

EAST AFR. PROT.

221

20 AUG 12



26221

EAST AFRICAN TREATY CONCESSION

- I. Memo. by Mr Tannahill as to terms of revision of Coy's lease
- II. C.O. proposals for basis of new lease decided upon after Conference at C.O. 14th August
- III. Memo. as to proposals to be submitted to the Coy as the result of the Conference with the Coy 15 August.

~~W. S. ...~~  
W. S. ...

Draft letter to be sent

W.S.

Co. no.

St. J. K.

W.S.

W. S. ...

I have spoken to you once about this but I fear I must trouble you again. The alterations which we agreed to be necessary to para 2.01 of the T.T. have made that para extraordinarily ambiguous, and it seems to me we should consider the advisability

Copy to be sent to Coy ... 20 Oct 12 ...

Subsequent Paper

substituting a high water mark  
boundary throughout of the  
land. Now the boundary could  
shift from time to time with  
high water mark in the ordinary  
way. The difficulty of making  
an imaginary line a distance  
above high water mark is that  
you must fix such a line by  
reference to high water mark  
as existing at a given date, which  
of course need not be done  
where the water edge forms  
a natural boundary.

Mr. Belfield's idea in suggesting  
this boundary, or I think to  
secure that the feet should at  
all times have access to the  
sea to tidal waters, but it  
seems to me from that the  
reservation of the "foreshore" which  
is in law the space between  
the mean high & mean low  
watermark, may give the Govt  
all that it requires. The land  
a quarter of a mile above high  
water mark will not be if much

will be the way for the purpose  
 of access to the sea without  
 the necessity of the same. Some  
 a strip a quarter of a mile  
 wide along the shore front of  
 the concession will be in front  
 of the land to the fort for I  
 do not suppose it would be long  
 to let a mile. It is true that  
 the fort may from time to time  
 require land immediately above  
 high water mark for some public  
 purpose but this could be met  
 by inserting in the lease the clause  
 reserving any land required for  
 public purposes. The only serious  
 objection that I can see is  
 the possibility of a difficulty  
 arising in connection with it which  
 has recently arisen with the  
 Colonial Sugar Refining Co  
 in Fiji. That Co has a grant  
 for a large area of land above

No. of  
 in in  
 offer at  
 present  
 with  
 (K. L. G.)

high water mark & they may  
 refuse to part with any of  
 their land, although there is  
 a great demand for land for the  
 formation of Township.

How far this difficulty is  
 likely to arise in the present  
 case I have no means of  
 knowing, but it would  
 be better to meet it to some extent  
 at this time by reserving  
 from the present grant  
 fixed areas at points where  
 the Govt considers that such  
 a demand is likely to be  
 felt in the future.

I am sorry that I  
 can see no way of simplifying  
 para 2 (1) of the draft  
 without becoming involved in  
 future trouble, unless some  
 other ~~land~~ scheme such as  
 I have suggested above is  
 adopted. C. 2/8

~~Mr. P.~~  
 Mr. Belfield H. 2/8

I had an interview with Mr. H. H. H.  
 of the S. P. & Mr. H. H. H. of  
 the Hydro. Dept. of the Admiralty  
 today. Mr. H. H. H. does not think  
 that having regard to the distance  
 accuracy, & the  
 difficulty of finding fixed points  
 on the coast it would be possible  
 to lay down a line quite in the  
 plan suggested by Mr. Belfield.  
 The other way of viewing the simple  
 appears Mr. Belfield's view on the  
 question of policy & suggests the  
 modification of Mr. Belfield's line. He  
 that we should take our fixed  
 points where the coast projects  
 into the sea & draw an imaginary  
 line connecting them, making  
 the actual boundary a line  
 running parallel to the  
 imaginary line in land.  
 The imaginary line he suggests  
 is that now (very roughly) shown

in blue chalk on our blue  
 front map. The line runs  
 due west along to the southern  
 west point of Shule point then  
 to the western most corner of  
 the fall house at Jaz. <sup>thence</sup>  
 to Ras Kanda. The ~~boundary~~  
 boundary would then run <sup>as</sup> ~~from~~  
 shown by the red chalk line  
 the southern boundary. He suggests  
 I should go from the parallel  
 point to Ras Kanga to Janto  
 & he thinks we ought to  
 extend to Western limit to  
 15 or 16 miles inland. He  
 further thinks it important  
 to bring the Northern boundary  
 20 mile lower down, so as to  
 clear the Jinto creek & part  
 of the hunter highlands from  
 which a good deal of the ~~water~~  
 Northern water supply is drawn.  
 He thinks also that we should  
 have a clause to protect this  
 supply & he is strongly in favour

all not  
 and the  
 ground

of the reservation for bullock  
 purposes clause to which I  
 have called attention in my  
 last minute. It appears that  
 a coast railway is a ~~very~~  
~~very~~ <sup>of</sup> importance.  
 He further thought it very  
 desirable to try to get them  
 to take the two desert  
 land ~~at~~ <sup>one</sup> west of the ~~the~~ part  
 of the concession which north  
 of the railway & ~~and~~ the land  
 is much more easily salable  
 and ~~some~~ <sup>to</sup> ~~them~~ <sup>to</sup> ~~it~~ <sup>would</sup>  
 be worth our while to give  
 a much larger area ~~and~~  
 to ~~secure~~ <sup>keep</sup> the railway area  
 I think best by drawing a line  
 due north ~~parallel to the~~  
 Janto ~~to~~ extending the northern  
 boundary ~~with~~ we should get  
 about 90,000 acres of ~~land~~ <sup>land</sup>  
 this would be contiguous with  
 the other concession which would  
 be of advantage in many ways  
 I should add that Mr. Hume

My mother doubt the possibility  
 of getting her out of  
 the hospital... marked out  
 by Dr. ... the way for  
 the way to be suggested  
 the extension to ... to the  
 16 mile point in the north  
 Mr. Underhill agreed that the  
 Eastern boundary suggested above  
 would be quite easily served  
 the kindly left these admirably  
 maps with me then differ  
 considerably from one which  
 found but I annex two  
 which I think show the new  
 proposals as to the Eastern line  
 sufficiently

When you are able to see  
 me in any part of it  
 I will modify the draft I  
 have made to suit the rest  
 of the papers

Ch. 20/18

Mr. ... in London for 8  
 or 9 days after which he will  
 be in ... unfortunately he is  
 passing over the ... the ...  
 some new man.

*[Handwritten notes in margin]*

Mr. Read  
 Mr. Selfield

he ... the ...  
 the ... yesterday ...  
 would agree to modify the  
 ... the ... suggested by  
 ... in my minutes of the 20th, when  
 this modification was agreed  
 that it would be best to have no  
 Western boundary but allow the  
 land to be chosen as far as  
 as might prove necessary, propose  
 however always being given to  
 the more easterly land.

I am ...  
 carrying out this suggestion  
 The ... letter when generally agreed  
 will be sent without any map  
 as he agreed that a map would  
 only introduce an element of  
 delay

Para 2 of the ...  
 I have inserted it to secure the  
 copy against being compelled to  
 accept the high land in the ...  
 ... believe (I gathered  
 ...)

agricultural purposes. If preferred  
we might leave it to the  
Govt to take the point, but  
the purchase of the claim creates  
an area of responsibility which  
may be of value in the other  
hand and our duties might  
arise with regard to particular  
areas of land -

Para. 6 (1) carries out a suggestion  
of Mr. Hinds. & see 6 (11) (6)  
The last para. of (2) I think  
embodies our agreement as to  
the Jay area.

Para. 6 (4) (a) is the assumption  
claim which we agreed  
I think a copy of the New Zealand  
Act referred to. I think it is  
sufficiently suitable to local  
conditions, but have added  
a qualifying clause.

Para. 6 (4) (b) is in connection with this  
see letter from Mr. Gammie dated  
26.12.12 & answer to  
26.12.12. This para represents  
a compromise on the views  
expressed in that letter.  
We need not think better about  
the time within which the Basin  
factories have to be put in.  
Each factory we shall be agreed  
to January - 1913

I may perhaps suggest here  
that as soon as they have  
accepted our offer we should  
telegraph to the Govt telling  
them of our intention to buy  
much land has been cultivated  
within the Township area &  
to prevent any further cultivation  
within that area. See the  
end of para. 2. of 5th.

5. 29/13

Dr. G. Fiddes

The present 5th. is the result  
of various discussions between Mr.  
Belfield, Mr. Jamison, Mr. Battersbee &  
myself - <sup>in preparing it</sup> we have also consulted  
Mr. Jamison of the Land Office,  
Mr. Hinde Provincial Council at Dunedin  
& a member of the Hydrographic Dept.  
of the Admiralty on certain points.  
Our object has been to suggest a  
scheme, which will reduce the area of  
the excess to reasonable limits & give us  
the control of the purchase, while at the  
same time putting the Govt in a better  
position

to develop their land either by their own  
efforts or then by transfer or assignment to  
others. So far as we could judge at our  
interview with the representatives of the Co., the  
scheme as a whole is likely to command  
sympathy & then, although they will  
probably object to some of the details, e.g.  
the proposed surrender of half the forest  
area at Simons.

H. J. R.

35/8

McKean  
7 Revenue Co

Chick  
16/10

at once

H. J. R.

16/5

McKean

Please see two letters from the  
Company attached. I have sent  
back the accounts to the Company  
in condition that he could have been  
back if I were so to desired

Wait

at my J.R.

W.D. 19/10

19/5



360  
CARLTON HOUSE,  
REGENT STREET,  
LONDON, S.W.

18th October 1912

Sir:

With regard to the accounts and vouchers of expenditure on this Company's Concession in British East Africa which have been submitted to you, my Directors would be glad if these could now be returned for the purpose of the annual audit of our accounts, which is now in progress.

If convenient, these will be sent for this afternoon, or at any other time that may be suitable.

Should you again require these accounts for reference, they will of course be at your disposal.

I have the honour to be,

Sir,

Your obedient servant,

Per EAST AFRICAN ESTATES LIMITED.

*H. J. Davis*  
Secretary.

The Under Secretary of State,

Colonial Office,

S.W.

CARLTON HOUSE,  
REGENT STREET,  
LONDON, S.W.

361

16th October 1912

The Secretary of the East African Estates Limited, presents his compliments to the Under Secretary of State for the Colonies, and begs to inform him in reply to his communication of the 16th instant, that the matters referred to in his letter of the 9th ultimo are under the careful consideration of the Board of the East African Estates Limited, who hope shortly to be in a position to reply thereto.

Ref:26221/12

CARLTON HOUSE,  
REGENT STREET,  
LONDON, S.W.

20<sup>th</sup> Sept. 1912

Dear Mr Read

Will you kindly  
mark on the map stud-  
ied herewith, your  
proposed southern boundary  
to Kanda

Yours very truly  
George Meadman

Enclosed return map by  
me

3610

Downing Street,

20th September, 1912

Dear Colonel Owen Lumsden,

I return herewith the map which you sent to Mr Reed this morning. He is away for a few weeks. I am sorry to say that, through reading your note too hurriedly at first sight, I have missed or misunderstood a great deal more than you intended. So will you please re-read everything, except the Southern Boundary as not having been marked by me? As in the case of the Southern Red line you will, of course, understand that it is merely intended as a rough indication of how we think the line will fall, so far as can be gathered from a merely verbal description, and that it must not be taken as an authoritative interpretation.

3610

Downing Street,  
20th September, 1912

Dear Colonel Owen Thomas,

I return herewith the map which you sent to Mr Read this morning. He is away for a few weeks. I am sorry to say that, through reading your note too hurriedly the first time, I have marked on the map a great deal more than you intended for. So will you please re-ard everything except the southern boundary as not having been marked by me? Even in the case of the southern red line you will, of course, understand that it is merely intended as a rough indication of how we imagine the line will fall, so far as can be gathered from a merely verbal description, and that it must not be taken as an authoritative interpretation.

% Wm. D. Lead  
Bay View  
Port Gordon  
Banffshire N-D.

22. viii 12

Mr. Batherbee

362

W. E. A. Strath

Very many thanks for yours  
of 20<sup>th</sup> inst with enclosures which will be very  
useful for our files

a lease for Bacon Factory

There would be no difficulty about  
issuing a lease for the Bacon Factory at once  
I would suggest that it should be issued  
by the Protectorate as they have all the necessary  
maps & surveys

It can be quickly granted at once by saying

% Wm. L. Lead,  
Bay View  
Port Gordon  
San Francisco N. D.

22. VIII 12

Mr. Patterson

362

W. L. A. Stratus

Very angry thanks for yours

of 20<sup>th</sup> not with enclosures which will be very  
useful for our files

in lease for Bacon Factory

There would be no difficulty about  
using a lease for the Bacon Factory at once  
I would suggest that a lease be issued  
to the Protectorate as they have all the necessary  
maps & surveys

It could qualify at once by paying

January of next year, it would greatly  
simplify matters as I have all the Land  
Office & Secretariat Files in England &  
until we have everything settled in regard  
to the Coast Concession it is advisable to  
keep them here for reference.

If January is too late the alternative  
is to request the Land Office to furnish  
return enclosed & copies of the necessary

copy for original lease

for Secretariat lease

2 copies each

prepare the lease in the C.O.

In regard to conditions to be inserted will you  
ask Thompson as I have no copy of the lease  
by me.

If I remember rightly Clause 10 provides  
(sub para 6 & 5) for a further expenditure of £5000  
between the 3<sup>rd</sup> & 8<sup>th</sup> years which I consider should  
be retained.

Included in the 2000 odd acres is a large area  
of extremely valuable forest which was incurred after  
strong opposition by the Conservator of Forests on  
the representations by the Company that they required  
it in order to make sites for backing bacon.  
A clause should be inserted prohibiting the sale of  
this timber especially also mentioning bamboo

I consider it would be advisable to state in the  
pre-amble that the land is to be used for the purpose  
of a bacon factory only & for no other purpose without  
the consent of the Governor & that the Bacon factory must



to be maintained as a going concern for a stated period  
I suggest at least 21 years.

- (d) The present lease prohibits transfer except to the  
firm. It might be advisable to retain the  
I don't suppose America would touch it (on account  
ports) but it might pay Germany to close it in  
favour of German east Africa.

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The above are the only points I can think of.

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I forwarded my responses to you yesterday.

All best wishes for your holiday. We are  
due for fine weather though there are no signs  
of it here

Sincerely Yours

Arthur C. Jamnathani

---

C/o Mr. In Lead

Bar Hill

Port Gordon

B.S.I.

25 VIII 12

Southsea N.B.

re E. A. Estates Co. Ltd

Dear Simpson

Batterbee asked me to let you have the  
name of the estuary to the north of the E. A. Estates Concession

I believe it is "Port Reilly" but you ought to find the  
name from the maps in the C.O. Library. I am almost certain  
I saw there the large scale ~~map~~ "Admiralty Chart of Mombasa  
& harbour" which will I feel sure give the necessary information.

If the Library have not got the chart in stock it might be advisable  
to obtain it from Stambards.

I'm very sorry I have not got any accurate maps with  
me.

If my "Diagram" is used as a basis of negotiations I  
hope you will make it understood that it is only a copy from a  
Plane table & prismatic compass compiled sketch, and a very wide margin  
of error has to be allowed for, that is why I gave a topographical  
description of boundary instead of referring to a map.

Sincerely Yours

Arthur. C. Jamieson

20 AUG 1912

EAST AFRICA ESTATES.

Memorandum, with points for consideration in the event of the revision of the Company's lease.

Reference to previous papers:-

- (A) Land Rangers Report on Development Expenditure etc., dated 10.VII.1912.
- (B) Report of Meeting held at the Colonial Office August 1st, 1912.

1. The line of action proposed to be taken by the Government was shortly summarised by His Excellency the Governor, at the meeting of August (vide paragraph 9 of report) viz. to, if possible [?], reduce the extent of the concession to such an area as the East Africa Estates Company might reasonably be expected to develop themselves without having recourse to transfer - either to subsidiary companies or to individuals.

2. Clause 15 of the existing lease guarantees a minimum area of 250,000 acres and the company [?] emphasises this guaranteed vide Secretary of State to Goldman No 12481/1908 of 15th April, 1908, and also a letter from Lord Cobham to Sir J. Hayes Sadler January 5th 1909 which reads "... but for your guarantee ... of the minimum area of 250,000 acres on the Coast the enterprise would undoubtedly have been abandoned. "

The Government feel justified in reducing this guarantee in view of the fact that they are not satisfied the Company has fulfilled its obligations in regard to development.

The area, embraced in the Concession is very loosely defined in the lease as "South of Ras Muake Senge" but it is further defined in the correspondence as confined to a strip of coast land eleven miles in width. The distance in a straight line from Ras Muake Senge to the Anglo-German border is 51 miles. 51 miles x 11 miles = 389,000 acres. I have roughly extracted the area of native owned land, as per Mr. Hollis' map for three-quarters of this strip and find an area of 87,520 acres. The remaining quarter has at least the same proportion of native owned land which would give a total for the whole strip of 116,693 acres, which deducted from 389,000 acres leaves a total available for alienation of only 242,347 or some 8,000 acres short of the guaranteed amount.

I was not in a position to quote even approximate figures at the last meeting and take this opportunity of supplying the deficiency.

4. Mr. Tennyson in a conversation after the last meeting pointed out that the Company were suffering no small hardship in that they are being called upon to do development upon and pay rent for a Concession to which the Government is not at present able to give them a clean title, and asked if it was possible to remedy this state of affairs. I understood from Mr. Tennyson this fact would tell seriously against the Government in any action for recovery that might be instituted against the Company.

A possible remedy is for the Government to  
cause

cause a special enquiry into titles to be held as soon as possible covering an area of at least some 10,000 acres in some district to be mutually selected by the Company and the Government.

I believe that at comparatively small expense to the Government (survey fees being recoverable from the Company) sufficient evidence could be collected to enable the Government to issue a lease with plan of many thousands of acres of this land without waiting for the Recorder of Titles to issue a clean title. Any land to which the title was not perfectly clear, would be excluded pending the investigation by the Recorder of Titles which may not be for some years.

5. If the Government agree to this suggestion then I venture to recommend that the present rent of £1000 per annum be reduced to £100 payable in advance commencing 9th October 1911. I consider the Government are justified in collecting this amount as consideration for the grant to the Company of the first claim on the Crown lands within the area embraced in this concession.

( The future rent to be calculated on a basis of 6 cents per acre (the basis at the existing rental of 250,000 acres @ Rs.15,000 per annum) but nothing beyond the £100 to be demanded until the Company have been given the suggested preliminary title to at least 25,000 acres.

Clause 10 of the lease in regard to development will require revision and I would suggest endeavouring to ascertain from the Company what they are prepared to do in this respect now that they have had over 3 years experience of the District. One alternative to the annual minimum monetary expenditure which apparently is not satisfactory is an annual minimum area to be brought into cultivation. Some such clause as follows:-

Within twelve months from the date of a clear title being granted the Lessee shall bring not less than one-tenth of the area granted into cultivation and for each of the succeeding four years a further one-tenth, provided that, so soon as one-half of the area has been effectively cultivated, no further development shall be required, except that for the whole period of the lease one-half at least of the total area shall be maintained in effective cultivation.

I would like to see the last sentence of Clause 10(11) done away with and in exchange some such proviso as follows:- Provided that the Company shall not be required to bring into cultivation more than 500 acres in any one year.

7. I would recommend that all question of acreage be entirely eliminated from the proposed revised Agreement for the Concession and that the extent of the Commission be defined to "all the available

Crown

Crown Lands free of Native Claims" within a topographically defined boundary, and such boundary I would define as follows:- (vide Diagram attached)

"Commencing at A the most easterly point of Ras Muake Sanga, thence by a straight line to B eleven miles in length due west of A thence by a straight line to C the highest point of Mount Kaku, thence by a straight line to D the southernmost point of the Panzi promontory, thence following the high water line of the coast to the point of commencement excluding a strip inland one-quarter of a mile in width from the high water line."

The area embraced is roughly as follows, calculated from Mr. Hollis' map. acres

Total area embraced by A.B.C.D. 246,400

<u>Less</u> Area embraced by Native Claims and the Diespecker MacAllister Concessions	134,240
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Nett Area 112,160

In the event of the Diespecker  
MacAllister Concessions falling

through, <del>134,240</del>	46,720
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158,880

8. I recommend the Bacon factory be entirely eliminated from the proposed new Agreement. The Company already hold a lease from the Crown for this Area and have complied with their covenants

up

up to date. If the Payments of Clause 10(IV) are not specifically stated in this lease there would probably be no difficulty in adding an endorsement specifying the expenditure of an additional \$5,000 during the fourth, fifth and sixth years.

9. The proposed new Agreement should specifically except Mangrove areas and also Mineral Oils.

(SD) ARTHUR C. TANNAHILL

Land Registrar,

11th August, 1912.



**EAST AFRICA STATES COMPANY, (COASTAL CONCESSION)**

Government proposals for the basis on which a new lease is to be prepared.

Decided upon after Conference at the Colonial Office, August 14, 1912. Present :- Messrs Belfield, Read, Tennyson, Batterbee and Tannahill.

1. (a) The Government will immediately cause an enquiry to be held with a view to discovering an area of approximately 10,000 acres free of native claims, which will be demarcated, and a Guarantee given by the Government that they will make good the Guarantee before the Recorder of Titles, when the Land Titles Court adjudicates on the said area.

(b) The District in which this area is to be discovered shall be a matter of mutual arrangement between the Government and the Company.

(c) A clean title for this 10,000 acres and the remainder of the land embraced in the Concession to pend the adjudication of the Land Titles Court.

2. The area embraced by the Concession to be all that land shown on the Land Ranger's Diagram dated August 11, 1912 and defined as "commencing at A the most easterly point of Ras Mwake Senge thence by a straight line to B eleven miles in length due west of A, thence by a straight line to C the highest point of Mount Kiruko, thence by a straight line to D the southern point of the Funzi promontory, thence following the high water line of the Coast to the point of commencement" excepting :-

(a) Land in the occupation of Natives, privately owned

owned land and land purchased by the Government.

- (b) Land to be eventually included in the Disapecker MacAllister Concessions if any,
- (c) Land on the west for one-quarter of a mile inland from highwater mark,
- (d) true forest areas over 640 acres in extent and mangrove concessions,
- (e) Township Area already gazetted: The land already cultivated within the Township area of Gazi to be the subject of negotiations with the Government as Trustees for Sharube's successors,
- (f) Mineral oils to be included in minerals retained to Government.

3. (a) Development :- "To ascertain first the views of the Company and failing their supplying a satisfactory development clause to covenant to open, cultivate and thereafter effectively maintain in cultivation not less than <sup>1000</sup> 500 acres of new land in each succeeding year up to one-third of the total area settled by the Recorder of Titles.

(b) Development to commence from the date of the Guarantee mentioned in paragraph 1 (a) supra.

(c) Development by Transferees of the Company to count as development by the Company but nothing in any deed of Transfer or Assignment shall relieve the Company of their obligation under this Clause.

4. Transfer Assignment and Sub-letting to be governed by a similar clause to that in the existing lease.

5. Rent to be reduced from £1000, to £50 per annum until such time as the Recorder of Titles can give a clean

clean title: Afterwards at the rate of 6 cents per acre with a minimum rental of \$50.

6. The Government to give all reasonable facilities for approach to the foreshore both on the Coast and on tidal rivers.

7. The Bacon industry to be eliminated from the new lease altogether and any clauses not already contained in the existing lease of the Bacon factory to be added thereto as endorsements.

8. All Survey fees and legal expenses in connection with new lease and surrender of old, to be borne by the Company but the cost of enquiry into title (excluding the Survey fees in connection therewith) to be borne by the Government.

The final registration of the Deed to be borne by the Company.

(Sgn.) ARTHUR C. TANNAHILL,

Land Ranger,

14.viii.12.

29 AUG 12

Proposals to be submitted to East Africa Estates Company as the result of conference at Colonial Office August 15th, 1912.

Present for Government Messrs Read, Tennyson, Batterbee and Tannahill.

for East Africa Estates Lord Cotham, Mr Martineau, Colonel Owen Thomas

Vide:- Land Ranger's Memorandum August 14th, 1912.

Paragraph 1 (a) to stand. If possible a larger area than 10,000 acres to be guaranteed but not to be insisted upon.

1 (b) to stand and to ask the Company for their views as to the situation of this District. (presumably around Gazi).

1 (c) to stand.

2. Blue print to be forwarded to the Company.

The area embraced by the Concession to be of a minimum area of 120,000 acres (afterwards to be risen to 150,000) and to be situate within the boundaries lettered A, B, C, D, shown on accompanying plan dated August 11th 1912 and defined as "commencing, etc., etc."

In the event of the whole acreage not being available within these limits the balance to be granted in the Taru desert within the district defined as follows:-

The parallelogram formed by (E) the line drawn true north and south through the centre of the booking office at Mackinnon-Rose station and produced six miles north of the booking office and six miles south, (F) a similar line in every particular through the centre of Sandburn station, G. and H. the two lines joining the northern and southern extremities of E. and F.

(The area so embraced is 115,200 acres approximately)

excepting:-

1. (a) to stand
2. (b) The area embraced by Diespecker MacAllister Concessions to be specifically excluded even if they do not materialise.
2. (c) to stand
2. (d) " "
2. (e) " "
2. (f) " "

I believe we could safely guarantee a minimum area in A, B, C, D, excluding MacAllister Diespecker of 50,000 acres. According to Mr. Hollis map there is 112,100 acres free of Native claims.

3. (a) Development "to open, cultivate and thereafter effectively maintain in cultivation not less than 1,000 acres (would agree 500 acres if pressed) of new land in each succeeding year up to 2/3 (would agree 2/3 if pressed) of the total area settled by Recorder of Titles."

(b)

(b) to stand.

(c) to stand.

4. Transfer and submitting to remain as provided for under Clause 21 of the lease except Crown Agents to be deleted.

The Company to be informed that Appeal always does lie to the Colonial Office and there is therefore no object in inserting a proviso to that effect.

5. to stand.

6. ditto.

7. Bacon Factory to be subject of a separate lease if one is not already in existence.

8. to stand.

(Sd.) ARTHUR C. TANNAHILL

15. viii. 12.

EAST AFRICAN ESTATES COAST LANDS CONCESSION

REPORT ON DEVELOPMENT EXPENDITURE ETC.

A. D. JANNANILI

Land Ranger.

I have the honour to report on various matters connected with the East African Estates Limited (Coastlands Concession) arising out of a preliminary examination I have made of the Company's expenditure, as supported by certain vouchers deposited at the Colonial Office, and in furtherance of His Excellency the Governor's despatch No. 65 of January 26 1912 to the Right Honourable the Secretary of State for the Colonies.

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1. The East African Estates (Limited) hold their Concession on a lease from the Crown of 20th April 1910 the Covenants of which operate from 9th October 1910.

condition of assignment.

Clause 10 (1) of this lease reads as follows:  
 "The Lessees will during the first three years of the said term lay out and expend the sum of £20,000 at the least in the development and improvement of the demised premises to the satisfaction of the Governor and such expenditure shall be made in addition to such moneys as the Lessees may lay out

in the erection of the Bacon Factory pursuant to the covenant in that behalf hereinafter contained. The said expenditures shall be confined to such matters and things as in the opinion of the Governor relate directly to the soil and its products. The Governor or the Crown Agents may from time to time call for vouchers certifying such expenditure and the Lessees shall supply such vouchers to the Governor or Crown Agents."

"The Lessees will during the first three years" ---. The accounts (so far as can be gathered from the vouchers which are not all forthcoming) show that a sum of £576 (Cash Statements Nos 1, 2 and Part 3) expended before October 9th 1908 are included in the total claimed for "three years ended October 9th 1911" of £20,068.12.6.

Query A. Is expenditure prior to the commencement of the lease properly or improperly included?

This sum of £576 is made up of a large number of items including Safari expenses. It is not the custom in calculating value of Development on ordinary farm leases to include the expenses a Lessee may have been put to in travelling over the Protectorate selecting his farm, and it is extremely undesirable to establish a precedent to that effect.

Query B. If it is held that certain items of this £576 dealing with development can properly be included, is expenditure on Safari to be included or excluded?

It should be noted that the sum of £20,000 is a figure that has only been fixed after considerable correspondence. On June 13th 1907 Mr. Goldman the

original

3.  
£20,000



original Concessionaire agreed to an expenditure of £30,000 and £30,000 is the figure quoted in the draft Concession dated 1907, Clause 10. On February 17 1908 Mr Goldman wrote to the Secretary of State petitioning that, (owing to the completion of the Concession having been delayed, and the Concessionaires in consequence, not having been able to avail themselves of the easier conditions of the Money Market obtaining in 1907) the required expenditure be reduced to £20,000. This concession was allowed. I quote this as showing that the Government has already dealt very leniently with the Concessionaires.

4. Before it is possible to give any but approximate figures as to the correctness or incorrectness of the statement of accounts submitted by the Company, it is essential that some sort of a schedule should be drawn up defining which items shall be included. In this respect there is a very important letter from the Secretary of State to Mr. C.S. Goldman No. 12481/1908 dated 15th April 1908 paragraph 7 of which reads as follows:-

"7. With regard to the meaning of the words "development and improvement of the demised premises" in clause 10 (1) his Lordship is of opinion that the money dealt with in this sub-clause should be confined to expenditure directly applied to the soil and its products and that accordingly the cost of purchasing, transporting, and erecting machinery intended for such direct application would be legitimately included, but not administration expenses

except

(except the salaries and wages of persons habitually employed on the premises) and of persons habitually employed on the premises concerned rather with selling than producing.

I propose therefore as the simplest method of preparing a schedule to submit items taken from the accounts (with notes thereon) where I am not satisfied in my own mind that they fulfil the definition set out in Clause 10 (1) of the Issues and the letter above quoted.

Quary G. (a) General Manager's Salary. £2,000 per ann.

(b) Assistant General Manager's Salary 400 " "

(c) Resident Manager's Salary " "

(a) General Manager's Salary. I contend that an enormous proportion of this sum amounting to £2000 for the three years comes under the head of "administration expenses" specifically excluded by the Secretary of State's letter quoted above. Colonel Owen Thomas is not habitually employed on the defined premises.

I very much doubt if he has been in East Africa more than 10 months of the three years. Even when in East Africa a very considerable portion of his time is engaged on the German Factory. Some considerable portion of his time must have been taken up in arranging for the sale of property "the East Rubber and Fibre Estates Limited". The salary itself is very large but the Company will be able to prove that Colonel Owen Thomas was anxious to resign this position, so much so that arrangements were completed to engage a German Manager of a salary of £1500 per annum when the German died, and after that a prominent official in British East Africa, but arrangements with the Colonial Office fell through

throughout the in consequence Colonel Thomas's services had to be retained. Against this, in my opinion, it could be argued that if at any time the Company found they were falling short of Government requirements in regard to expenditure on development, there is nothing to prevent their raising the General Manager's salary to say £20,000 per annum and thus fulfil the requirements in one man's salary.

Further His Excellency the Governor is not "satisfied" that the Resident Manager, from all appearances a very capable man, requires the expensive supervision of a General Manager and an Assistant General Manager. Colonel Thomas informed me that only a portion of his salary was debited to the Coast Plantations, the remainder being debited to the Bacon Factory but this is not in fact supported by the Statements I have examined.

(b) Assistant General Manager, Mr. Swan Grant. Salary £400 per annum. Only £200 per annum is debited to the Coast the remainder being debited to the Bacon Factory.

I do not consider this to be a fair proportion even if it is admitted that a portion of Mr Grant's salary should be a charge against the Estate. Mr Grant lives at the Bacon Factory over thirty hours journey away, and visits the coast about once a month and certainly not more than one-quarter of his salary should be charged, if any.

(c) Resident Engineer. The whole of this amount is a fair charge and the salary is a fair one for anybody in a responsible position such as the title indicates.

but it is very much in excess of the current rate of wages for anyone who requires two men to supervise him. It should be noted that in addition to the resident Manager, there is a white Book-keeper and two white and one Coon Overseers whose salaries total £600 per annum excluding living expenses.

Shortly it amounts to this, the Company are paying in salaries, <sup>for instance</sup> alone about £3,136 per annum. No other planter on the coast for the same results would feel justified in spending more than about £936 per annum.

It should be noted here that, in addition to the Salaries quoted above, each of the Employees receive house rent free, free food, free passages to England and free Attendants, all of course paid for by the Company.

6. General Manager and Staff, Safari and Travelling.

There are expenses incurred off the Estate and the vouchers give very little information as to their necessity or reason.

I find the following items included under this head.

Owen Grant Travelling from Bacon Factory to Coast and Return all debited to the Coast.

Colonel Thomas. Very expensive Safaris to German East Africa, Uganda, Zanzibar etc. all debited to the Coast.

Colonel Thomas' Club Bills at Mombasa and Nairobi.

Hotel Expenses.

Query D. Can the above be considered "Administration Expenses" if not what principle should be adopted in allocating this expenditure?

7. General Manager and Staff. Passages to and from BRITISH EAST AFRICA.

These expenses are kept separate and distinct from Safari and Travelling expenses.

Query E. Can the passages of General Manager and Assistant General Manager be considered as "Administration Expenses" and excluded?

8. The following are items I have noted as open to Query and should be glad of Council's opinion on each.

Query F.

- (1) Novels for Colonel Thomas
- (2) Registration Fee for Telegraphic Address
- (3) Annual subscriptions for six weekly copies of East African Standard Newspaper for Earl of Plymouth, Viscount Cobham, Duke of Westminster, Mr Fitzgerald, Lord Selver and Colonel Thomas.
- (4) Camp equipment for Safari
- (5) 13 copies of a Coast Map.
- (6) Deck chair for Colonel Thomas.
- (7) Expenses at Royal Agricultural Show.
- (8) Photographic requisites. Developing and printing photographs.
- (9) Book on East Africa
- (10) Expenses of Lord Cobham in East Africa.
- (11) Hire of Bicycle for Mr Thomas (Jnr)
- (12) Expenses of Mr Young during his visit to

British East Africa (Mr Young is I understand a financial adviser).

(13) Report on East African Estates Case.

(14) Cash Code Book.

9. Query G. Is the Company entitled to include any expenditure at the Bacon Factory over and above the £3000 stipulated in clause 10 (ii) of the lease in the £20,000 required to be expended?

The Company have not so far raised this point though Colonel Thomas has mentioned it. Clause 10 (i) stipulates that the £20,000 shall be "in addition to such moneys as the Lessees may lay out in the erection of the Bacon Factory pursuant to the covenant in that behalf hereinafter contained."

The covenant "hereinafter contained" Clause 10 (ii) reads "a suitable Bacon Factory of the cost value of £3000 at the least".

The Land Ranger (Mr Dundas) reports a total expenditure of £4,418. They have therefore expended £1,418 above the amount which is specifically excluded from the Coast Development.

10. Certain items of Stores, such as Cigarettes, Tobacco, excess Fishes have been debited to the Coast Account but have been afterwards sold either at a profit or a loss, or at cost.

Query H. Which figure shall be charged to Development?

- (a) The selling price from the Company?
- or (b) the purchase price by the Company?
- or (c) both prices on the Credit and Debit side respectively.

The ruling on the above would also govern the question of Oxen purchased by the Company which have died and the hides have been sold.

11. CABLES A very considerable sum amounting to about £100 has been spent on Cables to England and other places.
- Quary I. Can cables be entirely eliminated as "Administration Expenses" or must each cable be judged on its merits?

12. Maintenance of an Agent on the property.

Clause 22 of the lease reads "The Lessees will provide at their own expense a competent and suitable agent or representative resident upon the demised premises to whom all notices and directions under these presents may be given".

It is contended that the Company has not maintained this condition and in consequence a breach of the lease has been committed.

For at least one period of over six months we have their own evidence in writing as follows:-

- (1) August 16th 1909. Acting Commissioner of Lands to G.H. Riddler Esq. Gair, containing a notice to desist from trespass.
- (2) July 31st 1909 Messrs Sutton Ormshaw & Company to <sup>Agent</sup> Crown Agents "Colonel Thomas did not return to England until the middle of July presumably must have left end of one.
- (3) February 9th 1910. Colonel Thomas to Hon. Com. of Lands. A very indignant letter complaining that the letter of August 16th should not have been sent to Mr Riddler who is only a "foreman servant of the Company" but should have been addressed

addressed to himself (Colonel Thomas) "the only representative" of the Company.

The Company will doubtless try to minimise this as being only a technical and legal breach of the covenants, but it is very much more than that. This clause 22 is a very important one from the Government point of view as it ensures that the money expended shall be efficiently expended and that there should be a continuity of efficient expenditure.

I was informed that this six months or more were absolutely wasted. Mr Riddler was not a highly competent ~~man~~ and quite apart from the fact that he was allowed a very limited expenditure what work he did had to be re-done and ought not to be considered as development "to the satisfaction of the Governor".

Query J. Has a breach of the covenants been committed?

Query K. If so, what penalty is attached?



13. Native Rights

Clause 16 of the lease provides that the Lessees shall not without the previous consent of the Governor in writing occupy or otherwise interfere with any lands owned by Natives.

In spite of this nearly the whole of the existing development has been carried out on privately owned land which the Company has been endeavouring to purchase from its native owners without any reference to the Government.

On this point I quote from a minute of Mr Barton-Wright dated January 4th 1912, which sums up the situation very clearly. "Either Colonel Thomas must admit the land purchased from natives is Crown Land in occupation of Natives in which case the lessees may have committed a breach of covenant 16 of the Agreement . . . or that the land is land privately owned by natives and purchased from them, in which case monies expended cannot form part of development of lands intended to be leased by Government".

Colonel Thomas in the course of a conversation with me stated that his Company would always consider these lands so purchased would form part of the land mentioned in the schedule attached to the lease.

Query L. Is the above a breach of the covenants of the lease?

14. Gazi Township.

Gazi was proclaimed a Township by Official Gazette October 1st 1904, the area included under the notice to be one mile radius from the Custom House.

The Company claim and have cultivated a very large area within this radius. In August 1908 the Provincial Commissioner informed the Land Department that the Townspeople of Gazi had complained of the encroachment of Colonel Thomas' plantations within this area.

In consequence and under clauses 15 and 16 of the Lease the Acting Commissioner of Lands requested the Company to desist. Colonel Owen Thomas in consequence claims two points

(a) That the Government had no right to send such a notice.

(b) That the Company lost about £500 by reason of the notice.

Quite apart from the Clauses of the Lease I have always been under the impression that no general concession would apply to land within a Township. I have no books of reference with me in England and cannot give chapter and verse for such a belief except that in a General Notice published July 31st 1902, there is set out the price for purchasing and leasing farm lands and it stated "paragraph 4. The above rates do not apply to land in the immediate vicinity of Townships, but such land can be bought or leased at special rates according to its value.

para. 5. In Townships the land will be sold or leased in suitable plots at special rates according to its value".

Further

Further the notice of May 1908 speaking from memory states as follows:— "All lands suitable for allotment outside townships will be granted on the following conditions"

(N.B. The C.O. Library could check these quotations.)

Query M. Is it necessary to specifically exclude Townships.

It should further be noted that there is good reason for supposing a very considerable area of this land belonged to Sheik Mubarak bin Raschid al Kahlani and as such comes under Sir Arthur Hardings Proclamation dated 26th April 1866 and is held in trust by the British Government for his sons. Provincial Commissioner Mr Hinde pointed this out and states it as his opinion that the vendors to the Company have no right or title to sell as he believes them to be in a large number of instances the liberated slaves of Sheik Mabaruk.

15. Special lands embraced in the area of the Concession.

Colonel Thomas maintains that all land "free of native claims" must be ceded to the Company.

In an instance at Government House, His Excellency and Mr Read maintained this was absurd.

It would have been and still is manifestly impossible without survey to prepare a Schedule of all the lands to be excluded from the Concession and in consequence the saving clause in the first part of clause 16 of the lease was inserted.

Colonel

Colonel Thomas claimed that the lease entitled him to the very valuable land acquired by the Admiralty at Ras Mwake Sengo for Coast Defence.

If Colonel Thomas' argument is correct then he would also be entitled to the Palace at Gazi which became Crown property after the Majral Rebellion.

In reference to Ras Mwake Sengo I would like to point out that the local administration called attention to this land owned by the Admiralty and in consequence the wording of the 1st Schedule was altered from "All that piece of land situate between Ras Mwake Sengo and Basisi" to "Lands situate south of Ras Mwake Sengo".

Query N. If His Excellency the Governor has reasons why certain lands should not be included in the Concession, can the Lessees insist on their being included?

16. Definition of the limits of Area embraced by the Concession.

Under Schedules 1 and 2 of the Lease Colonel Thomas claims the Company are entitled to 350,000 acres, and that if there is not that area situate "south of Ras Mwake Sengo" then it must be given elsewhere.

The Government contend that the Lessees are only entitled to a total of 350,000 acres "if found possible" see also Clause 15. The situation of the land is to a certain extent governed by correspondence which describes it as between Ras Mwake Sengo and the border of German East Africa comprised within the eleven mile coast strip.

Query D. Supposing, for the sake of example, only 500,000 acres are found available in this specified area and the Government have 50,000 acres of Crown lands available on Mombasa Island worth perhaps £100 per acre, is the Government bound to grant this land to the Company?

The question of Survey is very pressing, but, until the exact area to which Survey is to be limited is decided, very little can be done in this respect.

17. Development in each of the years up to the eleventh year.

By Clause 10 (iii) the Lessees covenant to expend £10,000 in each of the next 8 years and by Clause 21 each of the Assignees is bound to observe and perform the obligations of the head lease.

Query P. If, for the sake of example, one of these Assignees expends in any one year of the next 8 a sum of £10,000, does that exempt the East Africa Estates Ltd from all expenditure for that year or is the East Africa Estates also compelled to expend £10,000?

18] Summary of Deductions from allowed Expenditure

Total expenditure as per Analysis  
of Accounts submitted by East  
Africa Estates Ltd. } ...20,068.12. 8.

Less various items which I consider are  
improperly included in the above  
such as, Novels, Cakes, Photographs  
Periodicals, Safari Exp outside the  
Estate, Agricultural shows, Entertain-  
ment of Guests, &c. &c. } 2,002. 4. 8.

Revised expenditure including  
salary of General Manager &c. } £18,066. 7. 10.

Less Salary of General Manager £5,445. 4. 11.  
Passages of General Man-  
ager to & from R.E.A. ) say 450.0.0.  
£5,995. 4. 11.

Limit of Expenditure that in my  
opinion, the Company are  
entitled to claim } £12,167. 3. 11.

Note. I have made no deduction for Mr Grant's  
salary and I am convinced that the figure of  
£2002.4. 8. is a very moderate deduction, as, if  
vouchers were not forthcoming, I always gave the  
Company the benefit of the doubt.

I feel convinced that a detailed valuation  
by a Chartered Accountant would probably bear out  
my valuation of the improvements as I actually found  
them on the ground, viz., £10,712

(Sd) ARTHUR C. TAMMAYLE

Land Ranger

10.VII. 13.



E.O. 25224/E.A.P.

333

C. 6 SEP 6

DRAFT.

Secretary,  
East African Estates, Ltd.

Downing Street,

9 Sept 1912.

*ackd. avoid you get*

[This letter was discovered behind the "out" despatch tray on the 17th of Sept. was at once re-packed after I had shown it to Mr Butler 8/17/12]

MINUTE.

Sir,

Mr. Tennison 29 Aug.

Mr. Read ~~29~~ 30

Mr. Belfield ~~C.B. 19~~

Sir G. Fiddes. 4

Sir H. Just.

Sir J. Anderson.

Lord Emmott.

\* Mr. Harcourt 5/9/12

For consideration

With reference to the meeting

between Lord Cobden, Colonel Owen Thomas,

and Mr Martineau on behalf of the

East Africa Estates, Limited, and repre-

sentatives of this Office on the 10th of

August, I am directed by Mr Secretary

Harcourt to inform you that he approves

the cancellation of the existing concession

dated the 20th of April, 1910, and the

grant of a new concession, on the following

terms:-

1. (a) The Government will immediately

cause an enquiry to be held with a view to

ascertaining

*Copy sent to Mr Butler 20/9/12*

embracing an area of approximately 10,000 acres within the limits of the concession and not being lands of any of the kinds mentioned in clauses (a) (b) (c) (d) and (e) of paragraph 2 hereof, which will be demarcated and a title thereto guaranteed by the Government.

(b) The district in which this area is to be selected shall be a matter of mutual arrangement between the Government and the Company.

(c) The question of title to the said 10,000 acres and the remainder of the land embraced in the Concession to await the adjudication of the Land Titles Court.

2. The concession to consist of 120,000 acres to be granted within the following boundaries:

(1) On the East ~~of the~~ boundary line running parallel to and one mile West from an imaginary line drawn straight from the Easternmost point of Has Kanda to the Westernmost corner of Government House at Gazi, thence straight to the southern point of Chalk Point, thence straight to the Eastern point of Has Luake Senge but terminating on the North at a point one mile East of the line drawn due West

West from the Easternmost point of Has Luake Senge, and on the South at a point where a straight line drawn from Has Kanda to the highest point of Mount Jomba <sup>(cont)</sup> ~~cut~~ the said boundary line.

(ii). On the North by a straight line drawn due West from the Northern termination of the Eastern boundary line & continues indefinitely.

(iii) On the South by a straight line drawn from the Southernmost point of the Eastern boundary line through the highest point of Mount Jomba <sup>(a product indefinitely)</sup> ~~cut~~. The land to be granted within these boundaries is not to include any lands of any of the following classes:

(a) Land in the occupation of natives, privately owned land, and land assigned by the Government otherwise than by treaty or cession.

(b) Land now the subject of the Districter Macallister Concessions. This land is reserved in any event whether the said concessions are ultimately confirmed

*his para /*



or not.

(c) True forest areas exceeding 640 acres in extent and mangrove concessions;

(d) Township areas already gazetted;

(e) *mineral land (Under the direction of Government) unsuitable for cultivation;*

and

(f) Land required by the Government in connexion with the Mombasa Waterworks in the Shimba Hills.

In selecting the lands to be granted within the boundaries aforesaid the Government *may proceed in far best as may be necessary but shall be bound always to prefer land lying to the East to land lying to the West:*

subject to any claims which the heirs of them may here against the Government with regard to land already actually cultivated by the Company at Gazi, such land to be included in the Concession whether or not it is found to be

*within the Eastern boundary aforesaid, but the Gov shall not carry out any such cultivation without either the written consent of Gov*

3. The Company to covenant to open and cultivate not less than 1000 acres of new lands each succeeding year and thereafter effectively to maintain the same in cultivation

up to three-quarters of the total area to which title is eventually given. This covenant to become operative from the date of the demarcation mentioned in paragraph 1(a) above.

DRAFT

Development by transferees of the Company to count as development by the Company but nothing in any deed of transfer or assignment to relieve the Company of their obligation under this Clause.

4. Rent to be £50 per annum until such time as title is given to more than 12,500 acres: afterwards at the rate of 6-cents per acre for each acre to which title is given, with a minimum rental of £50.

5. The Government to give all reasonable facilities for approaches to the bays both on the Coast and on tidal rivers.

6. (i) The old lease to be cancelled.

(ii) The above terms to be included in a separate agreement: the lease to be granted when title is given and to contain as far as possible the terms of the old lease applicable to this part of the Concession, but clause 10 thereof to be omitted.

For reasons which have been explained to the Company's representatives Mr Harcourt cannot consent to the omission or modification of clause 21 of the existing lease, but it may be pointed out that as a matter of fact the Company can always appeal to the Secretary of State from the decision of the Governor.

(iii) The new lease to contain a clause giving the Government the right to resume any land <sup>(at any time)</sup> required by it for public purposes <sup>(a substantial reduction of land at the rate of 6 cents per acre and upwards etc.)</sup> subject to payment to the Company of compensation

for substantial improvements of a permanent character which expression is to be construed

according to the definition thereof in Section

2 of the new <sup>2nd clause</sup> ~~lease~~ <sup>Act 1908</sup> and a covenant

by the lessees not to do anything to interfere with the water supply at springs aforesaid.

(iv) A new lease of the Bacon factory to be granted at once. Such lease to contain as far as possible the terms of the old lease applicable to the Bacon factory subject to the following modifications:-

(a) The Company to surrender one-half of the Forest area at Limru:

(b) All conditions as to expenditure to be omitted:

(c) The lessees to covenant ~~not~~ to use the land at Limru for any purpose but that of a Bacon factory <sup>(i)</sup> and to maintain the Bacon factory as a going concern

during the continuance of the term,

~~and to sell any timber found on the land~~

All survey fees and legal ex-

penses in connection with new leases and

surrender of old to be borne by the Com-

pany, but the cost of inquiry into title

(including the survey in connection there-

with) to be borne by the Government.

All registration expenses to

be borne by the Company.