

EAST AFR. PROT

C.S.
6113
22 FEB



6413

Governor
Melfield

Conf
11

MASAI

1913

22 January

Two copies of further corres with Mr Morrison and of the plaint in the action which certain Masai have filed against the Govt. It will be observed that Legalis, formerly described by Mr Morrison as his client, now figures as a nominal defendant.

Previous Paper.
5895

Li-f-Felder

We have already had the
plaint (the $\frac{CO}{2703}$) + no action appears to
be required with regard to the company
with Mr M: who pretends

Print by?

See also 6415 H. J. R

25/11

We are going to have two actions
apparently. 14. 28 2.13

6413 13

Subsequent Paper

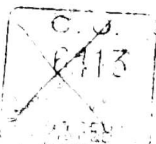
5899

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA

~~WEST AFRICA PRESBYTERIAN~~

~~CONFIDENTIAL No. 21~~

16th January 1913.



Sir,

With reference to my Confidential Despatch No. 136 of December 17th I have the honour to transmit herewith copies of further correspondence with Mr Morrison and his partners, and of the plaint in the action which certain Masai have filed against the Government.

You will observe that Legulishu, formerly described by Mr Morrison as his client, now figures as a nominal defendant.

I have the honour to be,

Sir,

Your humble, obedient servant,

J. B. ...

in the absence of the
GOVERNOR.

2063
123
~~To Mr Buckland~~
~~28.11.12.~~
~~To Mr Buckland~~
~~28.11.12.~~
~~From Mr Buckland~~
~~10.12.12.~~
~~To Mr Buckland~~
~~12.12.12.~~
~~To Mr Morrison~~
~~30.12.12.~~

Plaint

THE RIGHT HONOURABLE
LEWIS HARTOGUET, F.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

* No 2063
+ Not reported

-15516-12

ENCLOSURE 1
No. 11/01 26-12-1942

120

Encl. No. 11/01

12th Nov. 1942.

To the Chief Secretary,
to the Government,
The Secretariat, Nairobi.

REC'D
6415
REC'D 22 FEB 1943

Sir,

With reference to the interview of Mr Morrison with H.H. the Governor on the 31st ult; and my interview with you yesterday on the subject of permits for our representatives to proceed to the Northern Kikuyu Reserve to obtain the signatures of certain Kikuyu and evidence of the alleged mortality among their cattle and sheep I have the honor to request permits for one Harumo Kichuki as interpreter and for Harumo Kichuki to proceed to the Kikuyu Reserve for the above purposes.

I have the honor to be,

Sir,

Your obedient servant,

W. H. H. WILKINSON.

A

Incl. 2 in No.

INCLOSURE No. 8
By Despatch No. 2 of 16/11/1912

~~3221 101.11.~~

The Secretariat,

Nairobi.

6713
26th November 1912.

Sir,

I have the honour to acknowledge the receipt of your letter of to-day's date and to inform you in reply that the issue of the permits to Andrea Murioki and Karumba Masi must stand over until after His Excellency's interview with the Masi at Nakuru.

etc
I have the honour to be,
Sir,

Your most obedient servant,

~~W. S. Monson.~~

FOR CHIEF SECRETARY.

Richard King,
Nairobi.

Encl. 3 in No

IN-CLOSURE No 3
Registered No. 11 of 16-1-1913

122

Mombi,

10th December 1912.

The Chief Secretary,
Secretariat.

Sir,

With reference to my letter of the 26th ultimo and your reply No. S.3221 Vol. II of the same date and also to the interview of Mr Home and myself with His Excellency the Governor at Makuru on the 6th instant when we were informed that any applications for permits for ourselves or our representatives to proceed to the Masai Reserve must be made to the Secretariat I have the honour to apply for permits for Andrea Murioki and Karumba Masai to proceed to the Reserve to collect certain signatures or marks and also statements as to mortality of cattle and sheep.

I have etc.,

Sd. E. S. BUCKLAND.

Encl. to No.

COPIES INCLOSURE No. 123
IN REPLY TO No. 1113

123

The Secretariat,
Nairobi.

December 12th 1912.

Sir,

I have the honour to enclose herewith
a permit for Andrea Muricki and Karumba Masai
to enter the Masai Reserve as requested in your
letter of the 12th instant.

I have etc.,

~~Sd.~~ W.J. MONROE
for Chief Secretary.

Nairobi.

Encl. 5 in No

11 of 16. 3. 1913

124

The Secretaries,
Nairobi.

30th December 1912.

Sir,

I have the honour to inform you that
your letter of the 2nd October on the subject of
the Masai Move has been received by His Majesty's
Principal Secretary of State for the Colonies.

I have the honour to be,

Sir,

Your most obedient servant,

St W. J. Monson

FOR CHIEF SECRETARY.

MORISON B.S.

NOMBKA.

C. O.
6413
REC'D
FEB 22 1913

125

**IN THE HIGH COURT
OF BRITISH EAST AFRICA**

OL LE NJOGO and OTHERS

vs.

The ATTORNEY GENERAL and OTHERS

PLEADINGS

**A. MORRISON,
BARRISTER-AT-LAW,
MOMBASA.**

In the High Court of East Africa at Mombasa.

CIVIL CASE No. OF 1912.

- | | |
|---------------------------|---|
| 1 Ol le Njogo | } On behalf of themselves personally
and on behalf of the Masai of Laikipia
and on behalf of the Masai Tribe generally. |
| 2 Ol le Musuni | |
| 3 Ol le Masik | |
| 4 Karagi Ole Saitiki | |
| 5 Lemengoi Ole Mbishi | |
| 6 Mwe Ol le Tugo | |
| 7 Mariu Ol Lesenlat | |
| 8 Yaili Ol le Kerere..... | |

versus

- | | | |
|---|--------------------|-------------------|
| 1 The Honourable The Attorney General on behalf of the East Africa Protectorate Government. | | |
| 2 Segi | 8 Ol le Naigisa | 14 Ol le Malit |
| 3 Ngaroya | 9 Ol le Tanyai | 15 Ol le Nakota |
| 4 Marmorai | 10 Ol le Masikondi | 16 Ol le Batist |
| 5 Saburi | 11 Ol le Ysle | 17 Ol le Lingiri |
| 6 Ayale | 12 Ol le Galishu | 18 Ol le Geeshen |
| 7 Ol le Matipe | 13 Ol le Turere | 19 Ol le Kotikall |
| 20 J. W. T. McClellan, Provincial Commissioner of the Naivasha Province | | |
| 21 R. W. Hemsted, Officer-in-Charge of the Masai Reserve <i>Defendants</i> | | |

Concise Statement.

The plaintiffs claim as individuals and also on behalf of the Masai of Laikipia and also on behalf of the Masai Tribe generally, that the treaty made between the Masai and H. M. late Commissioner Sir Donald Stewart in 1904 is still in force and effect and that the obligations undertaken therein are still binding on H. M. Government.

The defendants Nos. 2-19 are brought on the record as signatories to the agreement made in 1911 whereby they agreed that they and the other Masai should leave Laikipia these defendants having no authority to enter into such an agreement and such agreement being void except as regard the said defendants.

The first three plaintiffs and the other Masai of Laikipia have been and are being wrongfully removed from the Laikipia district in breach of the said agreement of 1904.

The plaintiffs therefore claim:

I. A declaration against the Defendants Nos. 1, 20 and 21 that the plaintiffs and the other Masai of Laikipia and the other members of the Masai Tribe generally with the exception of the Defendants Nos. 2-19 inclusive are still entitled to

- (a) the Laikipia district extended as aforesaid as equitable tenants in common in unbarable entail; and
- (b) to an easement of road as aforesaid between the Northern and Southern Masai Reserves, and
- (c) that the 1911 agreement is not binding on the plaintiffs and the other Masai of Laikipia and the other members of the Masai Tribe generally with the exception of the Defendants Nos. 2-19.

II. To £5,000 damages against the 1st Defendant for failing to provide the road as agreed in the 1904 agreement and

III. To an inquiry as to damages against the 1st, the 20th and 21st defendants

- (a) arising from the death of stock occasioned by such stock being illegally removed from the Laikipia district;
- (b) arising from the depreciation on the value of stock wrongfully removed from the said Laikipia district.

IV. All necessary accounts and inquiries and such further and other relief as the nature of the case may require.

V. As against the 20th and 21st defendants an injunction restraining them from preventing the return of the plaintiffs and their stock to the Laikipia district; and against them compelling any of the Laikipia Masai and their stock to move from the said Laikipia district.

VI. Costs.

ARTHUR D. HOME,

Plaintiffs' Counsel.

In the High Court of East Africa at Mombasa.

CIVIL CASE No. OF 1912.

- | | | |
|---|---------------------|---|
| 1 | Ol le Njogo | } On behalf of themselves personally
and on behalf of the Masai of Laikipia
and on behalf of the Masai Tribe generally. |
| 2 | Ol le Musuni | |
| 3 | Ol le Masik | |
| 4 | Karagi Ole Saitiki | |
| 5 | Lemengoi Ole Mbishi | |
| 6 | Mwe Ol le Tugo | |
| 7 | Mariu Ol Lesenlat | |
| 8 | Yaili Ol le Kerere | |

versus

- | | | |
|----|---|--------------------|
| 1 | The Honourable The Attorney General on behalf of the East Africa Protectorate Government. | |
| 2 | Segi | 8 Ol le Naigisa |
| 3 | Ngaroya | 9 Ol le Tanyai |
| 4 | Marmorai | 10 Ol le Masikondi |
| 5 | Saburi | 11 Ol le Yele |
| 6 | Ayale | 12 Ol le Galishu |
| 7 | Ol le Matipe | 13 Ol le Turere |
| 20 | J. W. T. McClellan, Provincial Commissioner of the Naivasha Province | |
| 21 | R. W. Hemsted, Officer-in-Charge of the Masai Reserve | |
- Defendants*

PLAINT.

The first three plaintiffs are leading Moran of the Enro Masai until lately in Laikipia and now residing at Ngadaf.

The fourth plaintiff is the Legweno of the Moran of the Geka Nyuki section of the Masai Tribe and resides at Sosian.

The 6th, 6th, 7th and 8th plaintiffs are leading Moran of the Geka Nyuki section of the Masai Tribe and reside at Sosian in the Southern Masai Reserve.

The plaintiffs are suing for themselves personally and also for the Masai of Laikipia and also for the other members of the Masai Tribe generally.

2. The plaintiffs or some of them have been authorised by large numbers of Masai to bring these proceedings on behalf of the Laikipia Masai and the Masai Tribe generally.

3. The first defendant is the Attorney General of the East Africa Protectorate and is sued as representing the Government of the Protectorate and resides at Nairobi.

The second defendant has been appointed by Government Paramount Chief of the Masai.

The third defendant is the Regent during the minority of the said Segi of the Aiser clan.

The fourth defendant is the uncle of the said Segi.

The fifth defendant is the principal elder under Segi of the former Southern Masai Reserve.

The sixth defendant is also an uncle to Segi and these defendants No. 2 to 6 inclusive belong to Lenana's section of the Masai and reside in the Southern Reserve.

The 7th, 8th, 9th and 10th defendants belong to Masikondis section of the Aiser clan of the Masai and are now residing in the Southern Masai Reserve.

The 11th defendant is an elder of the Mokeson clan of the Purko Masai.

The 12th defendant is a Paramount Chief of the Northern section of the Masai formerly residing at Laikipia and now residing at Ngadet.

The 13th defendant is an elder of the Mokeson clan of the Purko Masai.

The 14th defendant is of Maskondis representatives of Lughume branch of the Aiser clan of the Purko Masai.

The 15th defendant is an elder of the Tarosero clan of the Purko Masai.

The 16th defendant is an elder of the Aiser clan of the Purko Masai on Laikipia of Sigwanani of the age known as Ilmerisp.

The 17th defendant is an elder of the Aiser clan of the Purko Masai.

The 18th defendant is the elder of the Tamsero clan of the Purko Masai.

The 19th defendant is an elder of the Purko Masai.

Of these the 16th defendant is still residing at Laikipia and the defendants Nos. 11 to 15 and Nos. 17 to 19 inclusive are residing at Ngadet in the Southern Masai Reserve.

The defendants Nos. 2 to 19 are sued as signatories to the agreement hereinafter called the 1911 agreement but to the best of the plaintiffs' information and belief defendants Nos. 11 to 19 are in favour of the plaintiffs' action. No relief is asked for against defendants Nos. 2 to 19.

The 20th defendant is the Provincial Commissioner of the Naivasha Province of the East Africa Protectorate and resides at Naivasha and is sued in his personal capacity.

The 21st defendant is the Officer-in-charge of the new Masai Reserve residing at Ngadet and is sued in his personal capacity.

4. By the agreement of which a copy is attached hereto and Marked "A" dated 9th August, 1904, and made between His Majesty's Commissioner Sir Donald Stewart, K.C.M.G., of the one part and the following chiefs of the Masai Tribe:—Lenana s/o Mbatian, Masakondi s/o Arariu, Lemañi, Leteregi, Lehmuraa, Lakombe, Lamgisong, Lisiari, Mepaku, Lambari, Gekunuku, Legalisho, Olmugesa, Olainomodo, Olotogia, Olieti, Lanarugu, Lingaidu, Ginomun, Liwata, Lembogi, Sabori, of the other part. It was agreed that the Masai should vacate the whole of the Rift Valley and that the Purko, Geku Nyuki, Loita Damatand Loitotok sections hereinafter called the Masai of Laikipia district and that their boundaries should be as therein set out and further that a right of road including access to water should be granted to the Masai to allow of their keeping up communication between the two reserved areas namely the said Laikipia district or the Northern Masai Reserve and the territory until lately known as the Southern Masai Reserve and His Majesty's Commissioner with the approval of the Secretary of State for Foreign Affairs undertook that the settlement arrived at should be enduring so long as the Masai as a race should exist.

5. The plaintiffs and the Masai of Laikipia left the Rift Valley in accordance with the said agreement hereinafter called the 1904 agreement, and the Government received in full the consideration agreed upon by the 1904 agreement and accordingly the plaintiffs and the other Masai of Laikipia and the other members of the Masai Tribe generally acquired rights as equitable tenants in common in tail to the said district and to the said easement of roads between the two reserves but so that the legal estate remained in H. M. Government as trustees for the Masai and so that the existing members of the Masai Tribe had no right to bar the interests of their posterity in the said Laikipia district.

By a notice appearing in the Official Gazette of the 15th March 1906 and signed by Sir J. Hayes Sadler, H. M.'s Commissioner, after stating that in accordance with agreement made between H. M.'s Commissioner and the representatives of the Masai Tribes a route connecting the Southern and Northern Masai Reserve should be left open for the movement of stock and travellers. It was notified that the route should follow as nearly as possible the following line: Commencing the Southern Masai Reserve the route should follow the cattle trail leading from Donyo Lamuyu and should proceed in a North North-Westerly direction to the Selater Road which it should join at a point where the Selater Road descends into the Kedong Valley it should follow the Selater Road along the Kedong Valley in a Northernly direction as far as a point approximately opposite telegraph post 375/13 on the Uganda Railway thence it should take a North Easterly direction across the Kinuogop or Kinobop plateau to the Northern Masai Reserve. The exact line of the said route across the Kinobop plateau or to any other point was to be hereafter defined but notice was given that the said route was thereby declared to be a Public Road.

6. Later with the consent of the Secretary of State the boundaries of the Laikipia district were declared to be on the South of the land of the East Africa Syndicate on the East the Uaso Negro and on the West the east of the Gupuko-loo-I-dian and the plaintiffs and the Masai of Laikipia and the other members of the Masai Tribe generally acquired interests in the lands within the said extended boundaries such as they had under the 1904 agreement to the land therein described.

7. It was also agreed between the Government and the Masai that the said road should be half a mile wide.

8. The exact route of the said road across the Kinangop plateau has never been defined.

The Protectorate Government has committed a breach of the said 1904 agreement by preventing and refusing to allow the plaintiffs to keep up communications between the two reserves by means of the aforesaid roads.

All the plaintiffs and the other Masai of Laikipia and other members of the Masai Tribe generally have suffered loss of £5000 by the said breach.

9. Previous to the 1904 agreement the plaintiffs resided in the Naivasha district in the Rift Valley and owned stock grazing thereon. The first three and the fifth and seventh plaintiffs in accordance with the 1904 agreement removed their stock to Laikipia district and vacated the Rift Valley. The fifth and seventh plaintiffs subsequently returned to Naivasha but in 1910 the plaintiffs Nos. 4 to 8 inclusive in accordance with the 1904 agreement removed to Sossian in the Southern Reserve but these plaintiffs claim an interest under the 1904 agreement in the Laikipia district and further by the movement as hereinafter mentioned of the Laikipia Masai into the Southern Reserve which is too small to hold the Masai their rights under the 1904 agreement are infringed and damage occasioned hereby.

10. Under the 1904 agreement and by the subsequent declarations of the Secretary of State for the Colonies H. M. Government became trustees for the Masai Tribe generally and have stood and stand in a fiduciary relationship to the Masai and in contracting with the Masai are subject to all the ordinary responsibilities and disabilities of trustees, and in particular are unable to make a valid contract directly with the Masai Tribe unless the Tribe have independent legal advice and the contract be for their benefit.

11. The defendants Nos. 2 to 19 inclusive on the 26th day of April 1911 entered into an agreement with Sir Edmond P. C. Girouard, K.C.M.G., the Governor of the East Africa Protectorate hereinafter called the 1911 agreement, of which a copy is attached hereto and marked "B," under which after reciting that they were living in the Northern Masai Reserve, as defined in the 1904 agreement and more particularly set out in the Proclamation of the 30th day of May, 1906, and also that they were acting on their own behalf and on behalf of their people whose representatives they were and also that they were satisfied that it was to the best interest of their tribe that the Masai people should inhabit one area and should not be divided into two sections, as must arise under the 1904 agreement and also that they entered of their own free will into then following agreement whereby they agreed to vacate at such time as the Governor might direct the Northern Masai Reserve which they had hitherto inhabited and occupied and to remove by such routes as the Governor might notify to them, their people, herds and flocks to such a area as the South side of the Uganda Railway as the Governor might locate to them, the said area being approximately on the South by the Anglo-German frontier on the West by the Ol-Sorukoi Range, by the Amala River, by the Eastern and Northern boundaries of the Sotik Native Reserve, and by a line drawn from the most Northern point of the Northern boundary of the Sotik Native Reserve to the South Western boundary of the

land set aside for Mr. E. Powys-Cobb on Mau, on the North by the Southern and Eastern boundaries of the said land set aside for Mr. E. Powys-Cobb, and by a straight line drawn from the North Eastern boundary of the said land to the highest point of Mount Luswa, on the East by the Southern Masai Native Reserve and it was agreed that nothing in the agreement contained should be deemed to deprive the Masai tribe of the rights reserved to it under the 1904 agreement to the land on the slopes of Kinopop whereon the circumcision rights and ceremonies might be held. In consideration of the above the said Sir Edouard P. C. Girouard agreed on behalf of H. M.'s Government, but subject to the approval of H. M.'s Principal-Secretary of State for the Colonies to reserve for the exclusive right of the Masai the area shown on the map attached to the agreement and to further extend the existing Southern Masai Reserve by an addition of an area of approximately 3,100 square miles such as are being shown on the map accompanying the agreement and the said Sir Edouard P. C. Girouard further undertook on behalf of H. M.'s Government to endeavour to remove all European settlers from the said areas and not to lease or grant any land within the said areas (except such land as might be required for mining purposes or for any public purposes) without the sanction of the Paramount Chief and the representatives of the Masai tribe.

12. The plaintiffs and the other Moran were not consulted by the said defendants as to the said agreement and never authorised the said defendants to execute the same on their behalf and the said defendants unless expressly authorised by the members of the Masai tribe have no authority to deal with the land of the Masai tribe and had no such authority in this case according to the ancient tribal custom of the Masai elders such as the defendants Nos. 2 to 19 can give the advice only but the actual decision in any particular case rests with a council of the Moran or Warriors.

The plaintiffs and the other Masai of Laikipia and the other members of the Masai tribe generally other than the said defendants never consented to the said 1911 agreement or authorised the said defendants or anyone to consent to it on their behalf and the said agreement is void as against the plaintiffs and as against the Masai of Laikipia other than the defendants and as against the members of the Masai tribe generally other than the defendants.

13. The said 1911 agreement is void as the said defendants had no authority to alienate the interests of minors and unborn children of the Laikipia Masai in the said Laikipia district.

14. The said 1911 agreement is not for the benefit of the Masai tribe generally nor of the Masai of Laikipia and as H. M.'s Government is in a fiduciary position to the Masai and to the Laikipia Masai and obtained great financial advantage thereby the said agreement is void.

15. The said 1911 agreement is void as against all the members of the Masai tribe as the Masai and in particular the Masai defendants had no independent legal advice.

16. The said 1911 agreement is void because the defendants Nos. 11-16 did not sign the agreement voluntarily but acted according to orders received from the Government.

17. The plaintiffs and the other Laikipia Masai and the other members of the Masai tribe generally with the exception of the defendants are still of right entitled to the said Laikipia district and to the said easement of the road from the Northern to the Southern Masai Reserve under the said 1904 agreement.

18. The first three plaintiffs and the Masai of Laikipia had large quantities of stock in the said Laikipia district at the date of the 1911 agreement the first plaintiff had 10 cattle and 100 sheep and the second plaintiff had 200 cattle and 600 sheep and the third plaintiff had 50 cattle and 400 sheep.

19. The value of the said Laikipia district is £1,000,000 approximately.

20. H.M.'s Government purporting to act under the said 1911 agreement and in breach of the obligations still binding on H. M.'s Government under the 1904 agreement illegally compelled the first three plaintiffs and some of the other Masai of Laikipia to leave the said Laikipia district. Some of the Laikipia Masai have not yet left the Laikipia district but it is the intention of H. M.'s Government to compel those members also of the Laikipia Masai to leave the said Laikipia district to which they are entitled as aforesaid.

21. The 20th and 21st defendants intend to compel those other Masai of Laikipia to leave the Laikipia district and wrongfully and forcibly prevent the plaintiffs and the Masai of Laikipia who have already been wrongfully removed from the Laikipia district from returning there to and in so acting the said defendants are relying on the orders of the Government or H.M. Secretary of State for the Colonies which orders are invalid and illegal and the said defendants are personally liable to the plaintiffs for any loss caused to the plaintiffs by such illegal acts as aforesaid.

22. In the year 1911-1912 the first three plaintiffs and the other Masai of Laikipia have lost large quantities of stock as a direct result of the said forcible and wrongful removal of the Laikipia Masai from the healthy Laikipia district to the Mau and to the Southern Reserve. The value of the stock lost is estimated at not less than £200,000.

The first plaintiff lost 10 head of cattle valued at Rs. 1,200 and 50 sheep valued at Rs. 250 the second plaintiff lost 100 cattle valued at Rs. 12,000 and 300 sheep valued at Rs. 1,500 and the third plaintiff lost 30 cattle valued at Rs. 3,000 and 300 sheep valued at Rs. 1,700 all as a direct result of the said illegal and wrongful removal of the said plaintiffs and their stock from Laikipia and but for such wrongful removal such stock would not have been lost.

23. The Southern Masai Reserve to which the stock of the Masai is being moved is infested with East Coast fever and there is a severe fly in many places and no stock is permitted to be moved from Laikipia to the Southern Reserve including Nairobi or from the Southern Reserve to Nakuru as a result the value of all cattle moved to the Southern Masai Reserve has depreciated by about 20%.

The total depreciation therefore of the plaintiffs' stock and that of the Masai of Laikipia is approximately £100,000.

The plaintiffs therefore pray

I. For a declaration against the Defendants Nos. 1 to 20 and 21 that the plaintiffs and the other Masai of Laikipia and the other members of the Masai

tribe generally with the exception of the defendants Nos. 2 to 19 inclusive are still entitled to

- (a) to the Laikipia district extended as aforesaid as equitable tenants in common in unbarred entail; and
- (b) to an easement of road as aforesaid between the Northern and Southern Masai Reserves; and
- (c) That the 1911 agreement is not binding on the plaintiffs and the other Masai of Laikipia and the other members of the Masai tribe generally with the exception of the defendants Nos. 2 to 19.

II. To £5,000 damages against the last defendant for failing to provide the road as agreed in the 1904 agreement, and

III. to an inquiry as to damages against the 1st, the 20th, and 21st defendant

- (a) arising from the death of stock occasioned by such stock being illegally removed from the Laikipia district.
- (b) arising from the depreciation or the value of stock wrongfully removed from the said Laikipia district.

IV. All necessary accounts and inquiries and such further and other relief as the nature of the case may require.

V. As against the 20th and 21st defendants an injunction restraining them from preventing the return of the plaintiffs and their stock to the Laikipia district, and against them compelling any of the Laikipia Masai and their stock to move from the said Laikipia district.

VI. Costs.

A. MORRISON
A. D. HOME *Advocates for Plaintiffs*

OLENJOGO † His Mark
OL LE MASEK † His Mark
OL LE MASUNI † His Mark
Witness: A. D. HOME

Witness: Mehmedali

KIBEJI OL LESIKAKI † His Mark
LEMEGORA OL LE MBISHI † His Mark
MWE OL LE LUGO † His Mark
MARI OL LE SENTAT † His Mark
YAILI OL LE KARERE † His Mark

The Plaintiffs above named declare that what is stated above is true to the best of their knowledge and belief

KIBEJI OL LE SITAKI † Thumb Mark
LEMEGORA OL LE MBISHI † " "
MWE OL LE LUGO † " "
MARI OL LE SENTENT † " "
YAILI OL LE KARERE † " "

Witness: Mehmedali

OL ENJOGO His † Mark
OL LEMESEK His † Mark
OL LE MUSINI His † Mark

Witness:
H. W. BUCKLAND,
Solicitor NAIROBI.

tribe generally with the exception of the defendants Nos. 2 to 19 inclusive are still entitled to

- (a) to the Laikipia district extended as aforesaid as equitable tenants in common in unbarrable entail; and
- (b) to an easement of road as aforesaid between the Northern and Southern Masai Reserves; and
- (c) That the 1911 agreement is not binding on the plaintiffs and the other Masai of Laikipia and the other members of the Masai tribe generally with the exception of the defendants Nos. 2 to 19.

II. To £5,000 damages against the last defendant for failing to provide the road as agreed in the 1904 agreement, and

III. to an inquiry as to damages against the 1st, the 20th, and 21st defendant

- (a) arising from the death of stock occasioned by such stock being illegally removed from the Laikipia district
- (b) arising from the depreciation on the value of stock wrongfully removed from the said Laikipia district.

IV. All necessary accounts and inquiries and such further and other relief as the nature of the case may require.

V. As against the 20th and 21st defendants an injunction restraining them from preventing the return of the plaintiffs and their stock to the Laikipia district, and against them compelling any of the Laikipia Masai and their stock to move from the said Laikipia district.

VI. Costs.

A. MORRISON
A. D. HOME } *Advocates for Plaintiffs*

OLENJOGO + His Mark
OL LE MASEK + His Mark
OL LE MASUNI + His Mark
Witness: A D HOME

Witness: Mchomedeali

KIREJI OL LBSIKAKI + His Mark
LEMEGORI OLE MBISHI + His Mark
MWE OL LE LUGO + His Mark
MERIN OL LE SENLAT + His Mark
YAILI OL LE KAREBE + His Mark

The Plaintiffs above named declare that what is stated above is true to the best of their knowledge and belief

KIREJI OL LE SITAKI + Thumb Mark
LEMEGORI OL LE MBISHI +
MWE OL LE LUGO +
MERIN OL LE SENLAT +
YAILI OL LE KAREBE +

Witness: Mchomedeali

OL ENJOGO His + Mark
OL LEMESEK His + Mark
OL LE MUBINI His + Mark

Witness:
H W RUCKLAND,
Solicitor, NAIROBI

EXHIBIT A.

APPENDIX

AGREEMENT, Dated 10th August, 1904, between His Majesty's Commissioner for the East Africa Protectorate and the Chiefs of the Masai Tribe.

We, the Undersigned, being the Lybon and Chief (representatives) of the existing clans and sections of the Masai tribes in the East Africa Protectorate, having, this 9th day of August, 1904, met Sir Donald Stewart, His Majesty's Commissioner for the East Africa Protectorate, and discussed fully the question of a land settlement scheme for the Masai, have, of our own free will, decided that it is for our best interests to remove our people, flocks, and herds into definite reservations away from the railway line, and away from any land that may be thrown open to European settlement.

We have, after having already discussed the matter with Mr. Hobley at Naivasha and Mr. Ainsworth at Nairobi, given this matter every consideration, and we recognize that the Government, in taking up this question, are taking into consideration our best interests.

Now we, being fully satisfied that the proposals for our removal to definite and final reserves are for the undoubted good of our race, have agreed as follows:—

That the Elburgu, Okunuki, Lota, Dairat, and Laituk sections shall remove absolutely to Laikipia, and the boundaries of the Settlement shall be, approximately, as follows:—

- On the north, by the Loroghi Mountains.
- On the west, by the Laikipia (Ndoror) Escarpment.
- On the south, by the Lesuswa or Nyam and Guaso Narok Rivers.
- On the east, by Kisima (approximate).

And by the removal of the foregoing sections to the reserve we undertake to vacate the whole of the Rift Valley, to be used by the Government for purposes of European settlement. Further, that the Kapfel, Matapatu, Ndogalani, and Siirari sections shall remove into the territory originally occupied by them to the south of Donyo Lamayu (Ngongo), and the Kiseorian stream, and to comprise within the area the Donyo Lamayu, Ndogalani, and Matapatu Mountains, and the Donyo Narok, and to extend to Sogian on the west.

In addition to the foregoing, Lenana, as chief Lybon, and his successors, to be allowed to occupy the land lying in between the Mbagathi and Kiseorian streams from Donyo Lamayu to the point where both streams meet, with the exception of land already occupied by Mr. Oulton, Mr. McQueen, and Mr. Paterson.

In addition to the foregoing, we asked that a right of road to include certain access to water be granted to us to allow of our keeping up communications between the two reserved areas, and further, that we be allowed to retain control of at least 5 square miles of land (at a point on the slopes of Kinangop to be pointed out by Logalishu and Masakondi), whereat we can carry out our circumcision rites and ceremonies, in accordance with the custom of our ancestors.

We ask, as a most important part of this arrangement, that the Government will establish a settlement for the Masai on the land which we know and trust may be available to look after its interests.

Also that the Government will pay reasonable compensation for any Masai cultivation at present existing near Nairobi.

In conclusion, we wish to state that we are quite satisfied with the foregoing arrangement, and we bind ourselves and our successors, as well as our people, to observe them.

We would, however, ask that the settlement now arrived at shall be enduring so long as the Masai as a race shall exist, and that European or other settlers shall not be allowed to take up land in the Settlements.

In confirmation of this Agreement, which has been read and fully explained to us, we hereby set our marks as under :-

LENANA, Son of Mbatia, Lybon of all the Masai.
MWARONDI, Son of Araru, Lybon at Naivasha.

Signed at Nairobi, August 14, 1904--

LEMANI, Elmura of Matapatu.
LETEREKI, ditto.
LELMURUA, Leganan of Kapte.
LAKOMBE, Elmura of Kapte.
LINGINONG, Elmura of Ndogalani.
LISIARI, ditto.
MEFARU, Herd Elmoran of Matapatu.
LAMBARI, Leganon of Ndogalani

Naivasha, representing Elburgu, Gekunuku, Loita, Dama, and Laitutok--

LEGALISHU, Leganan of Elburgu.
OLMUGEZA, ditto.
OLAINOMBO, ditto.
OLOTOGIA, ditto.
OLIFTI, ditto.
LANAIRUGU, ditto.
LINGALDU, ditto.
GINOMUN, ditto.
LIWALA, Leganan of Gekunuku.
LEMBOGI, Leganan of Laitutok.

Signed at Nairobi, August 15, 1904--

SABORI, Elmura of Elburgu.

We, the undersigned, were interpreters in this Agreement :-

C. W. HOBLEY (Swahili)
Mwanga Mwaruri (Masai)
Lybon S. K. Kibere (Masai)
Waziramu Mwangi (Masai)

I, Donald Stewart, K. C. M. G., His Majesty's Commissioner for the East Africa Protectorate, hereby further agree in the foregoing, provided the Secretary of State approves of the Agreement, and in witness thereof I have this 10th day of August, 1904, set my hand and seal.

D. STEWART.

We, the undersigned officers of the East Africa Protectorate Administration, hereby certify that we were present at the meeting between His Majesty's Commissioner and the Masai at Naivasha on the 9th August, 1904, and we

further heard this document fully explained to them, and witnessed their marks affixed to same:-

C. W. HOBLEY,
Acting Deputy Commissioner.
JOHN AINSWORTH,
His Majesty's Sub-Commissioner, Ukamba.
S. S. BAGGE,
His Majesty's Sub-Commissioner, Kisumu.
J. W. T. MCCLELLAN,
Acting Sub-Commissioner, Naryasha.
W. J. MONSON,
Acting Secretary to the Administration.

I, Donald Stewart, K. C. M. G., His Majesty's Commissioner for the East Africa Protectorate, hereby further agree to the foregoing parts of this Agreement concerning the Kapte, Matapatu, Ndogalani, and Sigarari Masai, provided the Secretary of State approves of the Agreement, and in witness thereof I have this 15th day of August, 1904, set my hand and seal.

D. STEWART.

We, the undersigned officers of the East Africa Protectorate, hereby certify that we were present at the meeting between His Majesty's Commissioner and the Masai at Nairobi on the 15th August, 1904, and we further heard this document explained to them, and witnessed their marks affixed to same:-

C. W. HOBLEY,
Acting Deputy Commissioner.
JOHN AINSWORTH,
His Majesty's Sub-Commissioner, Ukamba.
T. T. GULKISON,
Acting Land Officer.
W. J. MONSON,
Acting Secretary to the Administration.

I, the Undersigned, hereby certify that I translated the contents of this document to the Masai Lybich, who, I believe, interpreted it correctly to the Masai assembled at Lybich Naivasha and Nairobi.

JOHN AINSWORTH,
His Majesty's Sub-Commissioner.

EXHIBIT B.

AGREEMENT

We, the undersigned, being the Paramount Chief of all the Masai and his regents and the representatives of that portion of the Masai tribe living in the Northern Masai Reserve, as defined in the agreement entered into with the late Sir Donald William Stewart, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, His Majesty's Commissioner for the East Africa Protectorate, on the ninth day of August one thousand and nine hundred and four, and more particularly set out in the Proclamation of May thirtieth one thousand nine hundred and six, do hereby on our own behalf and on behalf of our people, whose representatives we are, being satisfied that it is to the best interest of their tribe that the Masai people should inhabit one area, and should not be divided into two sections as must arise under the agreement aforesaid whereby there were reserved to the Masai tribe two separate and distinct areas of land.

enter of our own free will into the following agreement with Sir Edouard Percy Cranwell Girouard, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Member of the Distinguished Service Order, Governor and Commander in Chief of the East Africa Protectorate, hereinafter referred to as the Governor.

We agree to vacate at such time as the Governor may direct the Northern Masai Reserve which we have hitherto inhabited and occupied and to remove by such routes as Governor may notify to us, our people, herds and flocks to such area on the south side of the Uganda Railway as the Governor may locate to us the said area being bounded approximately as follows and as shown on the attached map.

On the south by the Anglo-German frontier;

On the west by the Ol-orukoti Range, by the Amala River, otherwise called Eng-are-dabash or Eng-are-e-n-gipai, by the eastern and northern boundaries of the Sotik Native Reserve, and by a line drawn from the most northerly point of the northern boundary of the Sotik Native Reserve to the south-western boundary of the land set aside for Mr. E. Powys Cobb on Mau;

On the north by the southern and eastern boundaries of the said land set aside for Mr. E. Powys Cobb, and by a straight line drawn from the north-eastern boundary of the said land to the highest point of Mount Suswa otherwise called Ol-doinyo onyokye;

On the east by the Southern Masai Native Reserve as defined in the Proclamation dated June eighteenth one thousand nine hundred and six, and published in the Official Gazette of July first, one thousand nine hundred and six.

Provided that nothing in this agreement contained shall be deemed to deprive the Masai tribe of the rights reserved to it under the agreement of August ninth one thousand nine hundred and four aforesaid to the land on the slopes of Kinopop whereon the circumcision rights and ceremonies may be held.

In witness whereof and in confirmation of this agreement which has been fully explained to us we hereby set our marks* against our names as under:—

- Mark of SROI, son of Ol-onana (Luhana), Paramount Chief of all the Masai.
- Mark of Ol-le-GIKUENO (Lekatsani), Regent during the minority of SROI, head of the Mokolan Clan and chief spokesman (Ol-aigwenani) of the II Merisho age-grade of the Purko Masai.
- Mark of MOKERA, Regent during the minority of SROI of the Aiser clan.
- Mark of Ol-le-YETI, head of the Mokesan Clan of the Purko Masai, and one of the spokesmen (Ol-aigwenani) of the II Merisho age-grade of the Purko Masai.
- Mark of Ol-le-TUNERE, head of the Mokesan Clan of the Purko Masai.
- Mark of Ol-le-MALIT, one of Masikondi's representatives, of the Lughumae branch of the Aiser Clan of the Purko Masai.
- Mark of Ol-le-MATIP, one of Masikendi's representatives, of the Lughumae branch of the Aiser Clan of the Purko Masai.
- Mark of Ol-le-NAKOLA, head of the Tarosero Clan of the Purko Masai.
- Mark of Ol-le-NAIGISA, head of the Aiser Clan of the Purko Masai.

* Not reproduced * Finger impressions.

MARK of MARMABI, uncle and personal attendant of Segi.

Mark of SABURU, the Prime Minister of the late Chief Ol-onana (Lenana) and principal elder of the Southern Masai Reserve.

Mark of AGALI, uncle of Segi, representing the Loita Masai.

Mark of OL-LE-TANYAI of the Tarosero Clan, chief spokesman (Ol-aigwenani) of the Lemek (Meitaroni) age-grade of the Purko Masai.

The above set their marks* to this agreement at Nairobi on the fourth day of April nineteen hundred and eleven.

A. C. HOLLIS, Secretary, Native Affairs.

OL-LE-MASIRONDI, head of the Lughumae section of the Aiser Clan; chief elder of the Purko Masai, called in the former treaty Ol Oiboni of the Purko Masai.

OL LE BATHET, head of Aiser Clan of the Purko Masai on Laikipia, Ol Aigwenani of the age known as II Merisho.

The above set their marks* to this agreement at Rumuruti on the 13th day of April nineteen hundred and eleven.

E. D. BROWNE, Assistant District Commissioner, Laikipia.

Witnesses: A. J. M. COLLYER, D/C Laikipia.

His Mark OL LE LENGOM of the Aiser Clan Purko Masai.

His Mark OL LE GESHEEN, head of Tamsero Clan of Purko Masai.

His Mark OL LE SALON, brother of Ol le Kotikosh, as a deputy for Ol le Kotikosh.

The above set their marks* to this agreement at Rumuruti on 16th day of April, 1911.

E. D. BROWNE, A. D. C., i/c Laikipia.

We, the undersigned, certify that we correctly interpreted this document to the Chief, Regents, and Representatives of the Masai who were present at the meeting at Nairobi.

A. C. HOLLIS, OL-LE-TINKA of the II-Aiser-Clan.

We, the undersigned, certify that we correctly interpreted this document to the Representatives of the Masai at Rumuruti.

A. J. M. COLLYER, District Commissioner.

OL LE TINSA His Mark*

In consideration of the above, I, Edouard Percy Cranwell Girouard, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Member of the Distinguished Service Order, Governor and Commander in Chief of the East Africa Protectorate, agree on behalf of His Majesty's Government but subject to the approval of His Majesty's Principal Secretary of State for the Colonies.

* Finger impression.

State for the Colonies to reserve for the exclusive use of the Masai tribe the area on the South side of the Uganda Railway as defined above and as shown on the attached map, which area is coadunated with the Southern Masai Native Reserve and to further extend the existing Southern Masai Native Reserve by an addition of an area of approximately three thousand and one hundred square miles, such area is shown on the accompanying map the approximate boundaries being on the South, the Anglo-German Frontier, on the West the eastern boundary of the aforesaid Southern Masai Reserve, on the North and East by the Uganda Railway zone from the Athi River to Sultan Hamud Railway Station thence in a line drawn from the said station drawn to the North-East point of the Chiulu Range thence along the Chiulu Range to the South-Eastern extremity thereof thence by a straight line to the meeting point of the Eng-are Rongai and the Tsavo Rivers thence by the Eng-are Rongai River to the Anglo-German frontier and to undertake on behalf of His Majesty's Government to endeavour to remove all European settlers from the said areas and not to lease or grant any land within the said areas (except such land as may be required for mining purposes or for any public purpose) without the sanction of the Paramount Chief and the representatives of the Masai tribe.

In witness whereof I have hereunto set my hand and official seal this twenty-sixth day of April one thousand nine hundred and eleven.

Signed sealed and delivered by the
within named Sir Edouard Percy
Cranwill Girouard in the presence of

A. C. HOLLIS

L.S.

E. P. C. GIROUARD.

We, the undersigned, were present at a meeting between His Excellency the Governor and the Masai at Nairobi on the fourth day of April One thousand nine hundred and eleven, and we heard this document explained to the Chief and the representatives of the Masai who entered into this agreement of their own free will and with full knowledge of the contents thereof.

R. M. COMBE,
Crown Advocate.

C. W. HOBLEY,
Provincial Commissioner, Ukamba.

JOHN AINSWORTH,
Provincial Commissioner, Nyanza.

C. R. W. LANE,
Provincial Commissioner, Naivasha.

B. I. HINDE,
Provincial Commissioner, Mombasa.

J. W. T. MCCLELLAN,
Provincial Commissioner, Kenya.

A. C. HOLLIS,
Secretary for Native Affairs.

C. G. BOWEN,
Treasurer and M.L.C.