

1921-22

KENYA

2733
15 11 22

ERNOR
TYPE

1652

DATE

24TH NOVEMBER 1921

SUBJECT

PROSPECTING LICENSES

Reports issue of two sole licenses each covering 5 square miles to MRS. GETHIE & W. J. MARSHALL in Mara District, Masai Reserve.

Land
Lands
Road
Lawton Smith.

Previous Paper

MINUTES

2731-22

Pat h.

[Handwritten scribbles]

Subsequent Paper

[Handwritten scribbles]

3403
122
(made 400)

It may be well in the first instance to summarize briefly the history of this matter.

The case arises out of the invasion of the Kisi District by the Germans in Sept. 1914. The station was evacuated, and when it was re-occupied it was found that a considerable amount of looting had been done by the natives, losses being sustained by Govt. officials, missionaries, & private traders.

The natives, ^{tribes} who had committed the looting were punished by a fine, & a Commission of Enquiry was appointed to consider the question of compensation.

The question of granting compensation has been decided in principle, & an arrangement reached with the W.O. as to the allocation of cost, but the actual recommendations of the Commission in regard to individual cases have not as yet been examined and approved by the S.G.S., although it appears that the local Govt. have already paid out claims on the basis of the

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Commission's report.

objections against the acceptance
as it stands of this report have
been received on behalf of the
Indian traders concerning the
Complaint being made to the Commission
but how the Indian claims to
15 or 20 per cent of the original
amounts on the main grounds that

- (1) the evidence produced in most cases in support of the claims:
- (2) Claims obviously exaggerated, & some (items not specified);
- (3) Goods could not actually have been great as most traders returned in a few days & resumed business.

The protests against these findings which are important to note are supported by the European section of the local Chamber of Commerce and the Governor's Council are as follows:-

Local traders
to whom 10% is
allowed

(1) The chief grievance is that, while European claims have been paid, for all practical purposes in full, the Indians' claims have been ~~unreasonably~~ arbitrarily cut down to a small percentage of the original amounts.

This of course is based on the Commission's report already mentioned & the Governor sees no reason to consider otherwise than that the claimants have, in the circumstances, been generously treated.

(2) The constitution of the Commission as at present is a mixed body of two Govt officials & three unoffical members.

The Governor explains how it was impossible to appoint a numerous Commission at the time, & takes the view that the Govt. might, while not recognizing any obligation to pay compensation, send some of its staff to enquire into the alleged losses.

(3) That sufficient proof was forthcoming of the value of the

I attached
what it is
& a copy of the
local Indian
in which the
matter is
(to)

majority of the stocks, & while no doubt
 various percentages of reduction could
 be justified on individual claims owing
 to lack of proof, a large & wholesale
 reduction is not justified on the whole.
 The Commission has not found it necessary
 to reduce the value of the stocks on the
 ground that the Government has not
 shown that the value of the stocks
 has been depreciated by the
 actions of the Government.

As you say that
 in fact the Government has not
 shown that the value of the stocks
 has been depreciated by the
 actions of the Government,
 the Commission has not found it
 necessary to reduce the value of the
 stocks on the ground that the
 Government has not shown that
 the value of the stocks has been
 depreciated by the actions of the
 Government.

necessary that they should correspond in
 amount with the value of the damage
 done.
 In conclusion, the Gov. takes
 the view that there was no legal
 obligation on the Gov. to pay for the
 loss of the stocks, & that the
 Commission has not shown that the
 value of the stocks has been
 depreciated by the actions of the
 Government. The Commission has
 not found it necessary to reduce
 the value of the stocks on the
 ground that the Government has
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 stocks has been depreciated by
 the actions of the Government.
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 necessary to reduce the value of
 the stocks on the ground that the
 Government has not shown that
 the value of the stocks has been
 depreciated by the actions of the
 Government.

I do not think that on a
 general view of the cases there can
 be any doubt that substantial
 justice was done by the Commission's
 award. There is no doubt that
 the Commission's award is a
 fair and reasonable one. The
 Commission has not found it
 necessary to reduce the value of
 the stocks on the ground that
 the Government has not shown
 that the value of the stocks has
 been depreciated by the actions
 of the Government. The
 Commission has not found it
 necessary to reduce the value of
 the stocks on the ground that
 the Government has not shown
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 been depreciated by the actions
 of the Government.

majority of the stocks, & while no doubt various percentages of reduction could be justified on individual claims...

...a large number of claims...

...the Commission...

...the Commission...

...the Commission...

...the Commission...

...the Commission...

...the Commission...

...the Commission...

necessary that they should correspond in amount with the value of the damage done.

In conclusion, the Gov. takes the view that there was no legal liability to pay... I mean to reserve the findings of the Commission of Enquiry which 1915.

I do not think that on a general view of the cases there can be any doubt that important... But of course the findings, in that they draw a wide distinction between Europeans & Indians are sound

bound, if upheld, to be a further source of grievance ^{as they consider} in the hands generally to the Indians, ^{then} who will consider the act/ as due to ^{the} claimants.

Yes but I think we have reached a stage when the Government is

But I think, in spite of the possible trouble on this account, we are bound to accept the Gov's news on this case, & in all the circles I think we should inform him that the whole question has been carefully considered, & that

the matter may be regarded as settled

in view of the practical impossibility of reopening the matter at this stage

(2) the fact that no grounds have been substantiated for supposing that the Commission's report was other than fair to the various claimants

We should say this clearly, that the report was fair to the various claimants.

(3) the fact that there are no grounds for payments & not a legal

legal liability,

that I agree that the payment of compensation should follow the lines of the Commission's report

I do think to inform of the decision (with copy of 27/9 reply), but I do not think it is necessary to say anything to Mr. Sauri (44446/31) or Mr. Jeevanjee (43653/31), or to the London Chamber of Commerce (37739/31)

I should not be able to write for consultation with Mr. O'Connell

he is now on a private in full employment

C.S. 2222

which, I think, do not think that R. is often a good reason for referring a case (in which the hands are, however, not proved), and in the case it is impossible to attempt to define the very essential task of the Commission, and simply to measure the liability of compensation as a supplement to the

the business.

My only quarrel with the Commission is that those Indians who attempted to prove their cases were no better than the rest - e.g. Kanan Shige (pp 4 & 5 of Report) presented both a printed original version, but neglected on that account to present any that he made in his case.

European support within a rather long and unnecessary paper European sympathy - the members of the Chamber of Commerce, by reason of their trade connection with the Indian traders (see tables, p 10 & 11) are not understood

v. page 10 of Report

is proposed
with

Gen. What is the sense of not writing a Commission, if we are to revise the findings here?

1/20 1/3
1/20

at all
5.7.22.

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

24th November, 1921.



2739

Sir,

18/11/22

With reference to your despatch No. 1408 of the 16th September, 1921, enclosing protests against the adjudication on claims of Indian merchants of the South Kavirondo District for losses owing to the German invasion of that District in September, 1914, I have the honour to report that the recommendations conveyed in my despatch No. 697 of the 23rd July, 1919, were based on those submitted by the Commission of Enquiry appointed in 1915 to investigate these and other claims, a copy of whose report was enclosed in the despatch referred to.

2. The objection that no non-official was appointed to the Commission appears to me unreasonable. Government recognized no obligation to pay any compensation but sent two of its staff to examine into and record the alleged losses: the area was in a state of disturbance which rendered it unfit for a numerous commission to sit; nor, at a time when every European was engaged to his utmost either in repelling the enemy or in maintaining the existing development, could the personnel of such a commission have been found.

3. I would invite reference to the report, pages 3 to 5, where it is clearly shown that

the

RIGHT HONOURABLE

WINSTON CHURCHILL, P. C., M. P.

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.,

the Commission carefully investigated the Indian merchants' claims, and, in view of the fact that they were obviously grossly exaggerated and not substantiated by books or invoices, came to the conclusion that "an amount of 15 to 20 per cent on each claim would amply meet the case."

(a) The argument that there was sufficient proof of the value of the majority of the stocks lost therefore falls to the ground; extreme exaggeration of many claims was patent and cases are quoted by the Commissioners to that effect.

(b) That Government recovered in fines more than it has awarded to the traders as an ex gratia payment is beside the point.

4. The Commissioners further suggested that "any compensation be regarded merely as a compassionate grant which, apparently, there is no legal objection to pay." This view, in my opinion, is perfectly correct.

5. There is no truth in the statement that these bazaars were evacuated under Government orders; had these Indians remained in their shops they would have been in complete security.

6. I see no reason, after the lapse of nearly seven years, for attempting to revise the findings arrived at by the Commission of Enquiry after careful investigation on the spot; nor have I grounds to consider otherwise than ^{that} the claimants have been generously treated by these ex gratia awards.

I have the honour to be,
Sir,
Your humble, obedient servant,

Edward A. Maitland

GOVERNOR

THE KISHI CLAIMS

Injustice to Indians.

ASSOCIATED CHAMBERS VIEW

Some little while back we referred to the injustice to Indians dealt out by the Government in its apportionment of the Kishi claims. This Commission has decided that the claims of Europeans are to be full and that 1/3 of them have to be given to the Indians. However, in some instances there had been no claimants for the land, and the matter is most disgraceful.

Now, at the Chamber of Commerce on the 11th of December, the following was said:

The Chamber of Commerce has a number of members who are interested in the Kishi claims. It is a pity that the Government has not taken any steps to settle the claims of the Indians. The Chamber of Commerce has a number of members who are interested in the Kishi claims. It is a pity that the Government has not taken any steps to settle the claims of the Indians.

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present deputations to South Africa and to the Colonial Office, and we are all on tenterhooks. No one knows what will happen. Constitutional methods of resistance are apparently a failure. We are all ready and organized with unconstitutional ones for the next effort. If this does not work, strong action may like a resort to force. Many of us are going to the next meeting of the Kenya Delegation in London, which will be held at any moment.

The Chamber of Commerce has a number of members who are interested in the Kishi claims. It is a pity that the Government has not taken any steps to settle the claims of the Indians. The Chamber of Commerce has a number of members who are interested in the Kishi claims. It is a pity that the Government has not taken any steps to settle the claims of the Indians.

EAST AFRICAN ASSOCIATION.

FAR-REACHING RESOLUTIONS.

Head Office,
P. O. Box
No 48
Kampala



Branch
Jinja.

... have been...
... I have the honor to inform you...
... meeting of natives...
... was communicated to the...
... Secretary of State for the Colonies...
... I have the honor to inform you...
... At that meeting the following resolutions were also passed:

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O 1632.



131
GOVERNMENT HOUSE,
NAIROBI,
KENYA

24th November, 1921.

2733

18/11/21

Sir,

With reference to Lieutenant Colonel
Notley's despatch No. 1349 of 29th September, and
in accordance with the instructions conveyed in
your despatch No. 1208 of 3rd August, I have the
honour to inform you that I have approved the
issue of two sole prospecting licences, each
covering five square miles, to Mr. R. Gethin and
Mr. J. Maxwell respectively, near Mount Lolgorien
in the Mara District of the Masai Reserve. The
native authorities were consulted before the
licences were approved.

10009
52912/21
38103/21

I have the honour to be,

Sir,

Your humble, obedient servant,

Edmund Miller

G. E. R.

THE RIGHT HONOURABLE
WINSTON CHURCHILL, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

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