



EAST AER. PROT  
22854

RECEIVED JUN 19 1912

Prison, A.

1912

June

Previous Paper.

20005

MASAI  
His affidavit and correspondence which should be read with the White Paper on the subject of the move. Has been instructed with Mr. A. D. Home through Mr. F. J. Buckland to act for legalism and to get Masai of Laikipia who do not wish to leave Laikipia and are now being forced to do so. In circumstances stated suggests move should be stopped. Asks no obstacle be put in the way of Masai collecting and disposing of cattle for cost of legal proceedings.

Mr. G. Fuller

Tell him that in accordance with the usual rule, his letter should have been submitted through the O.A.F. - & that a copy of it is now being sent to the O.A.F. for report - & a copy of his letter without mine, with copy of our reply, to the O.A.F. for report?

It looks as if their lawyers has got hold of legalism. as proposed. We cannot stop the movement.

Ch. 232

Yes. Hope that is all it means. As proposed

227

Subsequent Paper

23604

As proposed

See 15874/12 saying that  
Legalis has gone so the writer  
the first val. to arrange for the  
reception of the others

H. 24.7.12

854

Mombasa,  
Barrister-at-Law (England)  
Prothonotary Court of  
East Africa.  
Solicitor and Consigner.

MOMBASA,

BRITISH EAST AFRICA.

30th. June 1913.

446

Sir,

MASAI MOVE

I have the honour to invite your attention to the enclosed affidavit and correspondence which should be read along with the White Paper of the subject presented to Parliament.

I have been instructed along with Mr. A.D. Home, Barrister-at-law, through Mr H.W. Swokland, Solicitor, Nakuru, to act for Legal Isnu, one of the Chiefs, and other Masai of Laikipia, who do not wish to leave Laikipia and are now being forced to do so by the Government.

I have prepared a formal Writ but, under the circumstances set out in the affidavit of the boy Stefano, I have not yet been able to get the papers signed by my clients, so as to file them in Court.

I had to return to Mombasa without being able to confer with the Provincial Commissioner, Elementeita as suggested in the wire of the Acting Chief Secretary, enclosure No. . . . As soon as I recovered sufficiently to attend to business (Saturday the 22nd. instant) I found that the Provincial Commissioner was reported to have gone on to the Mt and that there was no chance of interviewing him.

I am taking steps, however, to have my clients followed, and if necessary, request the local authorities to urge them to come to Nakuru or Mombasa. Unfortunately, Mr. Wokland of Nakuru is ill in hospital with typhoid but telling me it is cheaper for my clients to come to me at Mombasa than for me to go to them.

\* (c) (d) (6) (a) and (9) in  
Enclosure in No. 34681.

To: 1593-12  
H. M's Principal Secretary of State  
for the Colonies

P.P.O.

MOMBASA.

BRITISH EAST AFRICA.

According to my instructions they wish to remain in Laikipia and object to the new area for the following reasons:—

(1) Laikipia is healthy for men and cattle. There is no fever there.

The southern area is full of malaria and there are many parts of it where cattle disease is prevalent. There is fly in parts and bad grass in others.

(2) Laikipia is well watered.

The southern area is very badly watered.

(3) Laikipia is 1,000,000 acres, all good country worth at least £1 per acre, £10 per acre have been offered for the chance of being allotted a farm there. Out of the 3,000,000 acres in the southern area there is nothing like so much permanent pasture and what there is, is full of Masai already.

(4) There is rinderpest in the Rift Valley through which they have to move and they are afraid of infection.

The legality of the move is challenged on the following grounds. By the treaty with Sir Donald Stewart, individual Masai acquired freehold rights as tenants in common, these they have never surrendered. The action which I have advised my clients to take is, by such individual Masai, as plaintiffs for themselves and the other Laikipia Masai, and for the members of the Masai tribe generally. These plaintiffs are not parties to the recent agreement with Sir Percy Girouard and are not bound by it.

I am also instructed that the signatures of the Masai who were parties to the last mentioned agreement were obtained by threats. They are valid, however, on native evidence. I do not expect would be made good in court, but it is clear that in any case the witnesses of the Government in the matter were known to the Masai concerned and that they acted from fear of the Government in agreeing to move. Where natives, so much afraid of the Government as the Masai are concerned, I admit that it is

MOMBASA.

BRITISH EAST AFRICA.

a matter of the greatest difficulty for the best men-  
tioned Government to arrive at their real wishes, and it is  
is the easiest thing in the world for a zealous officer  
to obtain an expression of opinion in whatever direction  
he desires.

Under Sir Donald Stewart's Treaty the Government  
in effect became trustees for the Masai and being in a fi-  
duciary capacity, were bound to see that the Masai had in-  
dependent legal advice. This was not done and is another  
ground on which the courts will be asked to void Sir Percy  
Girouard's agreement invalid, especially as under it the  
Masai purport to exchange a freehold for a tenancy-at-will.

There is no doubt that from every point of view the  
move is a bad bargain for the Masai, and it is notorious that  
they are most reluctant to leave Laikipia.

The local authorities are fully committed to the policy  
of the move and the only means of stopping it is action by the  
Courts or the Imperial authorities. From certain points of view  
it is undesirable that the administrative officers should be  
compelled by the courts to abandon the move as it would no  
doubt diminish their prestige with the Masai. If the move is  
stopped by your authority steps could be taken to avoid all loss  
of prestige. There ~~will~~ <sup>will</sup> be a great outcry from a section of the  
settlers but this would apply in any case whether it is the Courts  
or the Imperial authorities that intervene.

My clients, if not overawed by the local authorities are  
willing to carry the case through to the Imperial authorities  
do not mind the expense. For the present, obstacles may be put in  
their way preventing their collecting and realising their cattle,  
but in the long run these will be overcome. A victory for them  
after prolonged litigation would be a very serious matter unless  
of course the move is stopped in the meantime as their cattle

might be unable to return on account of disease and it is quite likely that the settlers who have agreed to their going over their lands would object to their return.

No action for an interlocutory injunction can be taken for at least a month as a month must elapse for a writ to be granted after filing the suit. As the land in question is worth at least £1,000,000 the maximum ad valorem court fee will be charged and this will require time to collect.

Owing to Nakuru being in quarantine for rinderpest much delay may arise in disposing of the necessary cattle.

The best course I suggest is for the move to be stopped in the meantime and that I be given an opportunity of satisfying an independent enquirer that my clients do not desire and never have desired to leave Laikipia. I do not conceive that the Imperial Government would countenance the move for a moment upon being so satisfied.

I have also to request that strict orders be given to put no obstacle in the way of the Masai collecting and disposing of the cattle for the cost of legal proceedings.

I have the honour to be,

Sir,

Your most humble & obedient servant

*A Morrison*

Nairobi,  
British East Africa  
14th. June 1912.

Mr A. Morrison Esquire,  
to  
E. C. New Read Esquire  
A.D.G. W. Route  
Masai Move.

REC'D J. 12

SIR, I beg to acknowledge the receipt of yours of this date in response to a letter of mine requesting facilities to interview my clients and obtain proper instructions from them. I must point out to you that it is unprofessional conduct entailing the penalty of being struck off the rolls for an advocate in this country to take instructions from a person other than his client so even if you were able to give me instructions I regret that I cannot avail myself of your offer.

I also regret that the trap I was in could not reach your tent which was on the top of the ridge so that this discussion could have taken place in person. My last letter was an informal chit scribbled in the trap.

Am I to understand that you prohibit me from communicating with my clients the Masai? I have been duly instructed along with Mr. A.D. Home through Mr. H.W. Swankland. Am I also to understand that Legalishu one of my clients is refused permission to come to Mr. A.S. Flemmer's farm three miles from the route to see me? and also to arrange for the sale of some of his bullocks? He has agreed to place at least 100 with Mr. Fleming for sale tomorrow. If Legalishu does not come to Mr. Flemmer's farm tomorrow I may take it that you have refused permission and act accordingly.

etc  
I am your humble servant,  
A. Morrison  
Barrister-at-Law

18th. June 1912

451

From E.C.Crew Read Esquire

~~XX~~ A.D.C. i/c W.Route

Masai Move.

to

A. Morrison Esquire

1912 Jul 12

Sir,

I have the honour to acknowledge receipt of your letter undated, which has just been delivered to me by a Masai. My Camp is only just above the Caravan Road and any information you may re wire I shall be pleased to give you.

I must however request that you will not interfere with the Masai who are in my charge.

*etc*

I have the honour to be,

Sir

Your most obedient servant

(Sd) E.C.Crew Read

A.D.C. i/c W.Route

Masai Move



Dated 19th. June 1912

C. O.

452

Telegram

Asst. Atty. Chief Secretary

to

Morrison c/o Flemmer Nakuru Copy P. C. Elementeita.

JUN 22 JUL 12

Your telegram of date provincial commissioner who accompanies move can take affidavit confer with him as to course to be followed, stop cannot allow move to be delayed and full consideration must be given to any veterinary objections to disposal of stock on route.

*Received on the 20<sup>th</sup> June at 12:30 p.m.*

3  
Frank Morrison

to

Governor Nairobi

KEROO JUL 1912

19<sup>th</sup> June 1912

Massi encamped close here instructed me file suit  
against Government wish clients to come to fern to sign  
papers and arrange for paying Court fees Have fever cannot  
follow them Crew head refused facilities Please direct  
that all facilities for swearing affidavits at "skuru  
and arranging for sale of cattle be given

Affidavit

I Stefano Masai make oath and state as follows:-

1. I am a Christian employed by the Rev. George Wright of Mombasa and also studying at the Buxton High School Mombasa. I can read and write Swahili and ~~know~~ a very little English.

2. I am a Masai and though I have been in Mombasa for the last two years I have not lost touch with my fellow tribesmen and am well acquainted with the general state of feeling among them.

3. In June this year my master lent me to Mr. A. Morrison advocate Mombasa who engaged me to accompany him on a visit to Nakuru as boy and interpreter.

4. Before leaving Mombasa Mr. Morrison asked me why the Masai were leaving Laikipia and I at once told him it was for fear of the Government. I said so as all I had heard of the movement was to that effect and it is obvious the Masai themselves would not voluntarily consent to leave Laikipia. I said this before I knew Mr. Morrison had any business with the Masai and it is the absolute truth as I have confirmed it since.

5. On the 14th. June Mr. Morrison who was staying at Mr. Flemmer's farm near Nakuru sent me with papers and a letter to Legalishu. These I read to Legalishu on the 15th. Legalishu and several other Masai with him were being moved and they all said they were being moved against their will and that but for fear of the Government they would remain in Laikipia. No one said he was moving of his own choice and to the best of my knowledge and belief not one of them wished to move. The rain was excessive and caused discomfort and loss and rinderpest had broken out in Nakuru and they were anxious about their stock.

6. They all agreed on employing advocates both here and in London and also on filing a suit to obtain their rights they agreed to incur costs amounting to ten thousand shillings or £5000 but said they must have opportunity of collecting this amount from the members of the tribe generally and at present they had no opportunity being hurried continually on without a moment's leisure.

7. Legalishu directed me to write two letters to Mr. Morrison agreeing to all conditions as to costs but reserving him the care for them an opportunity of subscribing the same necessary in the proportions.

8. On the 16th. instant I returned to Mr. Morrison with letters and papers from Legalishu.

9. On the 16th. instant I was present at an interview between Mr. Morrison Mr. A.S. Flemmer and Legalishu and the other Masai and acted as Interpreter. Legalishu told Mr. Morrison he was very glad that he consented to act for him and the other Masai and asked for Mr. Buckland who was ill in Nairobi. He instructed

Mr. Morrison to take steps to get him returned to Kairia and stop the move and that costs was no object. The other Masai present confirmed this. He said he was being moved by force and that he had no chance to arrange for costs of cabling and so on but that if the move was stopped for that day he would pay forty bulls as soon as they could be selected and would put ~~them~~ them on Mr. Flemmer's farm (for which consent was given) and next day would come to the farm to sign papers and give more detailed instructions. The other cattle necessary were to be subscribed by the tribe generally if the Government allowed it.

10. Mr. Morrison sent a unit to the Officer in charge of the move accordingly and presently Leghishu was called on his way. He told me that he had been ~~xxx~~ told he could not stop on the morrow but must go with the safari and that he could not come to collect the forty bulls. It was then about 5 p.m. and the site and the hatters were not site ready and they were all very

11. I returned to Mr. Morrison at the farm about 7 p.m. and reported accordingly. Mr. Morrison had then fever and did not recover sufficiently to be moved until Saturday the 2nd. instant. For some days he was quite unable to attend to any business.

*Stefano Lenduti*

S.W.O.M. AT MOMBASA  
This 27. day of June. 1917  
Before me *W. Wright*  
Registrar.



2854

455

NOV 22 1854 12

CAP

EAP

(N. 446)

OCG

27 July

Sp 257  
No. 257

26 f/s

I have to transmit  
 to you ~~for your consideration~~  
 the accompanying copy of  
 correspondence with  
~~for~~ Mr. Morrison  
 in the subject of the movement  
 of the Mason, & to request  
 that you will furnish me  
 with a report <sup>for his</sup> ~~on the points~~

~~Morrison 28 June~~  
~~without enclosure~~

~~to Mr. Morrison 27 July~~  
~~aff. enclosed~~

\* No. 22854  
 or 22854

as in 781-12

I have the  
 28th of July  
 these

I have etc.

22854

M

456

C.D.  
26 JUL  
1912

22854-12

EAP

100

27. Jul 1912

DRAFT

A. Morrison Esq

Sir,

I am to acknowledge the receipt  
of your letter of the 28th of June  
respecting the movement of  
the Masai, & to inform  
you that, in accordance with  
the usual rule, ~~your letter~~  
~~letter~~ representations ~~has~~ have

of 25/7

Mr Butler

26.7.12

X-No 22854

been submitted through the  
OAG of the EAP

2. A copy of your letter

is now being sent to the OAG  
of the State for his report upon  
it

Copy of sub 27/12

J. J. [Signature]

10780-12