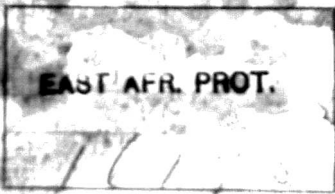


1911

EAST AFR. PROT.



Letter to Rev. Comptroller General

Dear Sir, I have just received your letter of the 11th inst. in respect of the people of the Italian Colonies with Italian feet. I should like to suggest that the first be prepared to put up the thing of land as the result would be a return for some arrangement for securing the present business of the Italian as the dependants of the Italian.

W. F. Fiddell

$$70 \div 5323 = \frac{70}{5323}$$

The question of the land of the Italian Colonies has been brought up by the Italian Colonies. I have indicated by the above number as to the land of the Italian Colonies.

In regard to the land of the Italian Colonies, I think that it would be better to have the land of the Italian Colonies. I have indicated by the above number as to the land of the Italian Colonies. I have indicated by the above number as to the land of the Italian Colonies.

70
5323

T. A. O.

the for^m a copy of our l^r to the
70 ? -^t said a short tel. to for^m
saying that it has been decided to hand over the

H. J. R.

2/2

Wm
Pa 22

In any further communication
on this subject, please quote

19772/11.

and address

The Under-Secretary of State,
Foreign Office,
London

Foreign Office

May 16th, 1911.

Immediate.

Sir:-

With reference to *Colonial Office letter of May 9, 1911*,
I am directed by Secretary Sir E. Grey to transmit to
you herewith, to be laid before Mr. Secretary Harcourt,
a copy of a despatch from His Majesty's Ambassador in
Rome giving an account of his discussions with the
Director of the Colonial Department of the Ministry
for Foreign Affairs on the subject of the report of the
Anglo-Italian Commission on the *Delta of River*.

Mr. Harcourt will observe from this despatch, that
there is but little divergence of view between the two
Governments on the subject. The only point on which the
Italian Government feel strongly is the question of the
ownership of the small strip of sand at the mouth of
the river formed by the sudden change in the course of
the stream. The principal question to which Mr.
Harcourt attaches importance, is, Sir E. Grey under-

stands

Under Secretary of State,

Foreign Office.

understands, that of making the present course of the Juba the permanent boundary between the territory belonging to the British East Africa Protectorate and that belonging to the Italian Colony, and with this object in view to make an alteration in the wording of the Anglo-Italian Protocol of March 24th, 1891.

It is understood to be the intention of the Protectorate authorities to establish plantations (notably cotton) right up to the Southern bank of the Juba river, and importance is attached to the present course of the stream being considered the permanent boundary in order to prevent any such plantations, on the development of which appreciable sums of money may have been expended, from being arbitrarily transferred to the Italian side by some sudden deviation in the course of the river southwards.

In view of the friendly manner in which the Italian Government have received the observations of His Majesty's Government on the suggestions of the Anglo-Italian Commission, Sir E. Grey is disposed to

think

think that it would be good policy on our part, frankly to explain the situation to them, and to announce the readiness of His Majesty's Government to give up the strip of sand at the river mouth in return for some arrangement for securing the present course of the stream as the definite and permanent boundary. Sir F. Grey would therefore propose to inform the Italians that the intention is to develop the land on the British side and that we fear the possible loss of capital to be invested if the boundary changes with the course of the river.

I am to request that Mr. Harcourt will take Sir P. Hood's despatch into consideration, and that Sir F. Grey may be informed of his views on the suggestion put forward above as soon as possible.

I am,

Sir,

Your most obedient,

Humble Servant,

W. Ransley

Rome,

7 May 1912

17752

SIR,

I have the honour to acknowledge the receipt of your despatch in this series No. 11 of the 15th ultimo and to state that I have discussed the various observations offered by His Majesty's Government on the report of the Anglo-Italian Commission for the Juba River with the Director of the Colonial Department of the Ministry of Foreign Affairs who has, on his side, referred them to the Governor of the Senegal Colony and to Captain Villo, one of the Italian Commissioners, both of whom are at present in Rome. The result of these deliberations I will now endeavour to lay before you as briefly as possible.

Before doing so, I must, however, explain that I had first, in accordance with my instructions, made it clear that any decision on the question of the area left at the mouth of the Juba River was reserved for the present. A few days ago, however, memoranda by Italian experts on International Law have recently been handed to me by the Colonial Department, in defence of the Italian contention that the boundary should be modified with the alteration in the mouth, and I have on the other hand

Yours faithfully,

explained

Sir H. Grey Bart., M. P.

etc. etc. etc.

explained the view taken by His Majesty's Government on the bearing of International Law on the point at issue. It is 299
evident that such a question as that which has unexpectedly arisen can be argued by experts in many ways, and it would no doubt be difficult for either party to the issue to convince the other by means of expert evidence. I should not propose therefore to prepare translations of these juristic opinions unless specially instructed to do so.

On the other hand the Minister for Foreign Affairs adopted the line that he was prepared to discuss the findings of the Commission and the observations of His Majesty's Government on condition that the question of the mouth of the river should be settled simultaneously, if agreements could be arrived at in all the other points. The question that either country should derive and continue to enjoy all the advantages accruing from access to and possession of one of the banks of the Futa was the point that really mattered. Whatever analogies or partly analogous precedents international lawyers might be able to adduce the spirit and letter of the Protocol of March 24 1891 were in accord and pointed to the conclusion that the intention, in selecting the expedition "Lalonde" to define the boundary starting line from the sea, was to secure that from the source to the mouth, even if there should be alterations in the channel, each

of the contracting parties should retain one bank throughout the whole course of the river, of which obviously the mouth was the most important part.

I observed that my instructions were such as I had explained, but that we should never get on if we did not discuss the various controversial points raised in the report and that I would logically lay before you the position of the Italian Government in the matter and urge for favourable consideration that the whole question should be considered together.

Signor Agnani replied that under those circumstances he was prepared to go ahead, but always with the proviso that if the question of the mouth ^{together} should not be entertained with the other matters, the Italian Government would prefer to hold the whole question up for further consideration, and that our deliberations should therefore only be in this respect provisional.

This being laid down, he said that as a general principle the Italian Government would be ready, whenever the Commissioners had been unanimous in their conclusions, to accept those conclusions, but as there were certain points on which His Majesty's Government dissented even from the unanimous conclusions, they would endeavour to meet us there also, and on the points where there was actual dissent try to find a solution.

I will now go through the various issues raised in your

despatch No. 11 Africa and in the despatch from the Colonial Office to Sir Percy Girouard No. 112 of the end of March, in numerical order as they appear in the Report of the Anglo-Italian Commission.

The first of these has reference to Resolution 5 of the report, concerning the proposed lighthouse in the British Protectorate. The Italian Government take note of the favourable disposition manifested in the resolution, and are ready to await the result of investigations to be made locally.

Resolution 6. The Italian Government understand that the proposed modification in the text has reference to future proposals and not to those which will have been concluded if the report is adopted, and in this sense have no difficulty in accepting the drafting which it is proposed to substitute for the words "to regulate all further matters connected with the river".

Resolution 7. The Italian Government accept the addition in the place indicated of the words "if possible".

Resolution 8. The substitution of "ex-officio" for the word "permanent" is accepted. The Italian Government further agree to reserve the question of the scale of responsibility for subsequent study and consideration, observing, in parenthe-

aid, that the suggestion in this respect emanated from the British members of the Commission.

Resolution 10. As this is dependent on the table attached to Resolution 8 it is agreed that it should also remain in abeyance.

Resolution 12. As regards the proposed Customs arrangements the Italian Government, being very anxious that some consideration of the questions of transit and transshipment should be dealt with without delay, in order to promote the encouragement of trade in their colony, would prefer that the resolution be adopted as it stands by the two Governments, with the reserve that the reports of the Provincial Commissioners referred to in section (a) should be awaited. If any difficulties should be found to arise locally in giving effect to the spirit of the resolution on account of any existing law or treaty in the British Protectorate, the issue would be dealt with either by the two Governments working in accord or by reference, if necessary to the home Governments.

The Italian Government point out that the Provincial Commissioners for Jubaland and Somali respectively took part in the labours of the Commission and, having full knowledge of the local conditions, agreed to this resolution which was unanimously approved. The proposals of the resolution were put

put forward only to aid the Governors in making regulations under existing acts to suit local conditions, and in so doing they will, of course, consult the Customs authorities. There does not appear to be any divergence of view but the Italian Government are anxious to maintain the general principles laid down by the Commissioners on the spot for guiding the Governors in framing regulations.

Resolution No 13. Mouth of the Juba River. Reserved.

The Italian Government ask that it should be considered together with the rest of the report.

Resolution No 14. Protocol of March 24th 1891.

The Italian Government would much prefer not to alter the actual wording of the Protocol. They desire, I gather, tentatively to secure some form of definition, which would secure the point to which they attach so much value, namely that the north bank of the stream with all the advantages deriving from access and utilization should remain Italian and the south bank British. They hold that at present our knowledge of the river is hardly sufficient to warrant a final determination of the best manner in which to secure this principle. But in connection with Resolution No 11 suggestion 5 (*infra*) they think there will be in any case occasion to appoint an expert Commission to investigate the conditions of the river, and they hold that when the conclusions of

such a Commission are known and a study of the banks has shown how far there is any possibility of a modification of the present course, it will be far easier to come to some definite conclusion, and that then an exchange of Notes might record the sense in which it is agreed that the Protocol in question shall be interpreted.

Resolution 10 suggestion 4. Italian Government raise no difficulty as to the re-drafting of paragraph one. As regards paragraph two they also consider it somewhat harsh to make an individual responsible for damages occasioned by operations approved by the permanent Commission. They ask whether His Majesty's Government will suggest another text for paragraph one, and what they would propose to substitute for paragraph two.

Resolution 13 suggestion 5. The omission of the word "other" before "trees or plants" in paragraph one (as marked in report) is agreed to. (not specified in despatch.)

Resolution 14 suggestions 11 and 12. If the consideration of these be deferred, to which the Italian Government are quite ready to agree, they think suggestion 10 should be similarly treated as is its companion no. 10.

Resolution No. 15. If His Majesty's Government cannot agree to the fixing of the price for fuel by the Permanent

Commission the Italian Government are ready to drop the proposal.

Resolution No 20. The Italian Government will instruct the Italian local authorities that the question of the ferry between Solwan and ~~Solwan~~ ^{is} ~~should~~ be settled locally, ^{but} ~~not~~ they inform us that, as a matter of fact, agreement has already been come to on the spot as regards this matter.

This exhausts the series of observations raised in your despatch. There is ~~however~~ ^{another} one further point on which the sub-commissioners presenting the proposals adopted in Resolution No 21 failed to come to a definite conclusion, and that is at what depth the head-works of irrigation canals or furrows should be placed on the bank and to what depth below zero the bed of the canal should be excavated.

As this question still remains open the Italian Government suggest that there should be a technical Commission of Arbitrators ^{decision} arrive at a final solution. The composition of such a Commission and the mode of procedure could be agreed upon ^{and} ~~if~~ the principles of arbitration be agreed to by His Majesty's Government. In connection with this proposal it is further suggested that the British and Italian members of the Commission should at the same time make a survey of the banks of the river, which would enable the two Governments

to come to a definite conclusion as to the best method of permanently fixing the boundary along the river, and to draw these conclusions is an extract of Notes interpreting if necessary the protocol of March 24th 1891.

A consideration of the above observations on the part of the Italian Government in reply to those put forward by His Majesty's Government will reveal that there is little if any divergence of view on any essential question, with the exception of that raised in Resolution No 13, the consideration of which has been held in reserve. On this point it is obvious that the Italian Government feel very strongly and are convinced of the equity of their claim to have possession of the north bank at the mouth, notwithstanding the allegation in its configuration and the fact that the channel has now broken through the sandy spit hitherto admittedly included in the British Protectorate. I gather from your decision that His Majesty's Government do not attach great importance to the retention as British territory of the sand spit in question. On the other hand a refusal to entertain the Italian view or an indefinite postponement of our preparedness to offer the concession as an act of grace and courtesy, thus making the Italian colony suffer by an act of nature which deprives them of the possession of the northern bank stipulated for in the protocol, would, I am sure,

33

creates a feeling of disappointment and vexation here wholly disproportionate to the value of the matter under dispute. I feel it to be my duty to urge this aspect of the question for your favourable consideration, and I venture to express the hope that in any case the report and its contingent issues may be dealt with at as early a date as possible, so it is expected that a question on the subject of the Jubilee will be addressed to the Minister for Foreign Affairs not long after the reassembling of Parliament which takes place tomorrow.

The enclosure to your despatch Africa No 11 of the 15th ultimo is returned herewith.

I have the honour to be with the highest respect,

Sir,

your most obedient,

Trusting servant

(signed) Kenneth Fidd

70/16/176 ²⁴ E.S.

[Signature]

DRAFT

Let. (for copies)

Substance
explained &
sent. all

Ernest
Nairobi

24/5
5 PM

MINUTE

with reference to resolution

Mr. Parkson

Read 25

Mr. Fisher

Mr. Judd

Mr. Cox

Mr. C. Evans

Lord Lucas

~~Mr. ...~~

Mr. Harcourt

13 of the report enclosed

in your Desp. of 12 Dec

730 & only have

decided to hand

over to Italian Govt.

without further delay

and split between

old & new members

of Jubba Desp. follows

Harcourt

also
The herewith

2. With ref to your
letter No. 1649 of 11
of the 4th of May,
I want to state that
the Gov. of the Col.

has agreed to the
appt. of the proposed
technical arbitration

commission to
decide the level
for the irrigation
head works,

to request that
if it may be
ascertained from
the Italian Govt.

when it is proposed
select as the
Italian representative
when it is proposed
to commence work.

[Signature]

70/16/78

DRAFT

Col. Conf.

For Sir P. Giannini

25 May 1978

MINUTE

- Mr. Parkinson
- Mr. Read
- Mr. Fiddell
- Mr. ...
- Mr. ...
- Mr. ...
- Mr. ...
- Mr. ...
- Mr. ...

With ref. to my Dep No. 272
of 11.5.78, I enclose herewith
to Government of Guyana for your
info. a copy of a letter
from the Ambassador
at Rome to the S. of
for Foreign Affairs in
the subject of the inter-
national negotiations.

[Handwritten note]
14.5.78

also 20/5
20/5/78

2. In view of what
Sir Kenneth ...
stated

stated in that letter.

It only decided to
hand over to the
Museum of Art without
further delay the
said spit ~~which~~ which
has been found
by the between the old
& new mouths of

the River. I have
already informed
you of this decision
in my capsule
telegram of the
25th of May.

[Handwritten signature]

70/1678 East

311

13

DRAFT

Let. No 27
Gen. de Ruyter

25 May 90.

MINUTE

- Mr. Parkinson
- Mr. Read
- Mr. Fisher
- Mr. J. J. (1674)
- Mr. C. L.
- Mr. E.
- Mr. H.
- Mr. L.

Received receipt of your telegram No 115
of the 10th of May & to transmit
to you for your review &
accompanying copy of my
provision with the F.O.
relating to the Anglo-Mexican
Commission's report on the
situation.

General

1678
1679
1680
1681
1682
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1684
1685
1686
1687
1688
1689
1690

I shall be very glad
to receive back the
original copy of the
report of the 3rd of May
which you are
kindly sending
me. I should be
glad to see it.

to receive your opinion
on the views expressed
by the Italian Government
in respect of the proposed
boundary arrangements.

(b) Resolution 13.

I am addressing you
~~the matter~~ a
separate communication
to you on this matter.

(c) Resolution 14.

The question of making
an alteration in the
wording of the Protocol
dated the 22nd of March
1891 to the effect that
the present course of the
River (excluding the section
of the mouth) be accepted as
a definite permanent
boundary does not pass
for immediate decision.
Some appeal however
that if

~~the river~~
that the view taken by
the Italian Gov. reserves
course. If the present
course of the River be
~~the~~ adopted as the
permanent boundary,
the River may cut a
new channel for itself
on the British side
of the frontier, in that
case a block of Italian
territory would intervene
between the River & British
territory, and if
the River cut a new
channel on the British
side of the frontier,
then a block of British
territory would intervene
between the River &
Italian territory. A
stipulation would therefore
have to be made for

the free navigation of
the River in such an
eventuality, ~~and~~
~~might for a portion~~
~~of its course be~~
~~entirely British~~
~~territory~~ ~~from the~~
~~portion entirely in British.~~
No doubt a satisfactory
arrangement could be
arrived at in this ^{it appears to me}
connection; but I am
opinion that greater
difficulties might arise
in the matter of irrigation;
for instance, ^{the} intervening
block of Indian territory ^{(Cotton lands}
might deprive ~~the~~ ^{on the British}
of all access to the new
channel of the River for
irrigation purposes.
I should be glad if
you would ~~so~~ consider
the proposal of the
British Commission ^{entailed}

in Resolution No. 12 in the
light of these ^{you} observations, 313
with ~~the~~ ^{your} ~~out~~ ^{recommen-}
dations.

(d) Resolution 22:
In view of your telegram
No. 119 of the 16th of
May, no comment
is now required on the
question of appointing
an Arbitration Commission
to decide on the ^{and}
for irrigation headwork.