on the establishment of the Public Market no one was to be allowed to sell meat or other perishable goods at any other place other than in the market. This was never intended. By reference to the Rules, dated May 19th, 1904, issued under the East Africa Townships Ordinance, 1903, provision was made for the opening up of shops for the sale of perishable foodstuffs. I personally drafted the original rules which were subsequently put into legal phraseology by the Crown Advocate (then Mr. Barth). It will, therefore, be seen that there was no idea or intention of confiding

the sale of such commodities to the Public Market. . 606

The foregoing would seem to close this matter in so far as I am concerned. I cannot think of any other point that would be of interest. I would, however, remark that, in my opinion, had the matter been dealt with in 1904, in a matter spirit more consonant with the justice of the case, it would have been settled long ago.

sd. John Ainsworth.

Kisumu.

Provincial Commissioner.

31st March 1913.

Tenka, Daly and Figgis.

East Africa 693

Sir,

Re Public Market, Nairobi.

We are instructed by our clients, Messrs A.M. Jeevanjee and Co., to reply to your letter No. S./8013 of the 19th March, 1914, in reference to the above matter. Further than the minutes and correspondence copies of which are in the files of the Land Office our clients have nothing, as far as we are aware, defining the terms of their agreement with the Government. Mr. A. M. Jeevanjee has been in India for some time and Mr. T. M. Jeevanjee has just left for India. So we can't give you an absolutely definite reply on this point.

You will remember that the whole question of the market monopoly or lease was gone into last year when Mr. Ainsworth came up to give his statement as to circumstances under which the agreement was arrived at and a copy of the minutes of the interview and Mr. Ainsworth's report can be obtained from the Land Officer. The whole position as to the market is at present most unsatisfactory. We have been trying to obtain the lease for some years, but have not yet been favoured with even a draft lease for approval.

Our clients are quite satisfied as to what the agreement was and it appears to me that the Government records should be such as to enable the Land Officer to submit a draft lease.

We have pointed out some time ago that our clients were most anxious to have the Government's proposals as to all their agreements which have been kept pending for such a long time, put in writing and drafts of leases submitted in order that they might either be agreed to or the question referred to the Colonial Office. Our clients are anxious to be able to lay their case, before if necessary, before the Colonial Office while our Mr. Figgis is in England and it will be most satisfactory if he has to deal with the matter before the draft leases have been submitted.

With regard to

(Messrs Tenks, Daly and Figgis' letter to the
(Government dated 7 continued, p. 2. - p. 609

With regard to the particular subject of your letter under reply we fear we can't at present furnish you with any information further than that which can be obtained from the Land Office files.

Yours obediently,

The Hon. The Chief Secretary,
to the Government.

No. 292/14.

9
~~December~~
Nairobi, 18th September, 1914.

Sir,

610

Re Jeevanjee Market.

Your letters No. 329/39 of the 26th November and No. 347/39 of the 4th December 1914, have been placed in the our hands together with the remainder of the correspondence in reference to the Market question.

Our clients have expended a considerable amount of money this year in carrying out structural alterations in pursuance of your directions. They, as lessees, were under a legal liability to do this but they have met with the wishes of the Government so far.

It is ~~these~~ quite unreasonable however to supplement the earlier directions with a fresh batch which would entail further considerable expenditure especially as they have not yet been favoured with even a draft lease by the Government.

In the circumstances we are referring this matter to His Excellency for his direction. We shall endeavour to deal with the matter as expeditiously as possible.

Yours obediently,

Ed. Tenks, Daly and Feggis.

The Director of Public Works,

Nairobi.

10
611
No. S. 3084.

The Secretariat,

Nairobi, 6th January '15

Gentlemen,

In reply to your letter of the 18th ultimo, I have the honour to say that I shall be very glad to discuss the various matters outstanding between this Government and Mr. A. M. Jeevanjee, when the latter arrives in Nairobi towards the end of this month.

2. In the meanwhile I agree that the repairs to the market may stand over pending the result of our conference.

I have the honour to be,

Gentlemen,

Your most obedient servant,

(Sgd.) C. C. Bowring,

Chief Secretary.

Messrs Tenks, Daly & Figgie,

Nairobi.

No. S. 3084.

10

611

The Secretariat,

Nairobi, 6th January '15

Gentlemen,

In reply to your letter of the 18th ultimo, I have the honour to say that I shall be very glad to discuss the various matters outstanding between this Government and Mr. A. M. Jeevarjee, when the latter arrives in Nairobi towards the end of this month.

2. In the meanwhile I agree that the repairs to the market may stand over pending the result of our conference.

I have the honour to be,

Gentlemen,

Your most obedient servant,

(Sgd.) C. C. Bowring,

Chief Secretary.

Messrs Tenks, Daly & Figgie,

Nairobi.

Copy.

No. L. 476.

612
in pencil.
{ The remarks are I think those
of the Land Officer. }

Col. H.: -

7. Jeevanjee Market Site - " Jeevanjee built the market in 1901 under an understanding that a regular agreement would be drawn up.

" In 1906 some notes were written, in the presence of Mr. Jeevanjee and the Land Officer, by Mr. Ainsworth.

" These notes which were signed by all three above named were as follows: -

✓ Fifty years lease of land on a nominal rent, on condition that building on the same be used as a public market only, and that that the building is kept in proper order and repair by Jeevanjee."

" Jeevanjee to agree that at any time in future should the local Authorities require it, and it be necessary, he will add to the present building sufficient to meet requirements from time to time; for this purpose sufficient land to be reserved round the present building;

" For further consideration, that should Messrs Jeevanjee before the expiration of 15 years re-build the market in stone an extension of the lease to 99 years may be considered.

" No lease has yet been given. The area of the grant is, without doubt, that within the present fence, and as to this Mr. Jeevanjee says he has no objection to giving up part of it for the proposed road on the West.

" We are bound to grant a lease for the balance of 50 years under the conditions agreed upon.

" It is for consideration whether there should be incorporated in the deed conditions regarding control and management, and the appointment of the fees and stand premium realised from the sale of the stalls. The Crown Advocate

The Crown Advocate will be consulted on this point. "

His Excellency. - " To Crown Advocate and Municipal Council. "

Remarks.

" Col. Montgomerie's note correctly states the facts.

" I append the Municipal Council's recommendations with which I concur".

Col. M.: -

8. Town Hall Site.- " Here again Mr. Jeevanjee built the Town Hall before obtaining the- any lease. He then leased the building to the Municipal Council by an agreement for 10 years at a rental of Rs.1000.- a year; no clause was inserted as to the action to be taken at the end of that period.

" In 1905 the Municipal Committee considered the question of its possession regarding ^{this} the building.

" Mr. Allen, who was acting for Mr. Jeevanjee, urged that his client was entitled to a lease ~~at that~~ on the terms which has been usual in his building leases at that time, i.e. that he should be given a 99 years' lease of the land on which the first ten years should be at a nominal rent; the Municipal Committee should continue to pay Rs.1200.- a year rent for the building, and that it should have the option at any time during the term to take over the lease from Mr. Jeevanjee on paying him the capital cost of the building which he stated to be Rs.15000,00.

"Mr. Jeevanjee, at a recent interview, at first refused to admit that he was bound to give up his lease to the Municipal Committee on the condition; but he has since agreed to do so and leaves it to the Government to fix the rent after the 10 years in the event of the Municipal Committee not exercising the option to buy.

"But he asks that if the land is taken from him he may be granted an equivalent area elsewhere at the most prevailing for land of that class at the time.

" I recommend That a lease

I recommend that a lease be now given to Mr. Jeevanjee on these terms, the ~~land~~ rent of the land after the first ten years being fixed at the same rate as prevailing for sites on Government Road at the time when the building was erected

" I also recommend that Mr. Jeevanjee's prayer to obtain an equivalent area elsewhere if this land is taken away, be granted."

His Excellency- "To Municipal Council for their views."

Remarks.

"Council Montgomerie's note correctly sets forth the facts I appeal the recommendations of the Municipal Council. If I favour the recommendations made by Col. Montgomerie, but there will be considerable difficulty in allocating an equivalent area elsewhere; and after all Mr. Jeevanjee would appear to have a very large share of Nairobi land, so every kind, and is not given. Had this concession been one easily met I would have asked that it be made, but for the reasons above stated I think, it would be advisable to refuse it."

No. 7156, Part II.

Land Department,

Nairobi, 24th June 1918

Gentlemen,

RE Messrs A.M. Jeevanjee's & Co's Market
Lease, Nairobi.

I beg to enclose herewith a copy of the draft lease
therein.

The draft as it was originally drawn by this department
is shown in black carbon, and the alterations thereto,
as proposed by the Municipal Committee, is purple ink.

Please consider this as two alternative forms
of lease for your consideration, and favour me with your
clients' remarks thereon, in due course.

I am Gentleman,
Your obedient servant,
(Sd:) Edward Barret,
for Land Officer.

Messrs Tonks, Daly & Figgis,

Solicitors,

Nairobi.

no. 320/7.

Nairobi, 28th June 1915.

Sir,

Re Jeevanjee Market Lease.

Our clients has now perused the document submitted by you, and instructs us to return the same to you.

Our client cannot agree to accept or approve a lease a document which is really a n agreement for the conduct of a Market. We think you will agree that the main portion of the matters dealt with in the document should, if agree upon, be the subject of an entirely independent agreement.

Our client wishes a draft lease in accordance ~~with~~ with the agreement entered into with Mr. Ainsworth himself and yourself.

It would be very inconvenient to amend the draft in its present form as our client does not in any way recognise the Town Clerk in the matter.

We return the draft herewith.

Yours obediently,

(Sd.) Tonks, Daly & Figgis,

To,

The Hon. The Land Officer.

Nairobi.

No, 7156.

~~CONFIDENTIAL~~

Land Department.

Nairobi,

E. E. A. 3rd July 1915.

Gentlemen,

Re Jeevanjee Market Lease.

I have the honour to refer to your letter of the 28th ultimo herein, and note that your client does not recognise the Town Clerk in this matter, but should be glad to know if he agrees to the draft lease originally drawn by this Department as shown in black carbon.

I return the draft lease herewith, and shall be glad if you will favour me with a reply at your earliest convenience.

I am Gentlemen,

Your obedient servant,

(Sd/- Dundas, L. W.)

for Land Officer.

Messrs Tonks, Dalry & Figgis,

Nairobi,

No. 15/358.

WITHOUT PREJUDICE

Attorney General's Office,

Nairobi,

B. E. A., July 6th, 1915.

Gentlemen,

Re Jeevanjee Market Site.

I have the honour to state that I have received instructions from the Government to inform you that unless Mr. Jeevanjee intimates, within seven days from the date thereof, that he accepts the terms of the draft lease of ~~x~~ of the above site submitted to him by the Hon'ble the Land Officer, proceedings will be taken forthwith on behalf of the Crown to recover possession of the land,

I have the honour to be,

Gentlemen,

Your obedient servant,

(Sd.) J. W. Barth,

Attorney General.

To Messrs Tonks, Daly & Figgis,

Advocates,

Nairobi.

Nairobi, P. O. Box No 24

July, 8th 1915.

(This letter is not "without prejudice" and will be exhibited in Court in the event of any action being taken by Government)

Sir,

Re Jeevanjee Market Site.

Your letter of the 6th instant, No. 15/358 to hand We presume the heading "without prejudice" to be an error as your letter is merely a notice that action will be taken if your client does not accept the Government's draft Lease within seven days without amendment.

We had already communicated with the Hon'ble the Chief Secretary to the effect that our client wishes the question as to the Market Lease to be referred to the Secretary of State for the Colonies.

There are several points in the draft lease which require consideration and which we are not yet in a position to deal with.

In the draft submitted there is no adequate description of parcels, and further there is reference to a plan, but no copy of the plan has been submitted.

We have written the Hon'ble the Land Officer for these further particulars.

We quite admit that the question of the omission of the clause dealing with the right to monopoly is the one as to which there appears at present to be a deadlock between our client and the Government, but we would point out that the omission of the clause in question could not effect the rights of the Government if no monopoly exists.

Our client is not asking that a clause be inserted giving him a right to a monopoly but he naturally objects to giving away what he considers to be his rights by allowing an unnecessary clause to be inserted in his lease.