



EAST AFR. PROT.  
18461

C.O  
18461

REC'D  
OFFICE 2 JUN

African Estates Ltd

CONCESSION

1913

May

Last previous Paper.

13070

States reasons why the Company has been prejudicially affected by the absence of a survey. Far from having no grivance they have suffered heavy losses for which they are advised the Govt is liable. Offers to consider any further proposals or to submit the Coy's claim for damages to arbitration. Would like to have a copy of the Governor's report re labour.

Mr. B. G. ...

? Saw in the first instance to Mr. ...

~~Mr. ...~~

Mr. ...

5.6.13

Mr. G. ...

Only mention two points:

Middle of p. 2. - land free of native rights. Pl. see para.

5 of Govt/1911. We rather hoped that he said, but I think the Govt was wrong. The first suggestion of the offer was in the

para 4. Tamm hills memo of 11/8/12 to CO 2622/12

Date in 1910 it appeared that the Co. are not w/ a position to grant a secure title to a single acre of land £ (see Mr. ... memo. of 38984/10) + there is nothing in between to show that a "sufficient area of land free of native claims" was "engaged ahead of their disposal,

Hand para treatment of labour. We gave the practically all their work on this in 1911, but we can ask the Govt for

22000

a school?

That seems to be the best thing we can do with the whole letter.

W.C.B. 5/6/20

I can't add very much to what I have said already. As to the prejudice the Coy. have suffered through our delay in making the Survey, I think this would tell against us very much before any Court or arbitrator.

As to the alleged "offer": The Coy's reply seems unanswerable, & our point was a false one.

As to the statement that we have no power to cancel the lease, we can claim power

(a) under cl. 10 (ii) of the lease but the success of the claim would of course depend on the acceptance or non-acceptance by the Court of the Coy's argument about shortage of labour (see the proviso to cl. 10 (ii)) & our delay in Surveying.

(b) Under s. 10 (1) of the Crown Lands Ordinance 1902 (see p. 153 of the print below) but this Section only enables us to take proceedings in the High

Court & enable the Court to grant the defendants relief upon such terms as may appear just. i.e. it would enable the Coy. to raise all their defences above mentioned.

Of course if we claimed to cancel under cl. 10 (ii) of the lease the Coy. could force us into Court by refusing to go.

Under all the circumstances I can only repeat that I don't believe we should succeed in ejecting the Coy. (Of course the ~~alleged~~ ill treatment of the Coy's labourers gives us no power to terminate the lease) & this being so it is not a question of the Post Office suffering pecuniary or other loss for the sake of getting rid of bad tenants: we should simply fail to get rid of

our tenants, & minus the  
chance of obtaining  
modification of their lease  
in our favour.

I agree that we  
should set a report  
from the Gov. on the  
labour question, but  
I should like to take advan-  
-tage of the 3<sup>rd</sup> page of  
their letter (last half) &  
to reply ~~by~~ to them reminding  
that they have never  
suggested any modification  
of the terms ~~which~~ proposed  
by us.

CS-7/6/13

H. J. R.

7/5/13

As to the offer, the question whether the  
Co's reply is unanswerable or not depends  
on the meaning to be attached to his repeated  
word. I can hardly believe that writing in  
March '13 he w<sup>d</sup> speak of Sept '12 as "long ago" (85 of 12/14  
presents ? as proposed by him

Yes. I think  
there is the line  
taken for the  
- 4. pending the  
reply, we can  
the Gov. for a  
to the labour  
not a copy of the  
for his attention  
H. J. R.

Tennison & W. Reed

Pr. 9. 6. 13

J. K. K. K.

171

Vol. 9. 6. 13

8461

175

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

C O  
18461  
REC'D  
REC'D 2 JUN 13

RECEIVED FOR USE OF  
AFRICAN  
REG. 998

31st May 1913

Sir;

On behalf of my Board I have the honour to acknowledge the receipt of your letter of the 30th April 1913.\*

The Board regret very much to hear that there is no immediate prospect of the completion of the survey, but note with much pleasure that the major portion of the settlement of native rights will probably be completed during the current year. It is desired that I should emphasise once more the extreme importance to the Company of the survey and settlement, and to point out that if this work had been carried out within a reasonable time as contemplated by the Lease, the Company would for several years past, have been in a position to employ its resources to better advantage, and that the Company has been seriously hampered by the failure of the Government to comply with paragraph 15 of the Lease.

For information of the Secretary of State I am to say in answer to paragraph 2 of your letter that the Company has been prejudicially affected by the absence of a survey, for the following, among other, reasons;

- (i) The Company cannot build a road in any direction however advantageous, because it may subsequently prove to be within a reserved area.
- (ii) It cannot sublet a single acre of land (see paragraph 2 of letter from the Colonial Office dated January 13th 1911) and has therefore been unable to entertain many important applications.

-16524-20 \* No 12199  
+ No 20 in Africa No 965

38984

(iii) It cannot construct irrigation works essential to the development of the land nor can it lay along the Coast a light railway, which it was ready to do two years ago, when the details were discussed by its General Manager with Sir Percy Girouard.

(iv) It cannot develop any new areas lest the Land Board hereafter adjudge the Company to be trespassing.

In a word there is no single line of activity open to the Company without the possibility of deprivation and a claim for trespassing on native rights. Far from having no grievance, the Company has suffered heavy losses for which the Board are advised the Government are liable.

In further answer to paragraph 2 of your letter the Board beg leave to remind the Secretary of State that the Government's "offer" of "land free of native claims" then mentioned, was not made until September 1912, nearly a year after the expiration of the three years period under the Company's Lease, so that the offer in question could not affect the point whether the Company has or has not complied with the conditions of the Concession within that period. This offer, when made, was accompanied by conditions which, as stated in our letter of 23rd December last, made it impossible of acceptance.

The Board desire to state most emphatically,

(i) that there has been no failure on the part of the Company to fulfil any of its obligations.

(ii) that if any of the terms of the Lease remain unobserved, it is entirely due to the default of the Government already mentioned, to the shortage of labour, and to the unreasonable and unwarranted suspension by the Government of the Company's operations at Gazi for

nearly nine months of the three years period .  
During those nine months the Company was prohibited from proceeding with the development of its land at that place; a prohibition which restricted the Company's expenditure, besides causing it serious loss, and is now being used by the Government in their contention that the Company is in default.

(iii) Lastly, the Board are advised that the Government have no power to cancel the Lease as suggested in paragraph 3 and 4 of your letter

The Company is threatened with the cancellation of its Lease "if the terms now offered are not accepted by the Company." The Board fully believe that in originally offering those terms, the Colonial Office wished to promote a fair and amicable settlement in the nature of a compromise, - the word used by one of the Colonial Office representatives at the Conference held on August 15th 1912. I beg leave to remind you that on receipt of those terms it was pointed out that the Board could not accept them because, quite apart from the sacrifices demanded from the Company, the proposals offered as concessions actually put the Company in a worse position than that given under the Lease. They cannot believe that the Colonial Office will adhere to the view that these terms, originally provisional and tentative, are now final and open to no further consideration. The Board are willing to justify to the full, and in detail, the views they hold as to these terms, and to set forth categorically the modifications in the Lease which they wish made in favour of the Company. On the other hand they would be glad to consider with great care, any proposals involving concessions from the Company to the Government, which the Colonial Office may think fit,

- 4 -

upon reconsideration, to make. If this course does not commend itself to the Colonial Office, my Board are willing to submit to arbitration the Company's claim for damages suffered through the breach of the Government's covenant to survey, and also the question of the alleged "failure of the Company to fulfil its obligations with regard to the development of the property". The Board suggest that either Lord Mersey or Mr. C. A. Russell, K.C. be invited to sit as arbitrator.

If however, paragraph 4 is to be regarded as an ultimatum, the Board can only say that it will be their duty to resist the threatened confiscation of the Company's property, and to press their counter case by every means in their power.

Although the matters contained in the last paragraph of your letter are not relevant to the points immediately at issue, the Board desire to say that they have always had an anxious regard to the proper treatment of the native workers on the property, and have always so instructed the staff. The resident dispenser was appointed on the recommendation of the Government Medical Officer. The late Governor once, and the Provincial Commissioner and the Government Medical Officer several times, last year paid visits to the labour camps belonging to the Company, and the Gazi (B.B.A.) Rubber & Fibre Estate Limited, and invariably expressed themselves to the General Manager as well satisfied. Any suggestion made by any one of them would have been promptly carried out, but none was ever made. My Board would like to have a copy of the



143

Governor's report on the subject.

I am, etc

Sir,

Your obedient servant,

*Robbison*

Chairman of the Board of  
Directors of the  
East African Estates Ltd

The Under Secretary of State for the Colonies

Colonial Office

S.W.

57

461

In I  
18461 E.A.S.



(Confidential) 18 June 1913

And 31994

Sir,

I have the honor to  
ack. the recd. of your  
Conf. despatch no. 29 of the  
17<sup>th</sup> of March and to  
transmit to you for your  
obvion, the accompanying  
copy of course with  
the E. Afr. Estates Ltd.  
on the subject of the  
proposed modification  
of the terms of their lease  
of land in the coast  
strip of the E.A.S.

I would now particularly  
draw your attention to with  
ref. to para. 5 of the your  
despatch, to the Company's  
statement that no land

DRAFT.

Ent Afr. Prot. Conf.

Sir Bellfield  
MINUTE.

- Mr. P. H. ... 11/6/13
- Mr. ... 12 17/7/13
- Sir G. Fiddes. 13
- Sir H. Just
- Sir J. Anderson. 13
- Lord Emmott. 13
- Mr. Harcourt. 13

In common

E. A. Estates 30 April (12199)

31/12/13 (18461) P.

Jos. V. A. Estate  
\* No 12199  
\* Nos 12199,  
18461 a  
18461  
- 16243-20

free of native claims  
which had been placed  
at their disposal prior  
to the offer contained in  
the C.O. letter of the  
9<sup>th</sup> of Sept 1812, and  
I shall be glad to be kept  
that circ<sup>s</sup> you had in  
mind in referring to such  
land having long ago been  
placed at their disposal.

3. You will observe that  
the Co. take exception  
to the reference which was  
contained in the last  
para. of your despatch  
to their treatment of  
the labor force, and  
I shall be glad if you  
will furnish me with a  
full report on the matter  
for communication to  
the Company if necessary.

4. I shall be glad if you will  
be come of the Company's

\* No 26221

~~omit this  
containing  
series of  
4~~

Para 2 of  
my letter  
to them  
of even  
date

(This attention  
was essential  
in the  
apt return  
of me  
(5.))

~~we are going  
to try to effect  
a compromise  
should  
I explain  
reasons  
for  
C5~~

\* No 18461  
+ No 26221

response to my suggestion  
that they should make  
counter proposals or to  
the modifications to  
be made in the lease which  
it will be desirable, without  
waiting for their reply, for  
you to furnish me with  
your views on the position  
of the Govt. in the light of  
their letter of the 31<sup>st</sup> of  
May

4. You will observe  
that in para 2. of  
the (from this Dept. to the Com<sup>rs</sup>),  
being (letter) a copy of which is  
enclosed, I call his  
attention to the fact  
that no suggestion for  
the modification of the  
proposals but forwarded  
in the letter from this  
Dept. of the 9<sup>th</sup> of Sept 1812

have yet been made  
on behalf of the Coy.  
I consider it important  
for the following reasons  
that some settlement  
of the points at issue  
should, if possible, be  
arrived at. I am

5. I am  
advised that it  
is extremely doubtful  
whether, even supposing  
that it could be  
established that the  
Coy have failed to  
comply with their obli-  
gations under cl. 10  
of the lease, any steps  
could successfully be  
taken to cancel the  
lease either under  
cl. 10 (iii) of the lease or  
under s. 10 (1) of the  
Crown Lands Ordinance  
1902 - in particular  
I may call your  
attention to the  
wording of the ~~pro~~  
exception contained  
in the proviso to  
cl. 10 (ii) of the

DRAFT.

lease, & to the probability  
 that, if <sup>steps</sup> proceedings  
 were taken <sup>by the Govt.</sup> under  
 that clause, the Govt  
 would be able to  
 show to the satisfaction  
 of the Court as satis-  
 -factors that their  
 failure to carry out  
 their obligations has  
 been due to shortage  
 of labour. The same  
 line of defence  
 would also be open  
 to the Govt if proceedings  
 were taken under  
 s. 10 (1) of the Crown  
 Lands Ordinance, and  
 I am advised that  
 whichever form of proceedings  
~~that~~ ~~is~~ ~~adopted~~ ~~is~~  
 adopted, they would  
 succeed in escaping  
 forfeiture of the lease.

if they could show  
that the delay in  
connexion with the  
survey & the difficulty  
of finding any land  
free of native claims  
had been an effec-  
tive cause of their  
failure in the  
matter of development.  
I cannot help thinking  
that if the case  
ever came into Court,  
the Court, which always  
inclines to lean  
against forfeiture,  
would attach consid-  
-able ~~weight~~ weight  
to the Company's  
arguments on these  
points.

I will inform you  
in due course of the  
Co's annual meeting  
letter, <sup>and report thereon</sup> but it will

be desirable that  
you should furnish  
me with your views  
on the position of  
the Govt in the light  
of their letter of the  
31<sup>st</sup> May\* & of the  
considerations above  
set forward, without  
waiting for their  
reply.

J. J. L. etc

\* No. 18461

461

M1 5AP.  
18461.

184

998

83 18 June 1913

DRAFT.

Chairman  
E. States Ltd

MINUTE.

- Mr. Teunissen 12/18/13.
- Mr. Lead. 12
- Sir G. Fiddes 13
- Sir H. Just.
- Sir J. Anderson 13
- Lord Emmott. 13
- Mr. Harcourt.

for Counsel

\* No 18461

top of last page to June

My dear

I am directed by Mr. Lewis Harcourt to ack: the recd. of your letter of the 31<sup>st</sup> of May\* on the subject of the position of the E. States Ltd with regard to the land on the East Coast of the island held by them under the lease of the 15<sup>th</sup> of Apr. 1910.

2. In reference to the statement on page three of your letter that the Board of Directors cannot believe that the Colonial

-16742-20

Office will adhere  
to the view that  
the proposals for  
the modification  
of the lease put  
forward in the letter  
from this dep. of  
the 21<sup>st</sup> of Sep. 1912\*  
are now final &  
open to no further  
consideration. I am to  
remind you that  
no suggestions for  
the modification  
of these proposals  
have ~~been~~ yet  
been made on  
behalf of the  
Co. ~~unless said~~  
In these circum-  
stances Mr. H. has  
no alternative  
but to advise to

\* No. 26221

185  
The position <sup>advised</sup> ~~outlined~~  
in the letter from this  
dep. of the 30<sup>th</sup> of  
Sep. last.\*  
3. Mr. H. is in  
communication  
with the Gov. of the  
E.A.P. in reference  
to the alleged defect  
by the Co. of their  
labour force in the  
Prov. Mr. H. attaches  
great importance to  
this subject & con-  
siders it essential  
that the charges  
made against some  
Co. should be  
satisfactorily disposed  
of.

\* No. 12199

} I am etc



TELEPHONE  
CABLES 794

186

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

RECEIVED  
18 JUNE 1913  
COL. OFFICE

*ansd. 18/6*

18th June 1913

Sir,

Having received no acknowledgement of the letter addressed by my Chairman to the Under Secretary of State for the Colonies on the 31st ultimo, I venture to enquire whether the same was duly received.

I have the honour to be,

Sir,

Your obedient servant,

For EAST AFRICAN ESTATES LIMITED

*A. J. Davis*  
Secretary.

To the Under Secretary of State for the Colonies,  
Colonial Office  
S.W.

*u. 9  
18/6*