

N<sup>o</sup> 7405

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16

1350 yds. Blue le F...  
C... D... S...

Reports that the upper is for 200 ft. miles for  
collection timber & water on land annexed...  
with the late Governor...  
including...  
cases that may be granted...  
... & ...

(Minutes)

W. Head

Page 7413

172 5/3

Vertical text on the left margin, possibly a list or index of items.

Fragment Paper

413

January 21st 1900.



With reference to my despatch No. 6 of 23rd January, regarding the let out of large areas, I have the honour to submit the following report on an application for two hundred square miles for the purpose of collecting timber and rubber in the Iwale forest received from Messrs. Macallister and Diespecker, representing the East Africa Development Syndicate, Limited.

1. Messrs. Macallister and Diespecker originally applied for one hundred square miles of the Iwale forest in the Shiabz hills and one hundred square miles of the Wita forest, but they subsequently relinquished the latter and applied for two hundred square miles of the Iwale forest. The whole matter appears to have been a

verbally

Principal Secretary of State  
for the Colonies,  
Downing Street,  
London.

lease

small

33 15

the collection of the...  
present, the... of the... forest, which...  
by the... office for their...  
1904, was taken as a basis, and a...  
miles was drawn up. This was afterwards...  
each for one hundred square miles. I have the...  
enclose herewith copies of these three draft leases...  
with a report by Mr. Linton.

FD  
10/32

3. On payment of one year's rent and the survey fees for  
one hundred square miles in September last the tenants were  
granted temporary right of occupation of this area. One  
year's rent and the survey fees for the second area have also  
since been paid, but are being held in suspense. Right of  
occupation over this second area has not been granted.

4. I have refrained from proceeding further with the lease  
pending Your Lordship's instructions, as directed in your  
despatch No. 569 of 16th ultimo, but I venture to recommend  
that

75  
92  
75

15/10/05  
42/15/05



terially complete contract for a lease of two hundred square miles, and (2) that as no condition as regards approval is attached to the lease, the Government is not bound to accept it.

7. The Advocate's opinion in this connection is attached.

8. The Government is in a position to practically promulgate the lease.

9. The Government is a very large landowner and it is not possible to lease a large tract of land. On the other hand we have the fact that

no stipulation as to the funds to be allocated for this purpose was entered in the draft lease which has been accepted, or indeed alluded to during the negotiations which led up to the draft lease. Moreover I understand that the

subject of the applicants is principally to collect rubber for which a large amount of capital would not be necessary.

10. Taking all the facts into consideration I would recommend that one area of one hundred square miles, the one over which right of occupation has already been given, be

leased.

4

entered in the ...  
purpose of ... the area.

10. Under the circumstances I would sooner let the area be leased under the conditions I have named than that the lease be held up for the allocation of the larger amount of capital that would be necessary for the proper prosecution of the timber industry.

11. As regards the second area of one hundred square miles, I presume that in view of the length to which the negotiations have proceeded Your Lordship would be prepared to consider the question of lease if, and when, the East Africa Syndicate can show that they have sufficient funds for the purpose; it appears to me that as regards the second area we should be justified in insisting on more stringent conditions as to capital and I would propose that the condition be the allocation of a sum of *£ 2,000 to £ 4,000*, but on this point I would wish to be favoured with instructions, if, as will probably be the case, I am asked what amount of capital will be necessary.

12. There is only one other application from these

gentlemen

gentlemen under consideration in this Bill, and  
 that is for a lease of five hundred acres, with permission  
 for nine thousand and five hundred acres more, on the  
 river applied for by Captain Diespecker for cotton cultiva-  
 tion. The terms of this lease were reported by my  
 predecessor to Mr. Lyttelton in his despatch No. 3 of June  
 24th last. X

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 250 48  
 05

I have the honour to be,  
 With the highest respect,  
 My Lord,

Your Lordship's most obedient,  
 humble servant,

*John Lyttelton*  
 Commissioner

X no 25048/05





decreased.

(b) It will be possible to give the rubber tenants control over the forest.

(c) The result should be better than that obtained from the present lease. The lease should indicate that the control is better and that at the end of the lease the forest should be a better national asset than it is now.

(d) It will be much better to give one party control over the forest otherwise there will be constant trouble.

(e) The Witu forest should not be disturbed until we find how the letting of the other forest forests is going to turn out.

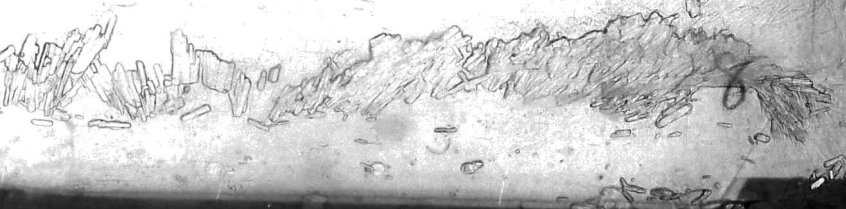
4. The rubber will of course pay export duty.

5. Until you sanction the draft lease I have refused to give the would be tenants any rights whatever in the forest but directly your approval is obtained the tenants will pay the rent, £ 400, and will obtain control over the forest.

6. It would therefore be a great convenience if you would signify that negotiations might proceed.

I have etc.,

(Sd.) Andrew Linton,  
Conservator of Forests.



His Majesty's Commissioner  
 East Africa Protectorate (hereinafter called the  
 Landlord) of the one part and THE EAST AFRICAN  
COMPANY Ltd. (hereinafter called the Tenant) of the other part.  
 Pursuant of the powers vested in him under the East  
 Africa Order in Council 1902 and in consideration of the rents and  
 covenants on the part of the Tenant hereinafter reserved and  
 subject to the provisions of the Crown Lands Ordinance 1903  
 and the said Ordinance and to the provisions of the  
 said Ordinance THE COMMISSIONER hereby  
 agrees to grant to the Tenant a lease of ALL THOSE pieces of  
 parcels of land situated in the Kyidie Province comprising an  
 area of approximately 500 square miles of forest or rubber land  
 the land to be selected by the Tenant with the approval of the  
 Conservator of Forests within six calendar months from the date  
 thereof from the area comprising within the following boundaries  
 namely:- An area with WANGI VILLAGE near its centre, the N.W.  
 boundary being on the line between WANGI and a point one mile  
East of WANGI, the Southern boundary running from WANGI to  
 cut the above mentioned line at right angles, the Eastern  
 boundary being the WANGI-WANGI road from WANGI to near  
WANGI the road being closed by the line from this point to  
 near or beyond WANGI. FOR THE TERM of 51 years from the

1903  
 190 .

At the yearly rental of Rupees 6,000 payable in advance  
 on the \_\_\_\_\_ day of \_\_\_\_\_ in each  
 year. THE TENANT shall submit to the Commissioner full  
 particulars of the pieces or parcels of land selected by here-  
 under and a plan and description thereof shall be made and  
 attached to this agreement.

9

...the said land ...

...the consent of the ...

...of less ...

...and all ...

...of forests shall ...

...shall be caused by felling at any place ... 100 square yards and at no place all the trees of any one species be felled.

7. The said land shall be divided into twenty one felling areas to the satisfaction of the Conservator of Forests and felling shall be conducted and completed over one such area annually in rotation and no such felling area shall be felled over more than once in every fifteen years.

8. In each felling area a nursery for young trees will be established and the tenant will transplant as many in the wet season not less than 1,000 seedlings in the area defined by the Conservator of Forests. The varieties of seedlings to be raised will be those determined by the Conservator of Forests.

9. The tenant shall be responsible for all damage caused to the said land by fire arising from any part of the tenant, his servants or agents and will pay as liquidated and ascertained damages the sum of Rupees 10/- for every acre of land so damaged by fire PROVIDED that the

of the Tenant proving that such damage was caused by the act of pigeons other than its servants or agents no such damage shall be payable. AND shall also be liable for damage done to any trees or saplings not removable by the Tenant hereunder caused otherwise than by fire. Such damage shall be assessed by the Conservator of Forests at rates per acre not exceeding those published for the felling and removal of timber from Forest Areas on Crown Land.

10. THE TENANT shall collect rubber on the said land in a manner to be approved by the Conservator of Forests and shall employ efficient European overseers to supervise the collection and cultivation of rubber on the said land.

11. The rubber vines shall not be cut through or lopped and the cuts in the bark of the stems or branches shall not exceed one foot in length and not more than two cuts shall be opposite each other and no cuts shall exceed  $\frac{1}{4}$  of the circumference of the vine at the place of incision AND the cuts shall be made in series at intervals of not less than one foot apart and the bark on such intervals shall be left intact.

12. THE TENANT shall form a nursery for every 5,000 acres of Forest Land hereby let AND each nursery shall be sown with "L. Kirkii" seed and maintained in an efficient state of cultivation AND such nurseries shall be renewed or new nurseries established instead thereof as plants are removed therefrom for planting in the forest.

13. AN AREA of the said land shall be planted with not less than 10,000 of "L. Kirkii" in each year AND not less than 40 plants per acre shall be planted in such area AND such plants shall be planted during the rainy season.

14. THE TENANT shall plant all plants to be planted out-side the said nurseries in holes not less than  $\frac{1}{2}$  cubic foot in size AND every such hole shall be situated at the base of a tree.

through the  
18. All plants  
inspector of forests  
proving satisfaction

inspector of forests  
with all  
of forests in  
of the produce of the said land.

19. The tenant shall within two years from the commencement  
of the term hereby granted by the Government or otherwise  
this agreement and shall give three months previous notice  
in writing to the Commissioner and shall pay all the rents  
and observe all the agreement herein contained upon such  
determination that this agreement shall cease.

20. THE TENANT shall not assign, sublet or otherwise part  
with the possession of the said land or any part thereof  
without the previous consent of the Commissioner thereto in  
writing.

21. THE TENANT shall have an Agent in the Protectorate of an  
address to be notified to the Commissioner and service upon  
him or delivery at the said address of all notices or other  
documents shall be deemed good service upon the Tenant.

22. A survey of the selected land shall be made by the  
inspector of forests and the cost thereof paid by the Tenant and  
after the completion of such survey any question as to whether any land  
forms part of the land hereby let shall be referred to the  
Commissioner whose decision thereon shall be final. PROVIDED

THAT

... survey such allocation may be made in the same manner as the said land as the Chief Surveyor may deem necessary and that all provisions of the said Ordinance shall be observed in such survey and the twenty one fishing areas will be defined in the said Ordinance according to the requirements of the Director of Forests.

23. ~~It is hereby~~ observed the covenants implied by virtue of the ~~15th~~ of the Crown Lands Ordinance 1904 and all such covenants shall be implied in this agreement especially those contained in sections 13 and 14 thereof save where expressly herein otherwise provided.

24. The TENANT shall pay the costs of and incidental to the preparation of this agreement amounting to rupees 100/-

25. PROVIDED ALWAYS AND IT IS HEREBY AGREED that these presents are upon the condition that it shall be lawful for the Commissioner at any time or times to resume possession and determine the tenancy of the Tenant as to any portion or portions of the said land which shall not consist of forest land and that any timber of any forest product required by the Government can be collected and removed free of charge and that roads, bridges, or public passages may be built throughout any part of the said land.

26. The said lease shall be granted to the Tenant shall accept and execute a counterpart thereof and so soon as the said land shall have been surveyed and the boundaries defined.

27. Until the boundaries of the said land are defined and the rights over the said lands.

28. The said lease shall be granted to the Tenant shall accept and execute a counterpart thereof and so soon as the said land shall have been surveyed and the boundaries defined.

105

notices were  
delivered to the  
proper authorities  
signed sealed and delivered  
in the presence of

102

10/29  
No. 27 of January 25, 1906  
in Col. J. H. Seidler's description  
No. 27 of January 25, 1906

AN AGREEMENT made this 25th day of January 1906  
BETWEEN JOHN K. JOHN  
and  
id

(hereinafter called the Tenant) of the other part  
WHEREBY in pursuance of the powers vested in him under  
the East Africa Order-in-Council 1902 and in consideration  
of the rents and agreements on the part of the Tenant  
hereinafter reserved and subject to the provisions of the  
Crown Lands Ordinance 1902 especially section 18 thereof  
and to the Forest rules in force at the time under the  
said Ordinance the Commissioner hereby agrees to grant  
to the Tenant a lease of all those pieces or parcels of  
land situate in the Seyidie Province comprising an area  
not exceeding 100 square miles of forest or rubber land,  
such land to be selected by the Tenant with the approval  
of the Conservator of Forests within six calendar months  
from the date hereof from the area comprised within the  
following boundaries:-

Excepting all land privately owned occupied and all  
rights of way to such land for the term of 21 years  
from the 22nd day of September 1905 at the yearly rental



of Rs. 5,000 payable in advance on the 28th day of September in each year. The Tenant shall submit to the Commissioner full particulars of the pieces or parcels of land selected by hereunder and a plan and description thereof shall be made and attached to this agreement.

2. The Tenant shall use the said land for the purpose of felling collecting removing and cultivating timber, rubber and other forest produce.

3. The Tenant shall not fell any trees other than ebony on the said land of less than 4 feet girth without the consent of the Conservator of Forests, Provided that Bamba Koff of less than 5 feet girth shall not be felled and that ebony trees of less than 30 inches in girth shall not be felled.

4. All trees shall be felled at ground level and all stools shall be left smooth.

5. The Conservator of Forests shall mark such trees on the said land as he may consider necessary for seed-bearing purposes and such trees shall not be felled by the Tenant.

6. No blank spaces shall be caused by felling at any place greater than 100 square yards and at no place all the trees of any one species be felled.

7. The said land shall be divided into felling areas to the satisfaction of the Conservator of Forests and felling shall be conducted and completed over one such area annually in rotation and no felling area shall be felled over more than once every

will be established by the Tenant annually in the month of March leading to the Conservator of Forests. The varieties of seedlings to be those determined by the Conservator of Forests.

The Tenant shall be responsible for all damage caused on the said land by fire arising from any act of the Tenant, its servants or agents or otherwise and will pay as liquidated and ascertained damages the sum of Rs. 10 per acre or part thereof so damaged by fire PROVIDED that in the event of the Tenant proving that such damage was caused by the act of persons other than its servants or agents no such damages shall be payable. AND shall also be liable for damage done to any tree or sapling not removable by the Tenant hereunder caused otherwise than by fire. Such damage shall be assessed by the Conservator of Forests at rates per tree not exceeding those published for the felling and removal of timber from forest areas on Crown Lands.

10. The Tenant shall collect rubber on the said land in a manner to be approved by the Conservator of Forests and shall employ efficient European overseers to supervise the collection and cultivation of rubber on the said land.

11. The rubber vines shall not be cut through or loosed and the cuts in the bark of the stems or branches shall not exceed one foot in length and

not more than two holes shall be opposite each other and no cuts shall exceed 1/4 of the circumference of the vine at the place of incision AND the cuts shall be made in series at intervals of not less than one foot apart and the base at such intervals shall be left intact.

12. The Tenant shall form a nursery for every acres of forest land nearby and each such nursery shall be sown with L. KIRI seed and maintained in an efficient state of cultivation. Existing nurseries shall be resown or new nurseries established instead thereof as plants are removed therefrom for planting in the forest.

13. An area of the said land shall be planted with not less than 1/2 acre of L. KIRI in each year AND not less than 100 plants per acre shall be planted in such area AND such plants shall be planted during the rainy season.

14. The Tenant shall plant all plants to be planted outside the said nurseries in holes not less than One half cubic foot in size and every such hole shall be situated at the base of a tree.

15. Such rubber plants shall be planted in lines cleared through the forest sufficient for easy access and inspection.

16. All plants shall be cultivated to the satisfaction of the Conservator of Forests and in case of the methods employed not proving satisfactory the

Conservator

Conservator of Forests will have the right to undertake any work on the land at the cost of the same against the

landowner or any other person who shall be liable therefor.

The Conservator of Forests shall exercise supervision over all falling or other forest operations and the Tenant shall comply with all reasonable demands made upon him by the Conservator of Forests in matters concerning the exploitation and removal of the produce of the said land.

19. If the Tenant shall within two years from the commencement of the term ~~of the~~ granted be desirous of determining this agreement and shall give three months' previous notice in writing to the Commissioner and shall pay all the rent and observe all the agreements herein contained upon such determination then this agreement shall cease.
20. The Tenant shall not assign sublet or otherwise part with the possession of the said land or any part thereof without the previous consent of the Commissioner thereto in writing.
21. The Tenant shall keep an Agent in the Protectorate at an address to be notified to the Commissioner and service upon him or delivery at the said address of all notices or other documents shall be deemed good service upon the Tenant.
22. A survey of the selected land approved of by the Conservator of Forests shall be made by the Government

surveyor

and until the completion of such survey as to whether any land forms part of the land hereby let shall be referred to the Commissioner whose decision thereon shall be final PROVIDED that on survey such a portion may be set apart as to the said land as the Commissioner may deem necessary and that all privately owned land shall be demarcated on such survey, and the felling areas will be defined on the land according to the requirements of the Conservator of Forests.

23. The Tenant shall observe the Covenants implied by virtue of the provisions of the Crown Lands Ordinance-1902 and all such covenants shall be implied in this agreement especially those contained in section 12 and 13 thereof save where expressly herein otherwise provided.

24. The Tenant shall pay the costs of and incidental to the preparation of this agreement amounting to Rs.

25. The right to kill and take game, and for that purpose at any time, to enter upon the land hereby demised is reserved to the Commissioner and all persons authorized by him.

26. Provided always and it is hereby agreed that these presents are upon the condition that it shall be lawful for the Commissioner at any time or times to resume possession and determine the tenancy of the Tenant as to any portion or portions of the said land

that  
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... be required for public purposes

... shall have been conveyed as

26. ... it is paid and the area of land and agreed upon the Tenant will have the said lands.

29. ... the said lease is executed the parties hereto shall be bound by the covenants and agreements hereinbefore mentioned and to be performed in such manner as if the same were actually executed.

IN WITNESS the hands of all parties

... Africa Province  
... of the ...

... (the Tenant) of the other part  
... purchases of the powers vested in him under  
... 1902 and in consideration  
... and agreements on the part of the Tenant  
... reserved and subject to the provisions of the  
... Ordinance 1902 especially section 18 thereof  
and to the Forest Rules in force for the time under the  
said Ordinance the Commissioner hereby agrees to grant to  
the Tenant a lease of all those pieces or parcels of land  
situate in the Seydlie Province comprising an area not  
exceeding 100 square miles of forest or rubber land, such  
land to be selected by the Tenant with the approval of the  
Conservator of Forests within six calendar months from the  
date thereof from the area comprised within the following  
boundaries:-

Excepting all land privately owned occupied and all rights  
of way to such land for the term of 21 years from the  
22nd day of September 1905 At the yearly rental of  
Rs. 5,000 payable in advance on the 16th day of September

each year The tenant shall submit to the Commissioner full particulars of the pieces or parcels of land selected by hereunder and a plan and description thereof shall be made and attached to this agreement.

2. The Tenant shall use the said land for the purpose of felling collecting removing and cultivating timber, rubber and other forest produce.

3. The Tenant shall not fell any trees other than ebony on the said land of less than 4 feet girth without the consent of the Conservator of Forests, Provided that Bamba Kofi of less than 5 feet girth shall not be felled and that ebony trees of less than 30 inches in girth shall not be felled.

4. All trees shall be felled at ground level and all stools shall be left smooth.

5. The Conservator of Forests shall mark such trees on the said land as he may consider necessary for seed bearing purposes and such trees shall not be felled by the Tenant.

6. No blank spaces shall be caused by felling at any place greater than 100 square yards and at no place all the trees of any one species be felled.

7. The said land shall be divided into felling areas to the satisfaction of the Conservator of Forests and felling shall be conducted and completed over one such area annually in rotation and no such felling area shall be felled over more than once, in every year.

In each felling area a nursery for young trees will



... shall not less than ...  
... be raised ...  
... by the Conservator of Forests.

9. The Tenant shall be responsible for all damage caused on the said land by fire arising from any act of the Tenant, its servants or agents or otherwise and will pay as liquidated and ascertained damages the sum of Rs. 10 per acre or part thereof so damaged by fire PROVIDED that in the event of the Tenant proving that such damage was caused by the act of persons other than its servants or agents no such damages shall be payable. AND shall also be liable for damage done to any tree or sapling not removable by the Tenant hereunder caused otherwise than by fire. Such damage shall be assessed by the Conservator of Forests at rates per tree not exceeding those published for the felling and removal of timber from forest areas on Crown Lands.

10. The Tenant shall collect rubber on the said land in a manner to be approved by the Conservator of Forests and shall employ efficient European overseers to supervise the collection and cultivation of rubber on the said land.

11. The rubber vines shall not be cut through or lopped ... the cuts in the bark ... the stems or branches shall not exceed ...

exceed

12. The Tenant shall form a nursery of every 100 acres of forest. Such nursery shall be maintained in an efficient manner and such nurseries shall be reserved and established instead thereof as plants for use herefrom for planting in the forest.

13. A variety of the said land shall be planted with not less than 500 L. Kirkii in each year AND not less than 100 plants per acre shall be planted in such area AND such plants shall be planted during the rainy season.

14. The Tenant shall plant all plants to be planted outside the said nurseries in holes not less than one half cubic foot in size and every such hole shall be situated at the base of a tree.

15. Such rubber plants shall be planted in lines cleared through the forest sufficient for easy access and inspection.

16. All plants shall be cultivated to the satisfaction of the Conservator of Forests and in case of the methods employed not proving satisfactory the Conservator of Forests will have the right to undertake the planting

...ing the loss of the said land the  
Tenant

17. No native rights in the said land or any part thereof shall be considered.

18. The Conservator of Forests shall exercise supervision over all felling or other forest operations and the Tenant shall comply with all reasonable demands made upon him by the Conservator of Forests in matters concerning the exploitation and removal of the produce of the said land.

19. If the Tenant shall within two years from the commencement of the term hereby granted be desirous of determining this agreement and shall give three months' previous notice in writing to the Commissioner and shall pay all the rent and observe all the agreements herein contained upon such determination then this agreement shall cease.

20. The Tenant shall not assign sublet or otherwise part with the possession of the said land or any part thereof without the previous consent of the Commissioner thereto in writing.

21. The Tenant shall keep an Agent in the Protectorate at an address to be notified to the Commissioner and service upon him or delivery of the said address of all notices or other documents shall be deemed good service upon the Tenant.

22. A survey of the selected land approved of by the Conservator of Forests shall be made by the Government Surveyor and the costs thereof paid by the Tenant and

until the completion of the survey any dispute, whether any land form part of the land hereby referred to the Commissioner whose decision thereon shall be final PROVIDED that on survey such a line may be made in the boundaries of the said land as the Surveyor may deem necessary and that all privately owned land shall be demarcated on such survey, and the felling areas will be defined on the land according to the requirements of the Conservator of Forests.

23. The Tenant shall observe the covenants implied by virtue of the provisions of the Crown Lands Ordinance 1902 and all such covenants shall be implied in this agreement especially those contained in sections 12 and 13 thereof save where expressly herein otherwise provided.

24. The Tenant shall pay the costs of and incidental to the preparation of this agreement amounting to Rs.

25. The right to kill and take game, and for that purpose at any time, to enter upon the land hereby demised is reserved to the Commissioner and all persons authorized by him.

26. Provided always and it is hereby agreed that these provisions are upon the condition that it shall be lawful for the Commissioner at any time or times to resume possession and determine the tenancy of the Tenant as to any portion or portions of the said land that shall consist of forest land and that any other conditions or other provisions required by the Government can be

collected and removed free of charge and that roads required for public purposes may be built throughout any part of the land.

27. The said lease shall be granted and the Tenant shall accept and execute a counterpart thereof when and as soon as the said land shall have been surveyed and approved.

28. Until the rent is paid and the area of land clearly defined and agreed upon the Tenant will have no rights over the said lands.

29. Until the said lease is executed the parties hereto shall be bound by the covenants and agreements hereinbefore mentioned and agreed to be contained in such lease as if the same were actually executed.

AS WITNESS the hands of the parties hereto.

222  
Sir,  
Captain Diespeck & Mr. Macallister,  
Wwale Forest leases.

Referring to our interview on the 15th instant on the above subject when you informed us that you intended to send a full report regarding these applications to the Colonial Secretary by the next mail and would recommend that an area of at least one hundred square miles should be granted to our clients the instead of two hundred square miles applied for and you stated that it would greatly help you if we could inform you what part of the capital the East Africa Development Company Limited (our clients' company) would be earmarked for the purposes of these leases.

We beg to inform you that we have written to Mombasa for information regarding the several questions you put to us and expect a reply shortly.

Meanwhile we desire to put on record the statement of our clients' position as stated to you verbally at our interview so that you may be able, should you think it advisable, to forward same with your report to the Colonial Secretary.

Our clients originally applied for one hundred square miles of forest at Wwale and another one hundred square miles of forest at Witu. Their applications were favourably received and they were

informed

100  
informed that leases would be granted than of which was  
asked for on the same terms as those arranged for  
several similar forest areas. These terms included a  
rental of one hundred pounds per one hundred square  
miles and a royalty on all timber and rubber produced  
and also a large deposit or guarantee of capital.

Subsequently our clients gave up the area at Witu  
as it was feared their application would be hindered with  
certain German claims in that locality in consideration  
of obtaining a further area of one hundred square miles  
at Mwele.

Negotiations ensued with the Director of Forestry  
and Crown Advocate and the Director of Forestry  
eventually advised that the terms for leases of the  
two areas of one hundred square miles each at Mwele  
should be altered by striking out the clauses imposing  
a royalty on the produce and requiring a deposit or  
guarantee of capital and in lieu thereof inserting a  
provision doubling the rent on each area. At the same  
time it was arranged that the two areas should be  
granted by one lease to our clients' company (the East  
Africa Development Company Limited).

In accordance with this advice the Crown Advocate  
prepared a draft lease of 200 square miles in Mwele Forest  
in favour of the East Africa Development Company Limited  
and same was submitted to and was approved of by us  
on behalf of our clients and the said company.

On the 21st September 1933 the Director of Forestry  
and the writer had an interview with Sir Donald Stewart,  
K.M. late Commissioner for the Mwele Forest area, who  
leased each of the two areas of one hundred square miles each to

... one to Captain Diespecker and the other to Mr. Macallister on the ground that he could himself grant the single areas of one hundred square miles but that the lease of two hundred square miles in favour of the East Africa Development Company Limited would require to be sent home for confirmation (we feel sure that the Director of Forestry will be able to confirm our statement regarding this interview). At the same time Sir Donald Stewart instructed the Director of Forestry to write the Land Officer to grant our clients a right of temporary occupation of the lands pending the preparation of the leases. This the Director of Forestry immediately did and we obtained the temporary right of occupation over one area the next morning. Our clients have paid survey fees on both areas and two hundred pounds in advance on account of rent.

Sir Donald Stewart then sent instructions to the Crown Advocate to prepare two leases of one hundred square miles each one in favour of Captain Diespecker and the other in favour of Mr. Macallister the terms to be the same as those contained in the approved draft agreement of two hundred square miles in favour of the East Africa Development Company Limited above mentioned. We learn that the Crown Advocate prepared the two documents almost immediately on receipt of the Commissioner's instructions and sent them to the Director of Forestry for completion. This official, we now learn, kept the documents from January 1906 until January 1908 when they were given up of their own accord. It seems to have been accepted, during his long period of absence, that the documents were constantly applied to the Land Officer, the proper official, to know if any documents had come forward and were always informed that the Crown Advocate had not yet forwarded them to the



Office.

You are advised that because all business relating to large areas was suspended owing to the death of the late Sir Donald Stewart. We think on enquiry you will find that this is inaccurate as Mr. Jackson, the Acting Commissioner, after Sir Donald Stewart's death transacted business of considerable importance in regard to Fibre concessions with ourselves during this period, and in his letter to us of the 5th instant No. 27 the Director of Forestry himself writes in reply to our query as to the delay in forwarding the Mwale leases that "The reason is that you failed to answer the letter addressed to you". This refers to the fact that we lodged a plan of the lands applied for, which he had asked us to furnish, in the Land Office instead of in the Forestry Office. It was entirely optional on our clients' part to furnish such a map as it is the duty of the Land and Survey Department to survey and furnish plans of lands applied for and we had actually paid the survey fees for having this done.

We now enclose a copy of the approved draft agreement between Sir Donald Stewart and the East Africa Development Company Limited for two hundred square miles in Mwale forest for your information, the original can be inspected at our office at any time.

Under the above circumstances we beg to submit that our clients have a legally complete contract for a lease of two hundred square miles in Uwele Forest upon the terms contained in the approved draft ~~agreement~~ and as the late Sir Donald Stewart decided to grant the leases on those terms after making full and lengthy enquiries as to the bona fides of the applicants, who were personally known to him, and as no clause was inserted in the approved draft requiring a deposit or guarantee of capital but such a clause was purposely omitted in view of the rent being doubled, it is now unnecessary for our clients to earmark any portion of their capital for the development of these lands and that it would be most unfair to ask them to do so at this stage.

We have etc., etc.,  
Ed/- Tanke & Allen.

I do not agree with Mr. Allen's contention that his clients have legally complete contracts for two leases of 100 square miles each. I think however that it is clear that Sir D. Stewart promised to grant to Captain Diespecker and Mr. Macallister the leases in question and that subject to a final settlement of terms and conditions they are entitled to the leases in question. The terms and conditions of the leases have not been finally agreed upon between the parties and until they are so agreed upon there is no completed contract. It is still open to the Administration to impose any reasonable condition upon the applicants. If the applicants are unwilling to accept such reasonable conditions the Administration is relieved from the obligation imposed upon it by Sir D. Stewart's promise or understanding to grant the lease in question. I am of opinion that it is reasonable to require the applicants to furnish proof that they are in a position to work and develop the areas which they seek to obtain, and for that purpose that they should as a term of the agreement for a lease be required to allocate monies for the working of these particular areas. I do not think that any distinction can be drawn between the lease to Captain Diespecker and the lease to Mr. Macallister. The negotiations for both leases took place at the same time and Sir D. Stewart gave the same promise to both applicants. The fact that temporary occupation has been granted in respect of 100 square miles only does not give to the applicants a better legal right to a lease of that area than is possessed by the other applicant. The fact that Sir D. Stewart has granted temporary occupation to one applicant does not give him a better legal right to a lease of that area than is possessed by the other applicant.

Government of the United States, Department of the Interior, Bureau of Land Management, Washington, D. C.

allocated to 100 square miles then they permit the Government to grant more than 100 square miles.

R. M. Connor.

1/1906.