

1923

KENYA

653

FROM
GEOFFREY HENRY
1478

DATE
27TH SEPTEMBER 1923

61939
25 OCT 25

FOR CIRCULATION:-

Mr. Shelton

Mr.

Mr.

Asst. U.S. of S.

See attached
9/21/23

Perm. U.S. of S.

Part. U.S. of S.

Secretary of State.

SUBJECT

THIKA NYERI RAILWAY

COMPENSATION FOR NAIROBI FIBRE & PRODUCE COY.

States Ordoes governing payment of compensation for land required for Rlwy purposes. Considers it premature for reasons given in Rlwy G.M.'s letter enclosed to consider any claim by land holders for compensation.

Previous Paper

M. 9.

31266

MINUTES

*Comparison with the 1" = 4 miles
land map shows that the
scale of the plan in 31266 is*

about 1" = $4 \times \frac{3}{32} = \frac{3}{8}$ miles = $\frac{1980}{8}$ feet

*This means that the distance
(as the point concerned) between
the present & former borders of the
line is about 6000 feet, &
the G.M.'s general orders have
already little application
to the particular case.*

*In fact, the distance would
be of no little use to the C.
that I should be inclined to*

Subsequent Paper

M. 9.
55385

*To Nairobi Fibre Co. - 14th Nov '23
Amalgamating with 1007-114 Nairobi P.*

think that they should
have the benefit of § 26
of the 1902 Ord^{ce}
(Compensation for Land
taken for auxiliary
railway purposes)
rather than be treated
under § 24.

As regards compensation
for crops I do not think
that they should be
more generous than
the Law provides; it
might be a most inconvenient
precedent.

? Write to the Combrary
ref 31266 & say that
the question of the
scope of the discussion is
not yet settled but
that in any case the
Govt. of things cannot
be out any like that
compensation could be
awarded for the destruction
of crops. All that is
the Govt. is to say it is
possible that the law

(the Govt. about another
matter)
but

proceeding with the local
committee.

654

Leaf.

6.XI.22.

I do not think that on the facts we
can treat this case as falling within
s. 26 of the Ord^{ce} of 1902. There do not
appear to be any peculiar circumstances which would
justify the waiving of the statutory
conditions attached to the grant or lease
under s. 24. ^{In the event which has happened,} Compensation is not
payable for the land but only for the
buildings damaged or destroyed. In the
later Ord^{ce} of 1915 a somewhat more
generous compensation for crops -
generous feeling is adopted & it is
I think, consistent to the first to extend
the benefit of that feeling to grants
which were made before the Ord^{ce} was
passed but it would be purely ex gratia.
If we are not going to undertake the
question of compensation for the land,
I think it would as well to indicate

That at once & I suggest that we
shd? write to the effect that while
the question of the route of the diversion
has not yet been settled, it has been
pointed out that Form L.O. 286 is
held subject to the provisions of the
Crown Lands Ordⁿ 1902 & that ⁱⁿ clause
5.24 of that Ordⁿ it is provided that
in the event of a railway being constructed
across any land granted or leased under
the Ordⁿ compensation is not payable
for the land but only for buildings
that may be damaged or destroyed.]

omit []

A.L.
8/11.
that Ordⁿ does not provide
for compensation for the
destruction of crops.
at once
& J.H.
8/11/20



51939

RE September 27th, 1923.,
R 25 OCT 25

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My Lord Duke,

With reference to Your Grace's despatch No.962 of the 9th of July last, relating to a proposed diversion of the Thika Nyeri Railway through farm No. L. O. 286 leased under the Crown Lands Ordinance, 1902, to the Nairobi Fibre and Produce Company Limited, I have the honour to inform Your Grace that the payment of compensation for land resumed for Railway purposes is governed by Sections 24 - 27 of the Crown Lands Ordinance 1902 and sections 89 - 91 of the Crown Lands Ordinance 1915.

2. Farm L.O.286 is held under the terms of the Crown Lands Ordinance 1902 and Your Grace will observe that no compensation is payable under that Ordinance for the destruction of crops. But in any event for the reasons given in the General Manager's letter No.E.132/10 of the 18th instant, of which a copy is enclosed, it is in my opinion premature to consider the details of any claim by land holders for compensation.

I have the honour to be,
My Lord Duke,
Your Grace's most devoted
and most obedient servant,

J.M. Bevan

HIS GRACE

THE DUKE OF DEVONSHIRE, K.G., P.C., G.C.M.G., G.C.V.O.,

GOVERNOR'S Deputy.

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.,

m.7.
31266

er from
General Manager.
dated 18/9/23.

18th September, 3

N. 132/10

To.
The Honourable the Colonial Secretary,
Colony and Protectorate of Kenya,
NAIROBI.

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Acquisition of private land for Tika Railway.

Your S. 18187/14/6 of 11.9.1923.

With reference to the claim of the Nairobi Fibre and Produce Company, Limited, for compensation in connection with the above, I would point out that no definite decision has yet been arrived at regarding the alignment which this line will take and until this is decided any consideration of compensation is premature.

2. On the general principle I am opposed to granting substantial compensation in such cases. The loss to farmers in crops is more than compensated by the advantages of having a railway line in close proximity to their farms with the consequent saving in costs of road transport. They will also gain by the enhanced value of the land which will then adjoin the railway as well as by the general increased development in the district consequent on increased railway facilities.

3. As far as practicable land required for railways and stations in the course of construction of new lines should be obtained without compensation.

(Signed) C. L. N. FELLING.

General Manager.
Uganda Railway.

11 November, 1923.

657

C. D.
R 13 NOV
D 13

Gentlemen,

With reference to your letter

of the 21st of June relative to the

proposed diversion of the Thika-Nyeri

Railway through a farm owned by your

Company in Kenya, I am directed by the

Duke of Devonshire to inform you that he

has now received a reply to the despatch

which was sent to the Governor of

Kenya on the subject..

2. The Secretary of State is

informed that the route of the diversion

of the Railway has not yet been definite

ly settled, but that in any event the

farm in question, L.O.286, is held

subject to the provisions of the Crown

Lands Ordinance, 1902, which does not

provide for compensation for the

destruction of crops, in the event

*L.O. land being entered upon
for the construction of
railways.*

(Signed) H. J. READ

DRAFT.

The Nairobi Fibre and Produce
Company Limited,
11 and 12, Old Market Place,
Grimsby.

MINUTE.

Mr. Whitaker 9.11.

Mr. *deaf* 12.11.23

Mr. *Shahar* 12.11.23

Mr. *W. Stanley* 12.11.23

Sir O. Davis.

Sir G. Grindle.

Sir H. Read.

Sir J. Masterton Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

W. G. G. 2/11

11/11/23

11/11/23

11/11/23

L.O. 286

11/11/23