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KENYA - UGANDA BOUNDARY

Trans recommendations re illustrated with sketch maps and requests decision may be notified BY TELETYPE. Also requests ruling as to procedure necessary for notifying the new boundary.

Mr. Fisher

Unless we hear that Uganda
don't agree there is no question of
policy & we will left with that &
the necessary action we for change
the boundary of the Kenya colony.

I put just below

(as a chairman of a Secretary of State
CMA changing the boundary of Uganda
in land territory the O.W.C. of 1902.

70/11/3134/4

The Government have agreed to...
we took up the question of the
unfulfilled clause of the 2nd O.W.C.
of 1902. Here we contemplated

Original Paper

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a Boundary Commission O.W.C. in course

Pending that O.W.C. is... boundary

Order under article 1 is effectual for such a purpose.

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I understand however that under the present proposal the Colony of Kenya whilst receiving a large amount of territory from Uganda is to give the latter a smaller amount of territory in exchange.

Since the Annexation Order in Council of 11th June, 1920, the territory included (under the East Africa Order in Council, 1902) in the East Africa Protectorate has (except for the coast strip) become part of His Majesty's Dominions as the Colony of Kenya, and though the Orders in Council relating to the East Africa Protectorate were in general terms saved by the Annexation Order in Council and continued in force for the new Colony I have little hesitation in saying that you cannot by means of a Secretary of State's Order under article 1 of the 1902 Order in Council convert territory which is now part of His Majesty's Dominions into technically foreign territory as part of the Uganda Protectorate.

In fact I think that the last paragraph of article 1 of the East Africa Order in Council, 1902, is a provision which article 4 of the Annexation Order in Council excepts from application to the Colony of Kenya as being "repugnant to the provisions of any Act of Parliament which may, by reason of the annexation hereby declared, become extended to the Colony".

The Colony being a British Settlement within the last mentioned Act I do not think that you can properly alter its boundaries otherwise than by Order in Council. In the present case having regard to the provisions of Articles 2 and 6 of the Annexation

No. 1049

C O N I
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East Africa
September, 1920

My Lord,

I have the honour to refer to your Lordship's telegram of the 18th September, 1919, intimating approval to the provisional boundary proposed between Kenya Colony and the Uganda Protectorate and to report that in view of the joint representations of our local officers respectively in charge of the Karamoja and Suk tribes Sir Robert Coryndon and myself now desire to recommend a deviation of the line suggested between Mounts Meroto and Elgon. I attach a sketch map of the area concerned showing our original proposals in green, and the revised line, now advocated in yellow.

2. As a result of a despatch received from Sir William Carter towards the end of January, it appeared that if the frontier were to run through Mount Debasiem, as approved, practically all the Ngipian clans would be cut off from the rest of the Karamoja tribes and that many sections of the last-named community would be cut off from

accustomed

THE RIGHT HONOURABLE
VISCOUNT MILNER, P.C., G.C.B., G.C.M.G., &c., &c.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

accustomed to use during the dry season. As ethnographical considerations and the avoidance of past animosity between these contiguous tribes were the main desiderata, which it was intended to ensure by a re-adjustment of the boundary, Sir Charles Bowring with the concurrence of the Acting Governor of Uganda, decided to re-open the question in a personal interview with Captain Turpin, Assistant Superintendent of Police, Uganda, and Mr. D.R. Crampton, the local District Commissioner, both of whom possessed an intimate knowledge of the frontier problems in the area concerned. The result of this discussion was an unanimous recommendation to adopt the revised line now submitted, which would preserve their customary grazing grounds to the Karamoja, and would provide continued use of certain water holes on the Kanyangareng River for the Suk tribe. The new proposals were communicated to the Uganda Administration and it was resolved to await the return of Sir Robert Coryndon and myself before forwarding definite recommendations to Your Lordship.

3. I attach a rough description of the provisional boundary, as amended, for Your Lordship's consideration, and with a view to an early settlement of the question would appreciate an expression of your views by telegraph.

4. If the new line is approved, I am of opinion

opinion that the necessary demarkation can be carried out by a joint tour of the local Administrative Officers of both Governments and that the assistance of a trained Surveyor can be dispensed with, as I understand the line described presents marked natural features every few hours and is acceptable on ethnological grounds to the native communities affected. I am consulting the Uganda authorities, however, on this aspect of the question.

5. I may add, in this connection, that Karanoja and Suk representatives met at Kacheliba in the presence of their European officials on the 18th March and agreed to sink their past differences with the appropriate tribal ceremonies. They expressed their willingness to leave the adjustment of their boundaries and grazing claims to the European authorities. It is gratifying to note that the unrest which had prevailed between these tribes for the past 18 months has been dispelled by an amicable settlement, and I am confident that there will be no cause for reviving former feuds if the above recommendations can be effected.

6. There is only one further point which I am advised requires a definite decision and that is the proper method of legalizing the new frontier, when finally ascertained. The ruling conveyed in Your Lordship's despatch No. 1053 of the 10th October, 1919, was referred to my law officers, and I attach a copy of an opinion

opinion by the Acting Attorney General questioning the validity of a Governor's Proclamation for the purpose in view. I shall be glad to be informed in the circumstances what form of promulgation is to be followed when the time arrives for notifying the new line of frontier which it has been decided to adopt between Kenya Colony and the Uganda Protectorate.

7. A copy of this despatch is being forwarded to the Governor of Uganda.

I have the honour to be,
 Your Lordship's
 humble, obedient servant,

Edward Watkey

GOVERNOR.

10/19 29.9.1920

ROUGH DESCRIPTION OF THE PROVISIONAL BOUNDARY
OF THE COLONY OF KENYA AND THE UGANDA PROTECTORATE,

The whole line would run as follows:-

- a. Commencing at the Crabor of Mt. Elgon, the boundary follows the most North-Eastern of the two streams forming the Eban or Turkwell River.
- b. To its confluence with the second.
- c. Thence down the S. side of Turkwell.
- d. To its junction with the Pukwa River.
- e. Thence Northerly along the Eastern foothills of Mt. Elgon.
- f. To Mt. Riva (Drooping head)
- g. It now follows the rocky ridge formerly the watershed between the Turkwell and Kibiko Rivers, and through the highest point of that ridge which is collectively known as Kogipia (mist before rain)
- h. To Sagat Hill (Twin peaks)
- i. To Korkurao Hill (Spear Sheaths)
- j. Thence to the round hillock near Korkurao Hill
- k. From whence it runs to Ko'ngotindio Hill (Lion Rocks)
- l. Thence in a straight line across the Fanyangarang River (Dark brown water) at its junction with the Potzine River (Fresh goat dung) at Karlingola (white sand).
- m. Thence North West along the Notzige River to its source at the North Western end of the Chetorond Hills at Takamapan (healthy far calves) of Kibiko.
- n. Thence along the escarpment forming the watershed between the river Nile and Lake Rudolf to Mt. Zulia on the boundary of the Anglo-Egyptian Sudan.

24th December, 1919.

M. 1350/19.

The Hon. Mr. ...
 Ag. Chief Secretary,
Nairobi.

re: UGANDA AND E.A.P. BOUNDARIES.

Ref: Nd. S. 11962/II/61a of the 19th December, 1919.

Many thanks for the loan of your file which discloses a considerable amount of information not before me when I wrote my memo of the 17th instant.

The draft notice enclosed in (31) clearly discloses an alteration of the existing common boundary between the East Africa Protectorate and Uganda, namely, "so as to leave Mount Moroto and Mount Debusien in Uganda and Kacheliba in East Africa".

Looking at section 6 of the East Africa and Uganda Orders-in-Council of the 11th August, 1902, respectively - see (33) - I have considerable doubt as to the validity of a Proclamation in this instance unless the Secretary of State's despatch (33) can possibly be construed as a direction from His Majesty:

Section 6 (1) reads: "The Commissioner may with the approval of the Secretary of State by Proclamation define any boundaries of the territories for the time being within the limits of this Order, and divide such territories into provinces or districts in such manner and with such any divisions as may be convenient for purposes of administration describing the boundaries thereof and assigning names thereto."

(2) If a question arises whether any place is or is not within the Protectorate, or within any province, and such question does not appear to be determined by any such Proclamation or other evidence it shall be referred to the Commissioner and a certificate under his hand and seal shall be conclusive on the question, and judicial notice be taken thereof.

The existing common boundary was settled by the two Orders-in-Council of the 11th August, 1902.

Section 6 in both Orders gives power to define any boundaries of the territories for the time being within the limits of the respective Orders. The limits of the respective Orders are clearly defined in Sections 1 and it would appear therefore that on a strict construction of Section 6 that a Proclamation is not appropriate and the proper machinery is that provided by Sections 1 of the Orders "If His Majesty is pleased to direct that any other territories for the time being under the protection of His Majesty shall form part of the East Africa Protectorate, those territories shall, from and after a date to be fixed by an Order of the Secretary of State, be deemed to be within the limits of this Order. In like manner if His Majesty is pleased to direct that any territories for the time being forming part of the East Africa Protectorate shall cease to form part thereof, those territories shall, from and after a date to be fixed by an Order of the Secretary of State, cease to be within the limits of this Order".

A similar section appears in the Uganda Order. Certain

parts of the Victoria Nyanza were placed within the Uganda
and East Africa Protectorate by Orders both dated the
15th July, 1904, and signed by the Secretary of State
see Ordinances & Regulations Vol. VI at page 80. Uganda
does not appear to have noticed the above difficulty
and I think before action is taken attention should be
directed to the point.

Sd/- IVON L.O. GOWRE,
AG: ATTORNEY GENERAL.

negroes

Suppliment to the

Book of the late Col

Wentworth after settlement of
the estate

of the late

John

Enclosures of 1 Map

