

DOMESTIC

EAST AFRICAN PROT.
No 36577

C O
36577
REC'D
OCT 14 1905



1905
25 Oct

(Subject)

Conservation of Nauru

State that the official surveys have not covered the full area of 30,000 acres granted to Nauru and cause, but only 3,500 acres, but the full area is to be included in plan of conservation.

(Minutes)

Mr. Henty then advised whether the lease should include the 500 sq. miles or only the area found to be composed in the plan accompanying the lease.

16/10

See also
the minutes

I believe the rule is (though I cannot remember, or find the authority for my belief) that when a parcel is fully described in two places in a deed and the descriptions are inconsistent the first prevails.

In the present case, however, I hardly think that anyone could seriously argue that the words "the 500 square miles of land situated in the neighbourhood of Nauru and Gilead Station in the Nauru Islands in the South Pacific" constituted a full description of the parcel.

copy

18502/10

they would be no legal description at all for the purposes of
the lease and that they must be read closely with the
plans - or that the 500 square miles situated in and
near particularly delineated on the plan in the schedule here
inserted, and the land in those parts, and that the lease
as to the 500 square miles, are a general ^{lease} ^{under}
which the applicant again in those parts contained by
the boundaries delineated on the plan - the latter being the
correct description.

And that the 500 square miles, as I have been told
would be the whole of it, or at least the main part, that
is to be leased, is situated in 500 square miles, and that
the boundaries as the plan are to be made to correspond accordingly.

But the more the more many opinions to the particular are
indicated by the particular boundaries set out on the
plan, and the result is as though the words were
not to be taken literally after the manner

as though the particular boundaries were of course understood
to be the boundaries as they are given to
be in the original conveyance, and that at and
according to the boundaries of the land, as respects
the 500 square miles, or as respects a part or other
part of it, or that the plan is the signature
of the parties, and that the plan is to be taken
as the true and correct description of the land, and that the
land is to be leased to that part being accepted
of the plan, and that in the lease for these letters
of the plan, and that the land is to be held
that the area leased by the signature is the
area delineated on the plan, and that amounting
to more or less than 500 square miles.

J.R. 18/10

In answer to

This is a difficult question
but I agree with Mr. Piesley's
unless you think the extra land

asked for is not worth fighting
about I would write on the lines
of A & B in Mr. Piesley's minute

J.R.

157

18/10

It is quite possible that
the adjoining land here all
has been granted and to other
applicants, and we could
not furnish the signature to
the additional area without
first consulting the land
authorities.

I would write to the
Saying that Mr. Piesley is
advised as in Mr. Piesley's
minute, and that after
the matter is the land
I have no idea whether it
was intended that they should
have 500 sq. miles of the
area delineated on the
plan, and we had better
hear about they had to say
in reply to Mr. Piesley's
minute.

W. Oct. 21

I enclose enclosed here to be
then any land which would be
Piesley's proposal

THE EAST AFRICA SYNDICATE LIMITED

C. O.
36577
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438

19, ST SWITHIN'S LANE,
LONDON, E.C.

9. Roberts

13 October 1905



Sir,

I am directed to inform you that my Board have received a copy of the Official Survey of the land at Naivasha the subject of the lease, dated 12th July, 1904. It will be within your recollection that for the convenience of completion of the Agreement, a preliminary survey by our own staff was attached to the lease pending the detailed and complete survey which has now been made.

I am instructed to point out, however, that Messrs Galley & Roberts, the Official Surveyors in the Protectorate, have not surveyed the full area of 320,000 (500 square miles) granted to this Syndicate under the lease, the survey showing that the area comprises only 313,459 acres. Our Manager on the Land, Mr. Walker Dun, in a letter dated the 2nd September 1905, drew the Surveyors' attention to the short area, and received a reply on the 5th September from which it would appear that they do not propose to rectify the survey by including in it a further 6,541 acres to which we are entitled under the lease.

I am directed to enclose copies of the two letters in question, and to suggest that instructions may be forwarded

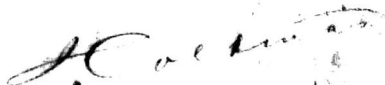
25/10/05

to the Protectorate authorities in order that the full area of the grant may be surveyed and included in the plan. I am to add that there is no condition in the Lease which justifies the assumption of the Land Office in East Africa that the rough survey lines of the Plan stipulated by this Syndicate were to be followed in any event, whether the area proved to be less or greater than 800 square miles.

I have the honour to be,

Sir,

Your obedient servant,



Secretary

The Right Hon. Alfred Lyttelton, K.C., M.P.

One of His Majesty's Principal Secretaries of State

Colonial Office

Handwritten scribbles

36577

440

THE EAST AFRICA SYNDICATE LIMITED

The East Africa

~~Copy letter from the Syndicate's Manager, dated 11th~~
September, 1905. to Messrs. Galley & Roberts, Nairobi.

Sept. 2 1905

I have received copies of the Survey of the East Africa
Syndicate's land at Naivasha as executed by you, and I note
that the area surveyed amounts to approximately 490 sq. miles
instead of 800 sq. miles of land.

I will be glad if you will kindly explain why the full
area was not surveyed, and oblige

THE EAST AFRICA SYNDICATE LIMITED

Copy letter from Messrs. Giller & Roberts, based Nairobi
 5th September 1905, to Mr. Walker Esq., the Land Manager of
 The East Africa Syndicate Limited

In reply to your letter re the area of the East Africa
 Syndicate's land at Naivasha being rather less than the original
 application, I have to report that on starting the survey
 between the Government Farm at Merendat and Gilgil Station we
 found that the distance was approximately half a mile less than
 was shown on the plan submitted by the representatives of the
 Syndicate with the original application.

We referred the matter to the Land Office with request
 to be informed if we should allow for this on any of the other
 boundaries and were told to proceed according to the boundaries
 shown on the plan without making any alteration.

After all, a discrepancy of 2 per cent on so large an
 area is not very excessive and it might have been the other
 way.

6577

~~MS. PAP~~
36577

442



October 1905

DRAFT

Secretary
East Afr. Syndicate Ltd

MINUTE

- Mr. Botta 26/10
- Mr. Keble 27
- Mr. Read 27
- Mr. Andrews
- Mr. Cox 27
- Mr. Lucas
- Mr. Graham
- Sir H. Ottomann
- The Duke of Marlborough
- Mr. Lyttelton

Secretary of the Association to advise
 the rest of your letter
 of the 13th of October
 on the subject of the
 concession to the East
 Africa Syndicate Ltd
 of land near Mombasa
 in the East Africa
 Protectorate
 I have by a letter
 advised that the
 words "The 500 square
 miles" etc. situated in
 and more particularly
 delineated on the
 plan on the 5th of October

Copy to be made

202 15

7 of 50577/2 the diff
Com: Mr. for

presented the lease
 subject to that plan
 being accepted in their
 or the plan mentioned
 in the lease (see W
 Price letter to the F.O.
 of the 15th of April 1931)
 and under circumstances
 his opinion that
 the Court would hold
 can only lead to the conclusion
 that the area leased
 by the Syndicate
 was the area delineated
 on the plan whether
 amounting to two or
 less than 200 square
 miles.

... considers as adequate ...
 circumstances ...
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3. He is also advised
 that, if the matter
~~was before a Court~~
 it would be possible
 to prove that the
 plan referred to by the
 Surveyor was the
 Syndicate's own plan (see
 your letter to the
 Major Office of the
 15th of January 1931)
 and that the Syndicate

+ Or...

F.O.