

1935.

Kenya.

No. 38001.

SUBJECT

C0533/453

Acquisition of the Wundanyi Estate.

Previous

23208/34

Subsequent

1936.

1 Montagu & Co & Lardale. _____ 2.1 Jan 35

t.g.

don't

Wundanyi Estate

land.

State that it is considered that when taking over the Estate the purchaser should pay for movable fixtures & tillages & suggest an interview on Monday 4th inst to discuss the matter.

I don't think that an interview would be desirable as we must give Kenya an opportunity of commenting on No. 1.

I inform the solicitors accordingly & say that copies of the Cores are being sent to the Governor by the Air Mail of Sunday 26th January. C. Ross with
3.1.35

Mr Roberts Gray

You should see. The difference is really because it isn't an ordinary sale but wants the land at price value to put into native reserves. It doesn't want the crops plant etc.

I would not regard an interview at once as might help. I would say that we must consult Kenya & will do so and will arrange an interview if necessary, on receipt of the reply.

J. W. Hood

3.1.

Mr Hood

Now, I re-consider, is the time to mention compulsory purchase ^{in Kenya} - I think we must, in order to explain why we omitted in our letter to Messrs Montagu's the passage marked B in (39) on 23208/34.

As regards this letter, particularly the last para, ~~which~~ I am not versed in these matters i.e. transfers of agricultural property, & it is very difficult for me to

express a confidential opinion on ^{some} ~~some~~
 After questions raised, I agree, however, that
 you first pass opinion to effect them.
 I should like to add that
 this was first referred to me on a
 very small point & I therefore
 dealt with it; but that it should
 really not have come my way at
 all.

I agree that the first thing is to get
 Mr. A's copy to the Gov. If he does not
 want to consider the question of
 compulsory purchase & reimbursement that
 the Gov. will go no further in the
 matter unless the two clauses
 providing for additional payment
 on overture, I should not be
 surprised if the Co. qui was. C.C.C.
 should not present any insuperable
 difficulty. It seems to me fairly
 reasonable but fairly strenuous.

J. G. ...
 3/1/34

P.S. You may be interested in my journal
 on 1. I wonder if it
 is any good suggesting that the
 Company should retain the growing
 crops for a limited period with a
 right to go on the land to
 attend to & reap them?

[Signature]

↳ To Messrs Montagu & Co. (Land) 5/11/35

AIR MAIL 6/1 3 To Messrs H. (1922) 11/11/35
 1922 35
 4/13/35

H. Montagu & Co. (Land) 4 Jan 35.
 Ackd NO 2. 9 consider that their intentions put forward
 in No 1 are not affected thereby.
 DESTROYED UNDER STATUTE

[Handwritten mark]

[Handwritten signatures and dates]
 9/1/35
 9

5. Gov. Tel. 18. 4th Feb. 35.

Is prepared to wire £5,500 on the basis of walk in
 walk out, w.e.f. 28th feb. or such earlier date as
 can be argd. locally. understands directors will
 accept. Requests early telegraphic reply conveying
 company's acceptance and S. of S's approval.

I have never
 been of it. works
 Mr. Director *[Signature]*

By a "basis of walk in walk out" (which
 I understand from Mr. Roberts Wray is not a
 legally recognized phrase!) the Governor
 presumably intends to suggest that on the
 day named the vendor surrenders, & the
 purchaser acquires, all interest in the ^{Building} land,
 the crops, & the movable then existing,
 and when we put the offer to the
 Director it will be expedient to use
 some such paraphrase in our letter.

Yes, but whether
 we say must be
 very definite
 at

But before writing to Messrs Wray,
 Lt. I think we might remind the
 Governor by telegram of the latter part
 of para 2 in N^o 3, & ask for
 an expression of his view on the possibility
 of writing to company compulsory acquisition
 2/12/35

I agree. It looks as if the Govt are allowing themselves to be humbled into paying more than the estate is worth, & that the Company, having got a large concession out of them (an increase in price from £3000 to £5000), think they can get anything they like.

I very much doubt whether, in offering to sell for £5000 the Company contemplates getting anything in substitution for crops etc. Perhaps their solicitor suggested that
J. H. [Signature] 5/2

I have no doubt that the Company are trying to stick to the bid and it seems clear that their solicitor advised it from the internal evidence.

But it is advisable to get a quick settlement & Govt is prepared to pay for it. To require compulsion would provoke contention & trouble - I don't say fairly or not, trouble this would be and we don't want trouble. I do not suppose the Govt has overlooked para 2 of our draft - but I take it that he means this as a possible source of compulsion and he has reason to believe it will be accepted.

So I advise putting it to the Company now.
S. W. [Signature]

Yes. As there is no way out I do not send on. [Handwritten note: I think the Commission (and not mentioned - five).]

5.2.34

To Montague and Cox & Bardall Gms. 8/2/35

7 Montague Cox & Bardall 7 Feb. 35

8 Tel to Governor. No. 33 8/2/35

By Air Mail 9/2/35 9

To Kenya, 114 (N/Co 4, 6+7) A/1 9 FEB 1935

JM

10. Governor Bygone 90 (Air Mail) 10 Feb 35

Encs. in duplicate signed Agreement for submission to the Company & requests that one executed copy together with the original title deeds etc may be forwarded for examination & investigation.

11 To Montague and Cox & Bardall Gms. 26/2/35 (original in 10)

JM

See draft, B. [Signature] & Mr. [Signature] (1 Montague & Cox & Bardall) called to discuss the Kenya draft on Friday. [Signature] was seen by Mr. Flood in London and we agreed that it was satisfactory. Mr. [Signature] pointed out that most of the conditions in the draft submitted by him were similar to part of the National Conditions of Sale. I agreed that they might be modified in certain respects & promised to produce a new draft. He said on a copy of the National Conditions & the Law Society Conditions & I see that to a large extent his statement is correct.

Mr. [Signature] came again today & Mr. Flood & I saw him. We agreed to the submission of a new draft to be submitted to

Kenya drafts he will have expressed
a note with a letter Q & a copy
of his draft (with ^{other} attached) explaining
certain points.

12a
When we send the draft to Kenya
I had better put up a note explaining
how certain parts of it correspond to
the national conditions. We can
also ask Kenya whether they wish to
examine title themselves, bearing
in mind that they will presumably
want to consult Evans & Rogers, or
whether they desire Burchells to be
instructed for this purpose, in which
case it will presumably be necessary
for Kenya to furnish information regarding
entries in the Register. Upon this
question depends two certain blanks
in the draft contract (say, as to
date, e.g. for making negotiations) and
to be filled in.

To Roberts-Wray
4/3/35

The impression I got at the interviews
was that Mr. Leffman was trying very hard to
earn his fees as a solicitor to Wundanyi, Limited.
He was excessively voluble and would not let
Sir Powell Burton, Mr. Roberts-Wray or myself
get in a word edgewise. His attitude was that
of a keen solicitor selling a freehold house
property in Tooting to an equally keen solicitor
acting for another party next door. In other
words,

words, he appeared not to realise the difference
between returning a piece of property to Government
which is all it comes to - with no risk of queries
in regard to title, easements, etc., and a sale
where the purchaser might try to get out of it.
However, he explained that all the conditions in
his document were really common form and did not mean
much, except that it covered his client against
possible awkwardness and he said that in his
opinion he thought it would be more satisfactory
to Government.

I am inclined to agree on this point and
when we get his revised deed I think we should
send it out to Kenya with strong advice to execute
it and have done with the thing. Kenya are being
a bit sticklish over nothing. The question arose
yesterday whether it would not be as well for
Kenya to conduct any negotiations that have to be
done here via Messrs. Burchell who are, of course,
familiar with this kind of thing. I think the
suggestion is a good one and we may put it to Kenya
in our despatch. I also agree that it would be a
very good thing if Mr. Roberts-Wray would prepare
a note on the lines which he suggests for the
guidance of the local legal people. It is quite
possible that a barrister would fail to appreciate
the fine points of the documents unless he
happened to have been trained in the special job
of conveyancing.

It will be very
useful.

6-3-35

John

5-3-35

12B. Note on draft Agreement.

12 Montagu & Co. & Co. 5 March 35.

State their objections to clause 5 of the Contract of Sale & enclose a remodelled form of contract for review. State also that if it is desired that the Deeds should be inspected in Nairobi they will be forwarded to their agent when signed contract has been sent to London.

By last mail 4/3/35 13 To Kenya 187 — cons 9/11/1935
(Ltr's 11, 12, Agreement, Note & Condn of Sale)

Rec'd by for to Gov & draft (13) 14 To Montagu & Co. & Co. 12/3/35
(12 and)

15 Tel. to Gov. 20/7/35 cons - 22/11/35

16 Montagu & Co. & Co. 5 April 35.

State that Mr. Drury has returned to Kenya leaving only a skeleton staff on the Estate, & express the concern of their clients at the delay. Request Gov. may be asked to sign the contract immediately & to place cash purchase price in the joint names so that Govt. may take possession at once.

Mr. Leffman rang me up in a state of panic. Whatever is said to him he cannot get into his head the fact that a sale of this spot of plantation to Government, which intends to turn it over to the native inhabitants of the surrounding reserve, has nothing in common with the sale of a field of potatoes in Norfolk or a semi-detached villa in Tooting Beck. He is

He is worried because he says that the Company has ceased having anything to do with the cultivation and that the crops will go to ruin unless Government completes the purchase and takes over. I told him that Government did not care one rap about the crops and that he need not be alarmed because the property would be taken over by Government and the purchase money would be paid. (All that he has reasonably got to worry about is the off-chance that Government will decline to hand over the money because of some flaw, real or imaginary, in the title deeds.) I must own to a good deal of astonishment over the whole affair, but I suppose we must remind Kenya once more as per telegram herewith.

54

17 To Montagu & Co. (16 signed)
DESTROYED UNDER STATUTE

18 To Gov. Tel. N° 94 - cons - 5.4.35
DESTROYED UNDER STATUTE

The 18/4/35
19. O.A. 5. Tel. 83. 10/4

DESTROYED UNDER STATUTE
States that comments on agreement are being transmitted shortly by an mail.

Mr. Leffman informed by telephone 12/4/35
Draft letter to Govt.
12/4/35

20 To Montagu & Co. & Co. 12/4/35
DESTROYED UNDER STATUTE

21 11/ Governor Wade 1914 (Am Mail) — 15 April 35
Returns Agreement ^{copy} that the Company's Solicitor
be invited to Congress a revised Agreement which will
handle for certain stated amendments.

Mr. Roberts Wray

Subject to your desire, I
would suggest sending this to Wanda
L.H., saying that, if desired, we
are prepared to arrange for a further
conference in the CO., [which the
Platonic, the Key-Hands Office who
handled the case until he came a
beam - journey, would be asked
to attend.]

[Signature]
26/4

When I received the letter from the Kansas
... .. but we are
... .. the
... .. the
... .. the

(1) If the matter referred to in clause 4 (B) of
the Agreement be settled before completion this
... .. do merely
... .. end as suggested.
... .. 3 this also be
... .. from

The date when the deed arrives in Kansas (page 5 of 21, 22, 23)

(5) I doubt whether I should advise you being
... .. for them

(6)
... ..
... ..
... ..
... ..
... ..
... ..
... ..
... ..
... ..

[Signature]
27/4

Then we can send a copy of the disputed
... ..
... ..
... ..

20 Montague & Cox & Corbale - etc (2)
... .. 27 APR 1935

J. E. Leffman (so) 29 Apr 35
(w/ copy agreement)

DESTROYED UNDER STATUTE

24 Montague & Cox & Corbale
Acks No 2

DESTROYED UNDER STATUTE

25 J. E. Leffman (so)
Acks No 23

DESTROYED UNDER STATUTE

24-25

I will
... ..
... ..
... ..
... ..

The Hood

You will remember that Mr. Norton (whose presence at any discussion would be most helpful) said he would be available only up to Monday 9th.

I shall let Mr. Luffman by phone that if he accepts the suggestion in 22, the meeting shd. be set later than Wednesday next May 8th.

please J

[Signature]

If shd. then be sent to Mr. Roberts-Wray, who has not seen 21)

I have spoken to Mr. Luffman. provisionally arranged a conference at 3-0 pm on Wednesday May 8th in Mr. Hood's room. I have written 5-0 to Mr. Norton asking him to attend.

[Signature]
2/5

do not understand (2) in para 2 get def. 2 phrase this is explained - the evidence to which the Gov refers.

[Signature]

26 To Gov Tel. No. 118 (21) and 107/4/55

S.O. coming on Mr. Norton's P.F. shows that the meeting was postponed till Friday May 10th. Mr. Luffman & S. Small & Buxton represented Wrens; Mr. Hood, Mr. Roberts-Wray & I, the C.O.; & Mr. Norton urged the Messrs. Graft's point of view with great knowledge & tact. The attached letter is the result; we must now await the reply, & communicate it to Mr. Luffman with all possible speed.

[Signature]
12/5/55

24 00 9 Tel. 115

Article Clause 4 as amended

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2. Messrs. Graft & Co. & Graft & Co. Ltd. (2)

24 Montague's Co. & Graft

DESTROYED UNDER STATUTE

Article 20 states that they are engraving the Agreement

not printed
J 18 some

30 Montague's Co. & Graft

Enclo engraving of Agreement in dup. for circulation by the Affairs., together with old Agreement & suggest procedure which should be adopted.

My car made
21/5/35

310

To Kenya, 363 — ²⁷ cons 21 MAY 1935

(1/2 Co. Agreement + Co 28/6/med + 29)
(27 annual)

Mr. Roberts Wray

On the assumption that there
is no hidden snag in the arrangements
proposed in N° 30, we should tel.
as in dft., timing the telegram so as
to reach Nairobi just before N° 31 (which
is due there on Monday May 27th).

Mailed
1/5

We can send Dr. Liffman a

copy of the tel. explaining that the
arrangements were sent out by accident
of 22 May.

L.B. Austin
21/5

Mr. Fricker

I agree with the slight modification
I have allowed "104 days" to "106 days" because
in any case the period runs rather short
if the agreement is executed this month or
not (as presumably I will be) 3 months,
will be 92 days.

R.O. Roberts Wray
24/5

32 *Montagu, Co & Cardale* 130 and 1 — 23 MAY 1935

33 To Gov. Tel 132 — 25th May 35

34 Montagu & Co & Cardale — 26th May 35
Acks. No 32 + cons ^{trans} draft tel. (No 33)

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? *Witty*
L.B. Austin
28/5

RM

35 O.A.G. Tel 135 — 8th June '35.
State Agreement should reach London by air mail or

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I have telephoned to Montagu's, Co &
Cardale, they are calling — Board
meeting for Wed. June 19th to execute
the Agreement.

Ed. L.

L.B. Austin
11/6

36 To G.A.

37 Montagu's and Co & Cardale } Cons. 1/6
12/6/35

RM

DESTROYED UNDER STATUTE

38. Montagu's & Co. v. Cardale 14 June 35
State that they have received from C.A. a draft for £550. deposit & enclose Abstract of Title for transmission
6/1/35.

By Air mail 15/6/35

39

To Kenya, 4 30 15 JUN 1935
(w/cb 37 & 38 w/ send in orig. 38 answer)

To Montagu box & Cardale (seals) 14.6.35

DESTROYED UNDER STATUTE

41 A/ Governor Wade 279 (Air Mail) 8th June 35
Trans. in dup. signed revised Agreement, & draw attention to amendment which has been made.

Letter herewith. They will need to minor

J. W. Ford

42 To Messrs Montagu's & Co. v. Cardale 18.6.35
(w/c. omise to No. 41)

43 Crown Agents 15th June 35
DESTROYED UNDER STATUTE

State that payment from for £550 was issued to Montagu's & Co. v. Cardale & receipt obtained (on behalf of vendors) which will be forwarded to Kenya Govt.

Put by J. 186 same

14/4 Montagu's & Co. v. Cardale 18th June 35
Acko. No 42.

DESTROYED UNDER STATUTE

? hat by R. H. S.

19.6.35

By post at mt 14.6.35

14/4 Montagu's & Co. v. Cardale 19th June 35.
DESTROYED UNDER STATUTE that the Agreement for sale has been accepted & unless copy duly completed.

M. Roberts Wray

Drafts herewith. If you agree

please let them go

J. W. F.

DESTROYED UNDER STATUTE

46 To Montagu's & Co. v. Cardale 20 JUN 1935
(45 list)

By Air mail 22/6/35

47 To Kenya, 4 50 (44/45 w/ send in orig.) 21 JUN 1935

All answered

Reliance 21-23

48. O.A.G. Tel. 164 _____ 9 July 35
Trans. message for Wundanyi Hts regarding the
disposal of moveables & payment of wages to labour.

49. O.A.G. Tel. 165 _____ 9 July 35
Amendment to No 48.

Send the contents of Nos 48 & 49
to Messrs Montagu's as a
draft herewith. C.A. Form with
9/7/35.

50 L. Messrs Montagu's &c _____ 9/7/35

51 Montagu's & Co. Ltd _____ 10 July 35
DEBTROYED UNDER STATUTE
Para. No 50 & state that it may be some days before
instructions can be obtained.

? Copy of 50, 51 to O.A.G. Kenya
K. P. H. Jones Ref. 48
C.A. Form with
10/7/35

L. P. H. Jones
12/7/35

AIR MAIL 10/7 35 To Kenya 519 (ref 50 & 51) 9/7 13 JUL 1935

[Handwritten initials]

53 Montagu's & Co. & Sandale _____ 15 July 35
State that Mr. Drury has written to the D.C. regarding
the property mentioned in No 48 & consider that the matter can be
settled between Mr. Drury & the D.C.

DEBTROYED UNDER STATUTE

Telegraph to Kenya as a
draft herewith

C.A. Form with
16/7/35

54 Tel. to Gov. Kenya ¹⁸² Cms _____ 16 July 1935

[Handwritten initials]

55. A. B. v. D. Subj. 260 (A. B. v. C.) _____ 20 July 35.

State that certain title deeds have not been stamped &
registered in the Registry & make a schedule of registrations on title &
request that Wundanyi Hts may furnish replies thereto.

Draft to Messrs Montagu's & Co. herewith

C.A. Form with
21/7/35

L. P. H. Jones
21/7/35

To Montagu's and Co. & Sandale _____ 2/8/35
(ref. encl. in 55)

[Handwritten initials]

57. Montague & Lou's Cardale _____ 6th Aug. '35.
Acks. No 56.

DESTROYED UNDER STATUTE

58 O.H.S. Vol 132 _____ 6th Aug. '35.
Agrees that matter of furniture can be settled between Mr. Doney's present administration, but states that lorry was not mentioned in Mr. Doney's letter.

As in draft here with

C.A. Gross with
7/8/35

J.P. [unclear]
7 at

59 Montague and Lou's Cardale _____
Gons.

9/8/35

60 Montague & Lou's Cardale _____ 13th Aug '35

DESTROYED UNDER STATUTE

state that they are communicating with Mr. Doney & return the requisitions on title with their replies

Drafts to Kenya & to Messrs. [unclear]'s

here with C.A. Gross with
11/8/35

To Kenya, 628 _____ 17 AUG 1935

(w/c's 56, 59 & 60 [unclear] in orig.
(58 + 58 amended)

DESTROYED UNDER STATUTE

To Montague and Lou's Cardale 17/8/35
(60 amend.)

DESTROYED UNDER STATUTE

63. Montague & Lou's Cardale _____ 16th Aug. '35

States that the lorry is the property of Wandanyi Ltd & not Mr. Doney & presumably is included in the sale by the company.

DESTROYED UNDER STATUTE

C.A. Gross to C.A.S. of Air Zaire
Ref. 58. & Acks No 63

C.A. Gross with

20/8

20 8 35

By Air Mail 17/8/35
64 To Kenya, 644 (w/c 63) A/1 24 AUG 1935

66. A Gov. 456. ... 31st Aug. '35

Trans. in duplicate a draft conveyance for submission to the Vendors' Solicitors for approval under Clause 6 of the Agreement of Sale. It is still in comm. with the Mrs. Atkinson, Bann, Morrison and Ainslie, regarding the payment of fees in connection with stamping and registration of certain deeds included in the Abstract of Title. Requests early Reply.

Drafts dup. of end. to Montague's C.A. & state whether they appear only then to return the draft conveyance.

J.P. [unclear]
9

I cannot, of course, do more than say that there seems to be no objection to the draft, except that the ending of it makes no provision for amendment by the Hon. Doney. We might mention this to Messrs. [unclear] & on draft [unclear] then

When there are the [unclear] and/or [unclear] of [unclear] in [unclear] [unclear] to the Gov. on receipt [unclear] from the Gov's Solicitor. Of course it looks a bit [unclear] on 21st Sept. will be [unclear]

J.P. [unclear]
109

10/8/35
29

67 L. Montagu's lease schedule - 1/6 66 - cons - 10.9.35

DM

68. Messrs. Montagu's & Cox & Cardale.11th Sept. 35.

Returns draft Conveyance approved subject to the amtds. shown in red ink. Suggests alternative methods for handing over the Deeds, and encls. copy lr. to Messrs. Atkinson and Brown in this connection. Have instructed Messrs Atkinson & Brown to arrange for the stamping and registration of documents.

? Copy of 67, duplicate of 68 a 2nd encl, and amended draft conveyance in original [font copying the amendments in red ink onto the dft. enclosed in 66] to be for LF. obsorn ref. 66 - by Saturday's Noon.

X7 action [Signature]

[Signature] 12/9

[Signature] 22/9

And ask of Bank & say we are sending it out by air mail

S.F.O. [Signature] 12.9 come

DESTROYED UNDER STATUTE L. Montagu's lease schedule - 68 sch - 10.9.35

To Kenya 727 (w/c 68 = 1st encl) A/1 14/12
(Handed by No 71) w/2nd encl in orig)
& c 69. Cons 14 SEP 1935
(66 unswd)

By air mail 14/9/35

[Signature]

41 Governor Byeme 506 (H.M. Mail) 26 Sept 35

Trans. impressed conveyance from auction. Requests that payment of balance of sum of £5,500 plus interest but subject to deduction of 5% bank duty & registration fees may be made.

Mr. Dale has drawn my attention to a curious feature of the Conveyance in that it imports not the Governor but His Majesty the King, and the Governor is not imported anywhere until the top of page 3. It therefore seems ^{possible} ~~probable~~ that it would be better to have the Conveyance in the form of the Governor acting on behalf of His Majesty, and it is for consideration whether the whole thing should not be returned to Kenya to be put into that shape. The draft, however, was sent ^{4 as} ~~forward~~ in No. 66 and we let it pass then without question so I think that on the whole it is just as well not to raise the point now. The ~~land~~ ^{land} in question will be incorporated in native reserves, and there will be no question of disturbance of title hereafter.

Draft herewith.

S.F.O. [Signature]

4.10.35.

I have spoken to Mr. Roberts today. There is a provision in the Letters Patent authorising the Governor to grant & convey of his property. There is no objection to the fact that the Governor is the person who is to grant & convey.

[Signature]

S. A

72 To Montagu's and Cox & Cardale Cons. 9/10/35
DM (copying conveyance in 71)

73. Montagu's Cox Cordale — 10.10.35

(Under impression of Comyns states that a Bond will be called to meet the Debt. Also that the contract provides that interest shall be paid as indicated.)

The Foreman appears to have overlooked the 2% interest payable from the 1st April 1935.

I annex a copy of Clause 6(x) in the rough copies of the Contract for Sale. Clause 7 was accepted by the Foreman in No 17 in the file.

Is it worth while reminding the Foreman?

C.A. Rowwith
15/10/35

I think it is hardly necessary to say anything to you until we are in a position to report completion of the payments etc.

Wait, but b.v. if we have not heard further in a week

J. Hunter
17/10

Yes: but the Co. are right. I should have spelled it.

S.L. 292

16.10.35 same

J.M.

74. Montagu's Cox Cordale — 16.10.35

Reports that the Comyns was written on 16.10.35 comments regarding arrangements for completion of transaction requests suggestions if any. needs for an appointment in order that completion may take place say on Monday the 21st Oct. if possible.

The interest is correct.

Stamp duties & registration
fee 634/- = £21. 10. 0

I was doubtful about the sufficiency of the documents named in the letter of authority to Messrs Atkinson Dean, & spoke to Mr Robert Way about it. He agreed that we ought to verify the list with Kenya.

I submit draft tel. accordingly. We shall ^{now} get a Bank Draft from C.A. but? this had better await the Foreman's reply. Meanwhile the position can be explained to Messrs Montagu's by telephone.

Have done this
C.A.
17/10/35
S.L.

C.A. Rowwith
17.10.35

75 To Gov. Tel No 292. 7/Nov - 17.10.35
Cous

DESTROYED UNDER STATUTE

76 J. News - ⁰²⁵⁸ Tel. ~~200~~ 18/10/35
Wundanyi document sufficient
evidence of 2% interest
approved

? We can now go ahead.

2:30 pm on Tuesday 21 Oct
to meet suitable to Mr Hoffman.
Mr Farrell, C.A. will send a
cheque for £4985.16.8 to
C.O. on Tuesday evening.

I submit draft.

C. Brown with
19.10.35

77 To G.A. (w/c 74 & 78)
78 Montagu's and Cox & Cardale } 19/10/35
(74 and)

DESTROYED UNDER STATUTE

79 Crown Agents Office 'O' Dept. — 21.10.35

Enclose cheque for £4985.16.8 to balance
of purchase price including stamp duties and
registration fees in connection with the
completion of the sale of the Wundanyi
estate, together with formal receipts for
completion.

80 Envelope containing:-

- (a) Original Indenture dated 21st Oct. 1935
executed by Wundanyi Ltd & Mr Drury.
- (b) Original letter from Montagu's & Cox
& Cardale addressed to Acliamon Boron
Norison & Ainslie authorising them
to have to Kenya Govt certain deeds.

(c)

(c) Receipt from Montagu's & Cox & Cardale
for cheque for £4985.16.8.

81. Copy of receipt given to Montagu's & Cox &
Cardale for the original indenture & the letter
to Acliamon Boron, Norison & Ainslie.

82. Montagu's & Cox & Cardale — 21.10.35
undertakes not to withdraw the form of
authority to Acliamon Boron Norison & Ainslie
provided sale is completed on 21.10.35.

DESTROYED UNDER STATUTE

? Now sent to Mr Kenya, copies of course,
the original indenture, the original
letter to Acliamon Boron
& a copy of the receipt
given to Acliamon Boron (No. 11)
The receipt from Acliamon Boron
for the cheque to go to C.A.

I submit a draft

C. Brown with
23/10/35

Present
23/10/35

By post mail
26/10/35

R303
For action

To Kenya, 874 (w/c 72, 74, 77, 78,
& 1082 - Indenture +
letter in orig.)
(76 unswd)

21 OCT 1935

84 To G.A. (w/c 83 & Receipt) B/1/c 29/10/35
Rec. to Kenya 19482

C. O.

Mr. Grossmith.

Mr. *Frederick* 23/10

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh

Permt. U.S. of S.

Party. U.S. of S.

Secretary of State.

AIR MAIL.

Downing Street,

26 October, 1935.

C.D
R 2300
D 23

Sir,

I have etc. to acknowledge

DRAFT.

70

the receipt of your telegram No. 250 of

the 18th of October and to transmit to

you for your information, copies of

correspondence regarding the completion

of the sale of the Wundanyi Estate to

the Govt. of Kenya.

KENYA.

NO. 874

GOVERNOR.

The Indenture of Conveyance

enclosed in your despatch No. 500 of the

26th of September has been executed by

Wundanyi Ltd., and by Major Dr. Drury,

and is returned herewith. I also

enclose a letter addressed by Messrs.

Montagu's, and Cox and Cardale on behalf

of the Vendors, to Messrs. Atkinson

Bown Morrison and Ainslie, authorising

them to hand to a representative of the

To Messrs. Montagu's (19/10/35)
To CA (19/10/35)
Indenture dated 21/10/35 (in original)
Letter to Atkinson, Bown & Co. dated 21/10/35 (in original)
Receipt for documents (copy)
Handwriting 21/10/35 (P2) (copy)

FURTHER ACTION.

Copy despatch with signed receipt for £4,985.16.2 to Crown Agents I.F. info.

Remainder Copies of the enclosure to the Dept need not go to CA.

copy of receipt to CA. (54) 71

Kenya Govt. the following deeds and documents:-

1. Conveyance. H.M. Commissioner for the East Africa Protectorate to The Industrial Mission Aid Society dated 19th September 1906.

2. Conveyance. The Industrial Missions Aid Society to The East African Industries Ltd. dated 31st December, 1906.

3. Assignment. East African Industries Ltd. (1) T.W.H. Inskip & D.J.S. Hunt (2) and Wundanyi Ltd. (3) dated 22nd February 1916.

An undertaking not to withdraw the form of

authority has been obtained from the Vendors'

solicitors. A copy of the undertaking is enclosed.

3. The sum of £4,985.16.8. representing the balance of the purchase price and interest, less Sns:634/- (£31.14s.) Stamp Duty and Registration fees,

was paid to Messrs. Montagu's and Cox and Cardale

on the 21st of October.

J. K. M. M.

(111) MALCOLM MacDONALD

17

2

Received from Messrs. Montagu's and Cox & Cardale acting on behalf of Vundanyi Limited an Indenture of Conveyance dated *21st Oct 1935* and made between Vundanyi Limited of the first part Dru Drury of the second part and His Majesty the King of the third part and a letter addressed to Messrs. Atkinson Bown Morrison and Ainslie, P.O. box 29, Mombasa, authorising them to hand to a representative of the Kenya Government certain deeds and documents now in their possession and held by them on behalf of Vundanyi Limited.

W. H. W. Flood

21st October, 1935.

cc. by Kenya 833

38001/35

79

C. O.

- Mr. Grossmith. 12/10
- Mr. ~~Free~~ 19/10
- Mr.
- Sir C. Parkinson.
- Sir G. Tomlinson
- Sir C. Bottomley.
- Sir J. Shuckburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DOWNING STREET.

19 October, 1935.

To go
Richard Gray 19 Oct.

Gentlemen,

I am etc. to acknowledge the receipt of your letter of the 16th of October and to inform you that the proposed arrangements for the completion of the sale of the Wundanyi Estate to the Government of Kenya are considered satisfactory.

(74)

The amount payable on the 21st of October in respect of the balance of the purchase price and interest, less Shs.634 (£31:14s.0) stamp duties and registration fees, will be £4985:16s: 8d. and a cheque for this amount will be available on the afternoon of the 21st October. It is understood that your representative will attend at the East African Department of the Colonial Office at

DRAFT.

MESSRS. MONTAGU'S AND COX & CARDALE.

~~SA~~

Copy to C.A. (77)
Kenya (83)

FURTHER ACTION.

Rec'd

C. O.

Mr. Grossmith.

Mr. ~~Fraser~~ 19/10

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Saundburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

3800/35.
By hand ^{19/10} to
under cover to
Mr H. J. Purcell.

DOWNING STREET.

19 October, 1945.

Gentlemen,

I am etc. to refer to your letter of the 13th June (ref. O/Kenya 89) and to transmit to you for your information copies of correspondence with Messrs. Montagu's and Cox & Cardale regarding the sale of the Wundanyi Estate to the Government of Kenya.

(48)

2. It will be seen that completion of the transaction is to take place at the Colonial Office at 2-30 p.m. on Monday, the 21st October. I am accordingly to request that a cheque for £4985:16s: 8d. may be sent to the Colonial Office by hand on the morning of the 21st October. The amount should be debited to the account of the Government of Kenya.

DRAFT.

CROWN AGENTS.

16/10/45
From Montagu's (74)
To " any Draft.

copy to Kemp (82)

FURTHER ACTION.

Revised

I am, etc.

Signed) J. E. W. FLOOD

C. O.

5000/135

70

Mr. *Gwynnith 7/1/05*
 Mr. *Heeston 17.10 same*
 Mr.
 Sir C. Pophinson
 Sir G. Tomlinson
 Sir C. Bottomley
 Sir J. Shuckburgh
 Perm. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

*Codes read
 7.0 pm
 17.10.35*

How



Immediate.

No. 292

DRAFT.

*CM
 1/1*

*Governor
 Nairobi.*

(7)

*Your despatch No 506.
 Wundanyi. Company desire
 to complete transaction on
 21st October. They propose
 to authorize Atkinson
 Ross & Co to hand to
 representatives of Kenya
 Government the following
 documents:-*

- Conveyance dated
 19th September 1906*
 - Conveyance dated
 31st December 1906*
 - Assignment dated
 22nd February 1916.*
- Are the documents
 sufficient?
 Company also claim*

FURTHER ACTION.

Claim 2% interest on
purchase price less deposit
from 1st April to 21st September
vide Clause 7 of Contract
for Sale as accepted in
Your telegram No 115.

(27)

Secs.



MONTAGU'S AND COX & CARDALE

SOLICITORS

15 BOLDWIN WALLS
LONDON, E.C. 4

TELEPHONE *CITY 1421 PRIVATE BRANCH EXCHANGE
TELEGRAMS SYNONYM CENT. LONDON

14
21
1867-88 Queen Victoria Street
OPPOSITE MANSION HOUSE STATION

London, E.C. 4 16th Oct 19 35

The Under Secretary of State
Colonial Office, S.W.

3/c
u

Handwritten signature/initials

East African Department

Sir,

Wundanyi Estate - Sale to Kenya Government

We have the pleasure to report that our client Company have to-day executed the Conveyance to His Majesty the King of the property at Wundanyi. We are therefore in a position to complete the transaction at any time convenient to yourself. We shall be glad if you will arrange an appointment for this purpose. Assuming that completion may take place, say, on Monday next the 21st instant we make the amount payable (apart from the deduction of Stamp Duties and Registration charges) £5017.10.8. as follows:-

Purchase price	£5500	
Less deposit	550	£4950.0.0
<u>Add</u> Interest at 2% per annum on £4950 from 1st April 1935 to 21st September 1935 inclusive 174 days		47. 3. 10.
<u>Add</u> Interest at 5% per annum on £4950 from 2nd September 1935 to 21st October 1935 inclusive - 30 days		20. 6. 10. 67. 10. 8

carried forward

£5017.10. 8

copy to Kenya (83)
copy to S.E. (77)
(in hand)

The Under Secretary of State16/10/35

Brought forward

£5017. 10. 8.

Deduct sh 634/- being stamp duties
and registration fees as
per Colonial Office letter
No 38001/35 dated 9th
October 1935.

We shall be obliged if you will inform us at what rate you suggest the exchange should be taken in respect of the sh 634/- above referred to.

On completion we propose to hand to you an authority in the form of the enclosed draft directing Messrs Atkinson Bown Morrison & Ainslie to hand over the Deeds and Documents to which the Government are entitled. We will cover this with a letter to you in which we will undertake not to withdraw the Authority in consideration of the completion taking place on the date ultimately arranged. A duplicate of this Authority will be sent out immediately after completion by Air to Messrs Atkinson Bown Morrison & Ainslie for verification purposes. We shall ask you to hand us ^{Bank} a Draft, Payable Order or Cash for the balance of the purchase money, together with a receipt for the Conveyance and the Authority.

Will you please let us hear from you confirming these arrangements and with your suggestions (if any) as to any variations

Messrs Atkinson Bown Morrison & Ainslie
P.O. Box 29, Mombasa, East Africa.

Dear Sirs,

Wundanyi Estate Sale to Kenya Government

The above sale having been completed this day, we authorise and direct you to hand to any representative of the Kenya Government producing to you this Authority and handing you a proper receipt(of which please send us a copy) the following Deeds and Documents now in your possession and held by you on behalf of Wundanyi Ltd.

1. Conveyance. H.M. Commissioner for the East Africa Protectorate to The Industrial Mission Aid Society dated 19th September 1906.
2. Conveyance. The Industrial Missions Aid Society to The East African Industries Ltd dated 31st December 1906.
3. Assignment. East African Industries Ltd (1) T.W.H. Inskip & E.J.S. Hunt (2) to Wundanyi Ltd (3) dated 22nd February 1916.

Yours faithfully,

The Under Secretary of State

16/10/35

which may occur to you.

We are, dear Sir,

Your obedient servants,



Enc

6. The completion of the purchase and payment of the purchase money shall take place on the _____ day of _____ next at the Office of Messrs. Montagu's and Cox & Cardall of 86/88 Queen Victoria Street in the City of London the Vendor's Solicitors. If from any cause whatever (other than non-completion caused by the default of the Vendor) the balance of the purchase money shall not be paid on the day the Purchaser shall pay to the Vendor interest thereon at the rate of Five per centum per annum computed from that day until actual payment.

7. The purchaser having already taken possession of the property shall until, if at all, interest shall become payable under the preceding clause, pay interest on the balance of the purchase money at the rate of two per centum per annum from the 1st of April 1935 until actual completion. Such possession by the purchaser shall not be deemed to be an acceptance by him of the Vendor's title.

*See Nos 26
+ 27
the file*



MONTAGU'S AND COX & CARDALE

SOLICITORS.

11, BOLDHORN ROAD, L.L.S.
11, BAKER STREET, W.1.
11, BROADWAY, E.C.4.

TELEPHONE - "CITY 1421" (PRIVATE BRANCH EXCHANGE)
TELEGRAMS - "SYNONYM, CENT. LONDON"

O. O. R.

86 & 88, Queen Victoria Street,
(OPPOSITE MARSH HOUSE STATION)

London, E.C.4. 10th Oct 1935

The Under Secretary of State,
Colonial Office,
S.W.1.

East African Department

Sir,

Your ref: 38001/35
Wundanyi Estate. Sale to Kenya Government

(72)

We have to thank you for your letter of yesterday's date enclosing engrossment of the Conveyance in this matter and desire to inform you that a meeting of the Board has been called for the purpose of executing the Deed. It is hoped that it will be possible to hold the meeting during next week.

2. We venture to remind you that in connection with the matter of interest, the Contract for Sale provides that interest shall also be paid at the rate of 2% per annum from the 1st April 1935 until the 21st September 1935.

3. We note.

We are, dear Sir,

Your obedient servants,

C.O.

Mr. Flood. 4 10.35.

38001/35. Kenya.

Mr. Dale S.x.

Mr. J.S. 10

82
UR 7

Sir C. Parkinson.

Sir G. Tomlinson

Mrs. C. Bottomley.

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S

Secretary of State

C.D.
H 7-OCT
D 4

Downing Street.

9 October, 1935.

Gentlemen,

DRAFT.

MESSRS. MONTAGU'S AND COX & CARDALE.

In continuation of the letter from this Office of the 13th of September, I am etc. to inform you that he has now received a despatch from the Governor of Kenya stating that the emendations suggested by you in the draft Conveyance have been accepted. An enclosed conveyance which has been prepared in reply is enclosed herewith for execution by the Company and the Major's Secretary.

~~Conveyance.~~
(in orig)

copy to Kenya (83)

FURTHER ACTION.

Upon execution of the outstanding balance of the

25,500 together with interest due from the
22nd of September up to the date of payment
will be handed over to you, subject to the
deduction of ^{SL} 634/- for Stamp Duty and
Registration Fees due to the Government
of Kenya.

(Handwritten signature)

3. - The Governor accepts your
proposal that Messrs. Atkinson, Bown and
Company may be given written authority to
hand over the various documents of title
to the Colonial Government.

I am, etc.

Signed J. E. W. FLOOD

AIR MAIL

KENYA

No. 506



7/18
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED
4 OCT 1935
O. O. REGY

26 September, 1935.

Sir,

I have the honour to refer to your despatch Kenya No. 727 dated the 14th. September, 1935, on the subject of the Wundanyi Estate.

No 70

2. The suggested emendations made by Messrs. Montagu's, Cox and Cardale in the draft Conveyance have been accepted. The engrossed Conveyance is forwarded herewith for execution by the Company and Major Dru Drury.

3. I shall be glad if you will arrange for the payment of the balance of the sum of £5,500, with the addition of interest due under clause 6 of the Agreement from the 22nd. September up to the date of the payment, but subject to the deduction of Shs. 35/- Stamp Duty and Registration Fees due to this Government. This sum should be credited to the Colony's revenues in due course.

(72)

*Conveyance in copy of
Messrs Montagu and Co. forwarded
Recd 2/10/35*

4. The Company's proposal that Messrs. Atkinson, Bown and Company be given written authority to hand over the various documents of title to this Government is acceptable.

I have the honour to be

Sir,

Your most obedient, humble servant,

GOVERNOR

THE RIGHT HONOURABLE,
MALCOLM MACDONALD, M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON. S.W.1.

(Subst. of Covering of Encl. in
enclosure in envelope below)

ENCLOSURE
No 80



TELEPHONE CITY 1421
TELEGRAMS SYNONYM CENT LONDON

MONTAGUS AND COX & CARDALE
SOLICITORS.

267-VV Queen Victoria Street
GRAND 12 MARLBOROUGH HOUSE STATION

London EC4 11th September/50 35

22, BLOOMSBURY WAY, LONDON, W.C.1
J. E. LEFFMAN

The Under Secretary of State,
Colonial Office,
Downing Street, S.W.1.
East African Department.

RECEIVED
SEP 11 1950
EX 2450

Acad. by PC
19/9

Sir,

Wundanyi Estate. Your ref. 38001/35.

1-61
We have to thank you for your letter of yesterday's date enclosing copy of dispatch from the Acting Governor and draft Conveyance for our approval. We have pleasure to return the draft approved and would draw your attention to the slight amendments we have suggested and to our marginal notes in red ink.

At the present moment the Deeds are with Messrs. Atkinson Bown Morrison & Ainslie of Mombasa, who acted as our Agents for production thereof to the Government. The Completion however, is to take place in London and we suggest for immediate consideration by H.F. The Governor the following alternative methods -

1. On completion we hand to the Government's Agent a written authority to Messrs. Atkinson Bown & Co. to hand over to the Government the various Deeds.
2. Messrs. Atkinson Bown & Co. to return the Deeds to us in London so that we ourselves may hand them over. We append in duplicate, one

X
to enclose in envelope below

copy of the original
+ 2. hand money
to Messrs. Atkinson Bown & Co.

ENCLOSURE
No 80

The Under Secretary of State.

11th September 1935.

for your file and one for transmission to the Government, copy of a letter we have today written Messrs. Atkinson Bown & Co. From this you will see that we have authorized them to return the Deeds and Documents to us forthwith should any responsible member of the Government in writing request them to do so.

We submit that the former alternative would be more convenient and would save expense and much time.

Our letter to Messrs. Atkinson Bown & Co. will go by Sunday's Air Mail, as no doubt, will your dispatch to H.E. The Governor. You will observe from our letter to them that we have already instructed them to arrange for the stamping and registration of the documents and the letter in this regard left by last Sunday's Air Mail. In this connection we may say that we have suggested that to save time and expense, H.E. The Governor should arrange for the stamping and registration and deduct the amount namely, Shs 634, from the purchase price on completion. We trust that this proposal will meet with His Excellency's approval.

On receipt of the engrossment of the Conveyance and a suggested date for completion, we will arrange for the execution of the Deed.

We do not think it is necessary to submit a Completion Statement, as the only item to be calculated will be the interest payable under the Contract for Sale, which must necessarily be left over until the date of the completion is known.

The Under Secretary of State.

11th September 1935.

In case it will save you any time or trouble we are enclosing a carbon copy of this letter which you may like to forward to H.E. The Governor.

We are, dear Sir,

Your obedient servants,



11th September 36

Messrs. Atkinson Bown Morrison & Ainslie,
P.O. Box 29, Mombasa, East Africa.

Dear Sirs,

Wundanyi Estate - Sale to Kenya Government.

We confirm our letter to you of the 6th instant in which we instructed you to arrange for the stamping and registration of the documents referred to in your letter of the 24th August and earlier correspondence, and we shall be glad to learn that this matter has been dealt with and whether H.E. The Governor is willing to adopt our proposal that the sum of Shs 634 should be deducted from the purchase price.

We have just received the draft Conveyance and have returned it to the Colonial Office approved. We send you for your information a copy of our covering letter which we think you will find speaks for itself. We hope H.E. The Governor will adopt our alternative "1" so that the Deeds and documents need not be returned by you to this country. Should H.E. The Governor however, prefer that they should be returned, will you please dispatch them as soon as possible by registered post and insure them for £6000 in that event. Please advise us by Air Mail that you have done so and inform us of the approximate date when the parcel will arrive. We do not think it would be wise to send them by air, quite apart from the expense. Should alternative "1" be adopted, we shall hand over to the Government's representative on completion, an authority to you specifying exactly what Deeds and Documents are to be handed over, and we will, of course, confirm this to you by the first available air mail direct. You will observe that a copy of this letter has been sent to the Colonial Office for transmission to H.E. The Governor.

Yours faithfully,

MONTAGU'S AND COX & CARBALE

C. O.

Mr. Fisher 10/9/21

38001/25

33

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley.

Sir J. Shuckburgh.

Perm. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Keny-
Ans
82

61

10 Sept 1921

DRAFT.

Messrs. Wundanyi and
Cox & Cardale

Gentlemen

W. ref. to yr letter of
the 16th of August and
connected correspondence
regarding the purchase
of Wundanyi Estate. I
am so to be content
to yr copy of
a draft from the
Acting Governor of Kenya
enclosed for you &
a draft conveyance for
your approval.

2. I am to

request yr to state

? Drafts
submitted / Ans for 31 Aug

FURTHER ACTION.

with the least possible at your
earliest convenience whether you
appear the draft on behalf
of Wandaupis A.C. and Thayer
Drury. (It will be

assumed that no provision is
made at the end of the
draft for its execution by
Thayer Drury; the S. J. S.
proposes to draw the attention
of the Range Dept to this
omission.)

(11353) W. FLOOD

AIR MAIL

KENYA

No. 456



66 34
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED
9 SEP 1935
C. O. PROY

51 AUGUST, 1935.

Sir,

Robt

W. & M. for shell (1/2)

Answer (20)

With reference to your Despatch No. 628 of the 17th August, 1935, forwarding the replies of Messrs. Wundanyi Ltd. to the Requisition on Title and other correspondence in connection with the purchase of the Wundanyi Estate, I have the honour to forward in duplicate a draft conveyance for submission, without prejudice to the outstanding question of the stamping and registration of certain documents, to the Vendors' Solicitors for favour of their approval under Clause 8 of the Agreement of Sale, and that of Mr. Dru Drury. It is hoped that the question of the outstanding stamp duty will be satisfactorily settled by the time that the draft conveyance, duly approved, is returned to the Colony for engrossment, after which the completion of the sale may take place.

2. With regard to the question of the stamping and registration of certain of the deeds included in the Abstract of Title and produced by the Vendors for inspection in order to prove their title, this Government is still in communication with Messrs. Atkinson, Bown, Morrison and Ainslie of Mombasa, regarding the payment of the necessary fees.

3.....

THE RIGHT HONOURABLE,
MALCOLM MACDONALD, M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON. S.W. 1.

3. In view of the near approach of the date fixed in Clause 6 of the Agreement of Sale for completion, viz., the 21st September, it is hoped that the draft conveyance will be returned, duly approved, as soon as possible.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Edwards

ACTING GOVERNOR.

THIS INDENTURE made the 11th day of February 1935 BETWEEN
WUNDANYI LIMITED whose registered office is situate at
86/88 Queen Victoria Street in the City of London (herein-
after referred to as the Vendor) of the first part DRU
DRURY of ^{the same place} ~~29 Bisham Gardens Highgate~~ in the County of
London (hereinafter referred to as the Lessee) of the
second part and HIS MOST GRACIOUS MAJESTY KING GEORGE
THE FIFTH (hereinafter referred to as His Majesty) of
the third part WHEREAS by an Indenture dated the 19th
day of September 1906 (registered in the Taveta Registry
as No.10 of A 1906) (Hereinafter referred to as the
Conveyance) and made between Lt.Colonel James Hayes Sadler
C.B. His Majesty's then Commissioner for the East Africa
Protectorate of the one part and the Industrial Missions
Aid Society of the other part (therein described) "ALL
THAT piece or parcel of land situate in the Province of
Seyidie in the East Africa Protectorate (now known as
the Colony of Kenya) comprising 1286 acres or thereabouts
which said piece or parcel of land is more particularly
delineated and described on the plan annexed thereto and
thereon bordered red" was conveyed unto and to the use
of the said Industrial Missions Aid Society for an
estate in fee simple subject nevertheless to the
provisions of the Crown Lands Ordinance ¹⁹⁰² /and to the rules
for the time being in force thereunder AND WHEREAS by
divers mesne assurances acts in the law and events and
ultimately by an Indenture dated the 22nd day of February
1916 (registered in the Crown Lands Registry at Mombasa
in Volume M.I.Folio 35) and made between The East African
Industries Ltd. (therein described) of the first part
Robert Williams Thomas Walker Hobart Inskip and David

*We rely upon the Governor
in the accuracy of these
legislation particulars
T.C.C.*

James Strather Hunt (all therein described) of the second part and the Vendor of the third part the premises comprised in and conveyed by the Conveyance together with all the buildings erections crops trees machinery fixtures wells and improvements erected and standing thereon became and are now legally vested in the Vendor for an estate in fee simple ^{or absolutely according to the nature thereof} AND WHEREAS by an Indenture dated the eighth day of January 1923 (registered as aforesaid in Volume M.1 Folio 35/4) (hereinafter referred to as the first lease) and made between the Vendor of the one part and the Lessee of the other part ALL AND SINGULAR the hereditaments and premises comprised in and conveyed by the hereinbefore recited Indenture of the twentysecond day of February 1916 were demised unto the Lessee for a term of ten years from the 31st day of December 1922 subject to the rent covenants and conditions therein reserved and contained And the first lease contained provision for the Lessee to advance certain sums of money and to be allotted a Debenture to provide for the repayment of such sums of money and interest AND WHEREAS by an Agreement dated the 20th day of April 1935 (hereinafter referred to as the second Lease) and made between the Vendor of the one part and the Lessee of the other part it was agreed that the Lessee should be granted a further lease of the said hereditaments and premises subject to the same terms and conditions ^{except such as determined as herein mentioned} as contained in the first Lease for a term of five years from the First day of January 1935 And the Lessee agreed thereunder to take up a first Debenture for £1000 AND WHEREAS by a letter dated the 14th day of November 1934

We rely upon the Government for the accuracy of these Registrations

*We rely on above
Title*

the Vendor gave notice to the Lessee of its intention to determine the second lease on the 31st day of December 1935 AND WHEREAS by an Agreement of Sale dated the 19th day of June 1935 and (registered as aforesaid in Volume M.1 Folio 36/5) and made between the Vendor of the one part and Armigel de Vins Wade the Acting Governor and Commander-in-Chief of the Colony and Protectorate of Kenya on behalf of His Majesty the Vendor agreed to sell and His Majesty agreed to purchase free from encumbrances the hereditaments and premises comprised in and conveyed by the hereinbefore recited Indenture dated the 22nd day of February 1916 together with the buildings erections crops and all other improvements and development standing and being thereon at the price or sum of £5500 AND WHEREAS the Lessee has agreed to join in these presents for the purpose of releasing and surrendering all and any his right title and interest under and by virtue of the first and second Leases and also any claim to a Deventure he may have in pursuance of the said leases or otherwise NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £5500 paid by His Majesty to the Vendor on or before the ~~execution~~ ^{signing} hereof (the receipt whereof the Vendor doth hereby acknowledge) the Vendor as beneficial owner hereby surrenders and conveys and the Lessee for any interest he may have or claim to be entitled to by virtue of the first or second Leases hereby surrenders conveys and confirms unto His Majesty free from encumbrances ALL AND SINGULAR the hereditaments and

*The Deventure (the only one to which the lease was assigned) was duly assigned to the Lessee prior to and the Commission completed no Deventure afterwards issued could affect the land & the title
H.C.C.*

*It is submitted that the words [] are also being referred to the original agreement for this & also
in omitted*

premises comprised in and conveyed by the Conveyance together with the buildings erections crops and all other improvements and development standing and being thereon TO HOLD the same unto and to the use of His Majesty His Heirs and Successors absolutely and for ever.

IN WITNESS WHEREOF, the Vendor hath caused its Common Seal to be hereunto affixed ^{and the Vice has hereunto set his name & seal} and the Governor of the Colony of Kenya hath hereunto set his hand and caused the Seal of the Colony to be affixed the day and year first above written.

SEALED with the Common Seal
 of ^{Wundanyi Limited} the Vendor in the presence
 of :-
 _____ Director
 _____ Director
 _____ Secretary

*Signed & sealed & approved by the
 named Vice in the presence of*

SIGNED by the Governor and
 Sealed with the Seal of the
 Seal of the Colony in the
 presence of :-

*On behalf of Wundanyi Limited & the Vice
 Dmy we approve this draft as received
 in red ink and subject to our notes.
 Montagu. Cox - Cardale
 86/88 Queen Victoria St
 London E.C.4
 September 1955.*

C. O.

Mr.
Mr.
Mr.

Sir C. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

Messrs
Montagu's and
Cox & Cardale

(53)

38001/35-0
Part issued by No 60x63
August 1935
Gentlemen,
I am etc to refer to your
letter of the 18th of July
regarding the Wandanyi
Estate and to inform
you that the Acting Governor
of Kenya agrees that
the disposal of Mr
Drury's furniture can
be settled between
Mr Drury and the
Provincial Administration.

R / AUC
D. 80

Copy to Messrs (6)

FURTHER ACTION.

The Acting Governor
points out however
that Mr Drury did

205

Not mention the Tery in
his letter to the District
Commissioner.

I am accordingly to enquire
whether you or Mr. Dury
desire to offer any further
observations on the proposal
contained in the Acting
Inspector's telegram of the
9th 2 July.

(50)

I am etc

(Signed) L. B. FREESTON

COPY FOR REGISTRATION

58
—
41

Telegram from the Officer Administering the Government of
Kenya to the Secretary of State for the Colonies.

Dated 6th August, 1935. Received 4.38 p.m 6th August 1935

RECEIVED
- 7 AUG 1935
O. O. REGY

No 187

No 5H

Your telegram No 182 I agree that the matter of furniture
can be settled between Drury and provincial administration
but Drury did not mention lorry in his letter.

*Answered (6/8)
Jue ——— (3 on 3800/36)*

Handwritten initials and number 5642

Mr. Grossmith. *2/7/35*
Mr. *Reiston* *1/8*
Mr. Roberts-Wray *1/8*

Sir C. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

Amended by Noko

DOWNING STREET,

2 August, 1935.

C.D.
R 1-AUG
D ✓

DRAFT.

MESSRS. MONTAGU'S AND COX
& CARDALE.

Gentlemen,

I am etc. to refer

to the letter from this Office

(46)

of the 20th of June regarding

the sale of the Wundanyi Estate

and to inform you that a despatch

has now been received from the

Acting Governor of Kenya in

which he states that the original

title deeds were produced by

Messrs. Atkinson, Bown, Morrison

and Ainslie for inspection on

his behalf, and it was then

revealed that certain of the deeds

had not been stamped and registered

in the Colony.

The Acting Governor
It is

Understand
understood

Encl to
20th July 1935 (17)

Copy to Dept in
the file.

Copy to Kenya (cl)

FURTHER ACTION.

~~understand~~
Understand that Messrs. Atkinson,
Bown, Morrison and Ainslie have
already referred the matter to
you direct.

2. Apart from this, the
only Requisitions on Title which
the Acting Governor proposes to
raise are in regard to Mr. Drury's
position and to the existence
or otherwise of any other debentures
by which the property may be charged.
These Requisitions are set out in the
enclosed Schedule and it will be
appreciated if you will furnish the
answers to the questions in the Schedule
at your early convenience.

I am, etc.

(Signed) L. B. FREESTON



29 JUL 1935

O. O. REG.

20th July, 1935.

Sir,

With reference to your Despatch No. 450 of the 21st. June, 1935, and the Agreement of Sale enclosed therewith, I have the honour to inform you that the original title deeds were produced by Messrs. Atkinson, Bown, Morrison and Ainslie for inspection on my behalf, and it was then revealed that certain of the deeds had not been stamped and registered in this Colony.

2. The question of stamping and registration was taken up direct with the above mentioned firm and I understand that they referred the matter to their Principals by last week's air mail. The sum involved amounts to £51/14/0.

3. Apart from this, the only Requisitions on Title which I propose to raise are in regard to Mr. Dru Drury's position and to the existence or otherwise of any other debentures by which the property may be charged.

4. These requisitions are set out in the enclosed Schedule and I should be glad if Messrs. Wundanyi, Ltd., might be requested to furnish replies at their early convenience.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H. M. King
ACTING GOVERNOR'S Deputy.

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON. S.W.1.

Approved (E)
 Copy of and. 4 minutes and two minutes

No. 47

355

REQUISITIONS ON TITLE.

WUNDANYI ESTATE - L.R.NO.924.

TEITA KENYA.

WUNDANYI LIMITED

to

GOVERNMENT OF THE COLONY OF KENYA.

Purchaser's Requisitions on Title.

1. The lease to Mr Drury dated 8th January 1925 has expired, but was extended for a further period of 5 years from 1st January 1935. Notice of termination has been served on Mr Drury but in view of the fact that it does not expire until the 31st December, 1935, it is assumed that the tenant will have no objection to being joined in the conveyance for the purpose of surrendering his interest under the extension.
2. Under Clauses 3 and 4 of the above lease Mr Drury was entitled to have issued to him certain Debentures. Were these Debentures issued, and, if so, have they been discharged?
3. Mr Drury also covenanted (Clause 6 of the tenancy agreement dated 20th April, 1933) to take up and pay for in cash a debenture for £1000. Has this been discharged also?
4. The Lease and the Tenancy Agreement refer to "existing debentures issued by the Company" (Clauses 3 and 4 of the Lease and Clause 6 of the Tenancy Agreement). Are there any Debentures still in existence other than any which may be issued to Mr Drury? and constituting a charge on the property agreed to be sold.
5. It is of course assumed that there will be no objection to Mr Drury and any other person still holding any chargee's or licensee's interest in the property being joined in the Conveyance for the purpose of releasing their interest (if any).
6. All of the abstracted documents will of course be handed over on completion.

Answers.

1. Mr. Drury is willing to join in the conveyance.
2. There were none issued.
3. It has not yet been discharged.
4. Yes, but they constitute only a floating and not a specific charge.
5. It is unnecessary as the debentures constitute only a floating charge. No steps have been taken to crystallise it.
6. Yes, with the exception of the deeds or documents dated 21st November and 6th December 1910, 8th and 12th February 1912, 8th January 1923, 20th April 1933 and 14th November 1934 all of which either affect other properties or relate to matters other than the property sold.

(Sgd.)

13th August 1935.

C. O.

Mr.

Mr.

Mr.

Mr. Parhinson.

Sir G. Tomlinson

Sir C. Bottomley.

Sir J. Shuckburgh.

Permi. U.S. of S.

Parly. U.S. of S.

Secretary of State.

38006/35.

054

R
D
17 JUL
12

R. 297
Dyson Smith
Reeston 16 atom

R. 182
Amend No 58

Orderment
840p 16/7/35

DRAFT.

rec.

(49)

Menor
Nairobi

Your telegram No 165.
Understand from Company
Montoya's that DRURY
wrote to the District
Commissioner by Air Mail
on 4th July. They
think that the matter
is one which can be
advantageously settled
between DRURY and the
District Commissioner.
Do you agree.
Lees

FURTHER ACTION.

C. O.

5000/25

46

- Mr. *Smith 9/7/35*
- Mr. *Reister 9/7/35*
- Mr. *Parinson*
- Sir G. Tomlinson
- Sir C. Bottomley
- Sir J. Shuckburgh
- Parlt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

Answered by No 53

50

9 July 1935

Gentlemen,

DRAFT.

Kenya Montagu's and Cox & Cardale.

I am to refer to the letter from this ^{office} Department

of the 21st of June and

to inform you that that

the following telegram dated the 9th of July has been received from

the Acting Governor of Kenya:—

Following for Wandanyi Limited. On the assumption that moveables are Drury's personal property should be glad to know his wishes regarding disposal. Local Native Council

FURTHER ACTION.

copy Kenya 87

Council would be willing to
purchase lorry at valuation
by Foster of British
East Africa Corporation
well known to Drury. If
Drury is owner and agrees
to sell lorry would propose
to set off against its
price the sum due on
account of wages to
labour for January, February
and March.

If you will inform me of the reply which you
wish to be returned it will be telegraphed to the
acting Comptroller by telegram or air mail as
seems most expedient.

Lamidi

(Signed) J. E. W. FLOOD

38001/35
49
47
RECEIVED FOR REGISTRATION

E 9-JUL 1935

C. O. REGY

Telegram from the Officer Administering the Government of Kenya
to the Secretary of State for the Colonies

Dated 9th July 1935. Received at 2.47 pm. 9th July 1935.

No:165 My telegram No 164 Please add after the words "purchase
lorry" the following "at valuation by FOSTER of British East
Africa Corporation Val known to DRURY.

COPIES RECEIVED
FOR REGISTRATION
9 - JUL 1935
C. O. REG.

4848

Telegram from the Officer Administering the Government of Kenya to the Secretary of State for the Colonies.

Dated 9th July, 1935. Received 10.45.a.m. 9th July.

No. 164.

NY Your despatch No. 450 Following for Wundanyi Ltd. On the assumption that moveables are Drury's personal property should be glad to know his wishes regarding disposal. Local Native Council would be willing to purchase lorry. If Drury is owner and agrees to sell lorry would propose to set off against its price the sum due on account of wages to labour for January February and March.

C. O.

3800/35

PD
50

47

Mr. ~~Hand~~ 20.6
Mr.
Mr.

AIR MAIL

Mr. Parlinson.
Mr. Tomlinson.
Sir C. Bottomley.
Sir J. Stuchburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

C.D.
R 21 JUN
D 21

21 June 1935

Sir

I have the hon. to ask the recd.

(H1)

of your despatch 70 279 of the 8th of June & to transmit to you the enclosed copy of the Wundanyi sale agreement duly executed by the Company with a copy of the covering letter from the solicitors.

DRAFT.

Kenya
70 450
O. A. G.

~~19 June~~
(encl. 2)

2. you will no doubt inform me as soon as possible when you are satisfied with the transaction so that the balance of the purchase price may be paid over.

FURTHER ACTION.

(Sgd.) M. COLM MacDONALD

42
18 June, 1935. 50

58001

Gentlemen,

WUNDANYI ESTATE, KENYA.

With reference to the letter from this Office dated the 14th June, and to previous correspondence on the subject of the purchase of the Wundanyi Estate, I am now directed by Mr. Secretary MacDonald to transmit to you the enclosed copies of the Agreement for the purchase, which have been completed by the Acting Governor of Kenya Colony.

The Acting Governor calls attention to the fact that he has caused brackets to be inserted before the word "is" and after the word "England" in line four of Clause 10 in order to reflect the intention expressed in the amendment suggested by him.

You will also note that in Clause 6, the

MESSRS. MONTAGUE'S and COX & CARDALE.

the date, September 21st, 1955 has been inserted,
that being the 108 days from the 8th June.

I am to request that when the Agreement
has been signed by your Principals, one copy may
be returned for transaission to the Acting Governor of
Kenya for registration there.

I am,

Gentlemen,

Your obedient servant,

J. F. G. Howard

AIR MAIL

KENYA

No. 279



GOVERNMENT HOUSE

NAIROBI

KENYA

52

RECEIVED

18 JUN 1935

9th JUNE, 1935.

Sir,

C. O. REGY

No 21

With reference to your despatch No. 355 of the 21st of May, 1935, I have the honour to transmit, in duplicate, the revised Agreement for the purchase of the Kundanyi Estate by this Government, which I have duly signed. You will observe that I have caused brackets to be inserted before the word "if" and after the word "England" in line 4 of Clause 10 in order to reflect the intention expressed in the eleventh amendment suggested in paragraph 1 of my despatch No. 194 of the 18th of April, 1935.

No 21

2. When the Agreement has been signed by the Company, I should be glad to receive, as soon as possible, one original copy for registration in this Colony.

3. You will observe that in Clause 6 the date September 21st 1935 has been inserted, this being 105 days from the 8th instant.

No 33

4. I note from your telegram No. 132 of the 25th of May, 1935, that the Company have undertaken to execute the Agreement within one week of its receipt, and that their Deeds will be sent to Messrs. Atkinson and Bown, Mombasa.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Arncliffe

ACTING GOVERNOR.

C. O.

39⁵³

Mr. Flood 14/6

38001. Wundanyi Estate, KENYA.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Stuchburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

AIR MAIL
15 June

DOWNING STREET,

15 JUNE, 1955.



DRAFT.

~~ATTN: GOVERNOR~~

Sir,

KENYA.

No 430

O. A. G.

(B5)

I have the honour to refer to

your telegram No. 155 of the 8th June,
and previous correspondence on the subject

of the sale of Wundanyi Property, and to
transmit to you for record, the enclosed

copy of correspondence with the Solicitors
for the Company, together with the Abstract

of Title enclosed in ~~another~~ ^{the} letter of the
14th June.

You will observe that payment of
the £ 550 deposit has been made and has
been duly acknowledged.

I have, etc.,

(Sgd.) MALCOLM MacDONALD

FURTHER ACTION.

~~No 1~~ June
~~38~~ June
sent in original.

C. O.

Mr. Furdon 11/6

Mr. Flood 11/6

Mr. Parkinson

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Sheehyburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

38001/55

Kenya

37

54

Answered by No 38

12 JUN 1955

DRAFT.

Rever. Montague and
Cox & Cardie

Gentlemen
I am so to inform
you in confirmation of
a telephone message, that
the Acting Gov. of Kenya
has telegraphed that the
Agreements for the purchase
of Wundanyi Estate
may be expected to reach
London by air mail
on the 16th of June.

2. The C.A. for
the Col. are being
requested to pay to
Wundanyi Ltd. from
Kenya Govt funds, the

Copy to Kenya (3)

2 dft.

FURTHER ACTION.

Make copies for
enclosing in
dup. to Kenya

sum of £⁵⁵⁰ mentioned in clause 2 of the Agreement as a deposit - account of the purchase price. It is assumed that you will now forward to this office the Abstract of title, in order that it may be despatched to the Acting Governor by the Air Mail which closes on the morning of Saturday June 15th.

(Signed) J. E. W. FLOOD

C.O.

Mr. Austin 1/6
Mr. Flood 11/6
Mr.

Mr. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Perm. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

CA.

2/15.
FURTHER ACTION.

3800/155

Kenya

Answered by No. 43



12 JUN 1955

Gentlemen

I am a. to inform you that the Govt of Kenya propose to purchase the Wundanyi Estate in that Colony from the present holder, Wundanyi Limited, who solicitors are Messrs Montagu's and Cox & Cardew, 86 Old Queen Victoria St. E.C. 4.

(2) It has been agreed between the parties that the sum of £550 should be paid forthwith to the Vendors

as a deposit on account of the full
purchase price. I am to request
that you will ^{be so good as to} make this payment
immediately, from Kenya Govt. funds,
& notify this office as soon as a
receipt has been obtained.

(Signed) J. E. W. FLOOD

C. O.

58000/35

33 30

Mr. Jackson 21/5
Mr. Roberts Wray 22/5
Mr. Hood 22
Mr. Parlinson.

To go on Sat: May 25th

Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh
Perm. U.S. of S.
Parly. U.S. of S.
Secretary of State.

C. D.
R 25 MAY
D 76

60000-10000
12 45 per
25/5/35
det. g

loc No. 132

DRAFT. Tel.

Gov. Nairobi

My dep. on May 3rd
Procedure contemplated is as
follows. On leaving from
you that agreements ^{has} been
executed ^{and dispatches} I shall
arrange for payment of
deposit and transmit to
you abstract of title received
from company. Company
have undertaken to execute
agreement within one week
of receipt. Deeds are
being sent to ATKINSON
BOWN in Nairobi with
instructions to produce them
for inspection against production
of Abstract. Date to be

FURTHER ACTION.

inserted in Clause 6 should not be more than 100 days after date of despatch returning agreements to me.

SECEP.

C. O.

38001/35

325

Mr. Flood 22-5 of

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parli. U.S. of S.

Parly. U.S. of S.

Secretary of State.

23 May 1935

DRAFT.

(30)

Messrs Matignon and Coqs & Cadole

Gentlemen

I am so to ask the rest of your letter of the 21st of May forwarding two engrossed copies of the Agreement for the sale of the Comandari estate to the Govt. of Kenya and to state that copies of the agreement's ~~original~~ ^{original} ~~original~~ ^{original} were despatched to Kenya by the air mail which left here on the 22nd of May and is due to reach Nairobi on the 27th of May.

2. In order to avoid difficulty ^(a delay) the S. of P. proposes to telegraph to the Acting Governor of Kenya of Nairobi on the 25th of May in the terms of the enclosed draft. The telegram will then be available for concn. along with the agreements.

FURTHER ACTION.

(Signed) J. E. W. FLOOD

BY HAND



21 MAY 1935

REGY

TELEPHONE CITY 1421 PRIVATE BRANCH EXCHANGE
TELEGRAMS SYNONYM CENT LONDON

30.59

MONTAGU'S AND COX & CARDALE

SOLICITORS

M. GOLDMAN & CO. LL.D.
R. H. WYER
R. BISHOP BA. LL.D.
J. S. LEFFMAN

EAST AFRICAN DEPARTMENT.
For the attention of Mr. Freston.

Under Secretary of State,
Colonial Office,
Downing Street, S.W.1.

Dear Sir,

Wundanyi Estate - Sale to Kenya Government.

We send you by hand engrossment of the Agreement in duplicate for execution by the Acting Governor of the Kenya Government. We also return the old Agreement in which we have made the alterations in red ink. Actually we have not copied Rider "A" into it as it is set out in plain terms in your letter of the 18th instant.

We would suggest the following procedure for your consideration :-

1. Immediately on your informing us that the Agreement has been executed by the Acting Governor and is on its way home, and paying us the deposit, we will forthwith hand you the Abstract of Title for dispatch to the Government.
2. We will give you our personal undertaking that a Board Meeting of the Company shall be held within one week of the delivery to us of the two Agreements (which meantime we will undertake to hold on behalf of the parties) and that the Agreement shall at such meeting

Miss E. Victoria Smith
London, E.C.4. 21st May 1935

1321

Under Secretary of State.

21st May 1935.

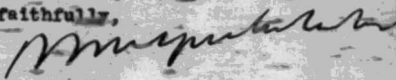
be executed by the Vendor Company.

3. In anticipation that the matter will not be delayed, we are now sending out the Deeds by Registered Parcel Post, insured, to Messrs. Atkinson, Brown, Morrison & Ainslie, Solicitors in Mombasa, and are giving them instructions to produce them to the Government of Kenya for inspection against production by the Government of Kenya of our Abstract of Title.

With regard to clause 6 we leave the Government to insert a suitable date on the understanding that it will not be more than three months and fourteen days from the date of the dispatch of the document duly executed to England.

Should you have any comments on the above suggestions, perhaps you will be good enough to telephone the writer this afternoon.

Yours faithfully,



This Agreement

is made the _____ day of _____

1985 BETWEEN WUNDANYI LIMITED the registered office of which

is situate at 88/88 Queen Victoria Street in the City of London (hereinafter

called "the Vendor") of the one part and *Joseph Mayans Nyoni J. C. N. G.*
N. B. C. S. B. holding the honorary rank of Brigadier General in His Majesty's
Army Governor and Commander-in-Chief of the Colony & Protectorate
of Kenya for & on behalf of His Most Gracious Majesty King George the Fifth
(hereinafter called "the Purchaser") of the other part.

mutually
WHEREBY IT IS AGREED as follows:-

1. THE Vendor will sell and the Purchaser will buy the fee simple in possession free from incumbrances (except as expressly hereinafter mentioned)

of ALL THAT ^{*above the hereditaments & premises comprised in & conveyed by*} piece or parcel of land in the province of Seyidie in the East

Africa Protectorate comprising 1288 acres or thereabouts which said piece

or parcel of land is more particularly described and is delineated in the

(of which the Purchaser has inspected a copy)
plan annexed to an Indenture of Conveyance dated the 19th September 1900

and made between Lieutenant Colonel James Hayes Sadler C.B., His Majesty's

^{*the*} then Commissioner for ^{*the Colony & Protectorate of Kenya*} East Africa of the one part and the Industrial Missions

Aid Society of the other part ^{*and registered in the Transfer Registry of the*}
^{*said Protectorate*} *of 10 of 1906 together with the buildings and land*

^{*all other premises in & development standing & being thereon*} The title to the
2. THE price shall be £8,000 of which the sum of £500 by way of deposit

^{*5,500*} is now paid to the Vendor's Solicitors, Messrs. Montagu's and Cox & Cardale

^{*Shareholders*}
of 88/88 Queen Victoria Street in the City of London as Agents for the

Vendor and the balance of the purchase money shall be paid on the date

fixed for completion of the purchase.

3. (1) The Purchaser shall in addition pay for the Fixed Plant

Furniture Implements Tools Chattels and things more particularly described

in the Schedules hereto and for all other Plant Furniture Implements Tools

Fixtures in the nature of Tenants fixtures chattels and things belonging

63

to the Vendor and situate on or used in connection with the property at the date of actual completion of the purchase Such articles as aforesaid shall be paid for according to a valuation to be made as hereinafter provided.

(ii) The Vendor shall be treated as an outgoing tenant and the Purchaser as an incoming tenant or landlord and accordingly the Purchaser shall pay to the Vendor on completion all money properly payable by an incoming tenant or the landlord for growing crops manure tillages and other matters and the amount shall be ascertained by a valuation to be made in accordance with such statute ordinance or custom (if any such there be) as may be applicable to the property. Subject to any such statute ordinance or custom and as next provided the valuation shall so far as possible be made in accordance with the provisions in the next sub-clause contained. The amount of any such valuation as is referred to in this sub-clause shall in no event be a less sum than the total of the expenditure made upon the property since the 1st January 1934 and up to the date of actual completion of the purchase in respect of manuring pest destruction pruning weeding tilling and the like together with a fair sum in respect of the value of growing crops existing at the date of actual completion.

(iii) Any valuation to be made under this clause shall be made in the following manner:-

(a) Each party (the Vendor and Purchaser) or their respective solicitors shall within 21 days after the date hereof appoint by writing a valuer and give notice in writing to the other party of the name and address of the valuer appointed by it.

(b) The two persons so appointed shall make the valuation but before they commence their duties they shall in writing appoint an umpire.

64

(c) The decision of the two valuers, if they agree, or of their umpire if they disagree shall be final.

(d) Each party shall pay a moiety of the costs of valuation.

(e) If either party shall neglect or refuse:-

(1) to appoint a valuer

(2) to give notice of the appointment in the manner and within the time aforesaid the valuer (if any) appointed by the other party shall make the valuation and his valuation shall be final.

(f) Separate valuers may be appointed by either party and separate umpires by the Valuers to deal with the Valuations under sub-clauses

(1) and (2) of this clause respectively.

(iv) The expression "balance of the purchase money" in this agreement shall include the amount of the said valuations.

4. THE title shall commence with the said Indenture dated 19th September 1906.

5. REQUISITIONS and objections (if any) in respect of the title abstract or description of the property or otherwise arising out of this contract and not precluded by the terms hereof shall be delivered in writing to the Vendor's Solicitors within 14 days from the delivery of the abstract and any further objection or requisition arising upon any reply to a former requisition shall be so delivered within seven days from the delivery of such reply and every requisition or objection not so delivered shall be deemed to be waived and subject only to requisitions and objections so delivered the title shall be considered accepted time being in this respect of the essence of the contract. For the purpose of any objection

or requisition the abstract shall be considered complete if it supplies

the information suggesting the same although otherwise defective. *except for the purpose of any further requisitions or objections which could not be taken or made on the information therein contained.*

4. 6. IN making such requisitions or objections the Purchaser shall be bound by the following stipulations:-

(1) By an Indenture dated 22nd February 1916 and made between the East African Industries Limited of the one part Robert Williams Thomas Walker Hobart Inskip and David James Stather Hunt (erroneously therein called David James Strather Hunt) (hereinafter called "the Trustees") of the second part and the Vendor of the third part the property sold was conveyed to the Vendors by the Trustees therein named by virtue of the powers contained in an Indenture of Trust dated 21st November 1910 and made between East African Industries Limited of the one part and the said Trustees of the other part and in the said Indenture dated 22nd February 1916 it was recited that the holders of stock issued in pursuance of the said Indenture dated 21st November 1910 and an Indenture dated 8th February 1912 supplemental to the said Indenture of the 21st November 1910 being holders of more than three-fourths in value of the stock for the time being outstanding by Instruments in writing had sanctioned the release of the said property and had authorized the said Trustees to enter into the agreement for the sale thereof The Vendors shall not be required to produce the said Instruments in writing nor shall any requisition or objection be made in respect thereof and it shall be assumed that the said Trustees were properly authorized and empowered to convey and release the property according to the tenor of the said Indenture of the 22nd February 1916 and to vest the said land in the Vendor

No objection or requisition shall be made as to the error in the name of the said David James Stather Hunt.

(2) No objection shall be taken or requisition made on the ground that the said ~~Indenture~~ ^{any Title Deed or Document} dated ~~22nd February 1916~~ was purported to be executed under a power or powers of attorney nor on the ground of the non-production of such power or powers and the Purchaser shall assume without enquiry that ~~the said Indenture was~~ ^{any such Deed or Document was} properly and validly executed by the party or parties under whose powers of Attorney it purports to have been executed.

(3) The property is sold subject to the Crown Lands Ordinance 1902 and any substituted or re-enacted or further Ordinance or any Statute in force and applicable thereto and to the rules for the time being in force thereunder respectively ^{(as so believed by the vendors as to the fact} and the Purchaser shall assume that the provisions of such Statutes Ordinances and rules have been duly complied with up to the date of actual completion and shall be deemed to purchase with full notice of any such Statutes Ordinances and rules respectively and shall not make any objection or requisition in respect thereof.

(4) The property is sold subject to all claims and rights of natives and squatters and of any person or persons who may be in possession or apparent possession (whether as of right or by adverse claim or otherwise) of any part of the property sold (save and except the tenancy of Mr. Dru Drury) whether such claims or rights arise or are made by or pursuant to custom ordinance or otherwise. The property is also sold subject to all ^(if any) chief and other rents and to all ^(if any) easements and quasi-easements and liabilities to maintain fences or repair roads

or requisition the abstract shall be considered complete if it supplies the information suggesting the same although otherwise defective. *Except for the purpose of any further requisitions or objections which could not be taken or made on the information herein contained.*

6. IN making such requisitions or objections the Purchaser shall be bound by the following stipulations:-

(1) By an Indenture dated 22nd February 1916 and made between the East African Industries Limited of the one part Robert Williams Thomas Walker Hobart Inskip and David James Stather Hunt (erroneously therein called David James Strather Hunt) (hereinafter called "the Trustees") of the second part and the Vendor of the third part the property sold was conveyed to the Vendors by the Trustees therein named by virtue of the powers contained in an Indenture of Trust dated 21st November 1910 and made between East African Industries Limited of the one part and the said Trustees of the other part and in the said Indenture dated 22nd February 1916 it was recited that the holders of stock issued in pursuance of the said Indenture dated 21st November 1910 and an Indenture dated 8th February 1912 supplemental to the said Indenture of the 21st November 1910 and holders of more than three-fourths in value of the stock for the time being outstanding by Instruments in writing had sanctioned the release of the said property and had authorised the said Trustees to enter into the agreement for the sale thereof The Vendors shall not be required to produce the said Instruments in writing nor shall any requisition or objection be made in respect thereof and it shall be assumed that the said Trustees were properly authorised and empowered to convey and release the property according to the tenor of the said Indenture of the 22nd February 1916 and to vest the said land in the Vendor

No objection or requisition shall be made as to the error in the name of the said David James Stather Hunt.

(2) No objection shall be taken or requisition made on the ground that the said Indenture dated ^{any Title Deed or Document} 22nd February 1918 was purported to be executed under a power or powers of attorney nor on the ground of the non-production of such power or powers and the Purchaser shall assume without enquiry that ^{any such Deed or Document was} the said Indenture was properly and validly executed by the party or parties under whose powers of Attorney it purports to have been executed.

(3) The property is sold subject to the Crown Lands Ordinance 1902 and any substituted or re-enacted or further Ordinance or any Statute in force and applicable thereto and to the rules for the time being in force thereunder respectively and the Purchaser shall assume ^(as is believed by the vendors to be the fact) that the provisions of such Statutes Ordinances and rules have been duly complied with up to the date of actual completion and shall be deemed to purchase with full notice of any such Statutes Ordinances and rules respectively and shall not make any objection or requisition in respect thereof.

(4) The property is sold subject to all claims and rights of natives and squatters and of any person or persons who may be in possession or apparent possession (whether as of right or by adverse claim or otherwise) of any part of the property sold (save and except the tenancy of Mr. Dru Drury) whether such claims or rights arise or are made by or pursuant to custom ordinance or otherwise The property is also sold subject to all ^(if any) chief and other rents and to all ^(if any) easements and quasi-easements and liabilities to maintain fences or repair roads

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tracks or drains and the like to which the same may be subject. Subject as aforesaid the property is sold with vacant possession on completion.

In respect of any such claim or right as aforesaid subject to which the property is sold the Purchaser may after accepting the Title and subject to agreeing to keep the Vendor indemnified from all claims by any such party as aforesaid consequential on the notice in writing require the Vendor to serve any notice to quit or other notice affecting the property which would be valid and thereupon the Vendor shall with all convenient despatch serve such notice.

(5) The Purchaser shall admit the identity of the property purchased by him with that comprised in the documents offered by the Vendor as the title thereto upon the evidence (if any) afforded by a comparison of the descriptions contained herein and in such documents respectively.

(6) The property is believed and shall be taken to be correctly described. No error omission or misdescription of the property or its area or extent shall invalidate this contract or be the subject of compensation by either party.

(7) The Purchaser shall not make any objection or requisition on account of the absence or insufficiency of any covenant acknowledgment or undertaking for the production or safe custody of documents.

(8) Subject to the proviso in this sub-clause contained any document which may not have been registered or properly registered in any local register and of which registration may be lawfully required by the Purchaser and be practicable and any document which may not have been stamped or sufficiently stamped shall be registered

or stamped (as the case be) at the Vendor's expense. Provided that notice in writing of the purchasers requirements in this behalf shall be received by the Vendor ~~if practicable before completion and if not as practicable~~ ^{or} within three months after completion (time being the essence of this provision) and in default of or subject only to any such requirement (if duly made) the Vendor shall not be required to comply with any requirement hereunder. The Purchaser shall not make any other objection or requisition in respect of such non-registration or stamping or insufficient registration or stamping nor shall the completion of the purchase be delayed with a view to such registration or stamping.

(9) The Purchaser shall be deemed to buy with full notice of the actual state and condition of the property sold and shall take the property as it is.

(10) Recitals statements and descriptions of facts matters and parties contained in deeds or instruments ^{Acts of Parliament, Statutory Declarations} 25 years old at the date hereof shall ~~be taken to be conclusive evidence of the truth of such~~ ^{unless a receipt is made as they may be proved to be inaccurate or false.} facts matters and descriptions And all deeds and instruments shall ^(unless and except so far as the contrary may be proved) be deemed to have been duly executed by the parties thereto purporting to execute the same. ~~No requisition or objection shall be made in respect of any matter referred to in this sub-clause.~~

7. SHOULD any objection or requisition whatsoever be insisted on which ^(on the ground of expense) the Vendor shall be unable or unwilling to satisfy or comply with the Vendor may (notwithstanding any attempt to remove or satisfy the same or any negotiation or litigation in respect thereof) by notice in writing to the Purchaser or its solicitor rescind the contract upon repaying the

deposit without interest costs ^{or} compensation to the Purchaser who shall accept the same in full satisfaction of all claims under the contract or otherwise howsoever. The Purchaser shall thereupon return to the Vendor the abstract and all papers belonging to the Vendor ⁱⁿ its possession in connection with this sale. If the Purchaser within seven days after receiving notice to rescind withdraws the objection or requisition the notice to rescind shall be withdrawn also.

6 5. 8. (1) The completion of the purchase and payment of the balance of the purchase money shall take place on the 31st day of December next at the Office of Messrs. Montagu's and Cox & Cardale of 80/88 Queen Victoria Street in the City of London the Vendor's Solicitors. If from any cause whatever (other than non-completion caused by the wilful default of the Vendor) the balance of the purchase money shall not be paid on that day the Purchaser shall (subject to the provisions of the next clause hereof) pay to the Vendor interest thereon at the rate of ^{5%} 5% per annum computed from that day until actual payment. (Back)

9. THE Vendor shall as from the date when interest becomes payable under this Clause have the option to be exercised at any time prior to actual completion of taking the rents and profits or an apportioned part as the case requires less the outgoings or an apportioned part thereof up to the date of actual completion in lieu of interest otherwise payable under this ^{Agreement} condition and if the said option is exercised the same payments allowances and apportionments shall be made as on the date of actual completion as if that date had been the date hereinbefore fixed for completion.

7.

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The purchaser may take possession of the property before actual completion upon depositing in any joint Stock Bank in London approved by the Vendor in the joint names of the Vendor or its nominee & of the Purchaser or his nominee the balance of the purchase money

as from the date of taking possession the Purchaser shall pay interest on the balance of such purchase money at the rate of 5% until actual completion when such deposit shall forthwith be released to the Vendor. The Purchaser shall as from the date of taking possession of the property pay all outgoings in respect thereof & shall not do or suffer anything to be done whereby the property may be impaired & if this Agreement shall be recorded will forthwith deliver up

possession of the property ^{to the} Vendor unimpaired as aforesaid.

Possession by the Purchaser under this clause shall not be deemed to be an acceptance by him of the Vendor's title.

(Front)

10. ON payment of the balance of the purchase money in accordance with clause ^{5 or 6} 8 hereof the Vendor will execute a proper assurance to the Purchaser of the property sold such assurance to be prepared and perfected by and at the expense of the Purchaser and the draft thereof left at the office of the Vendor's Solicitor for approval not less than 14 days and the engrossment left at the same office for execution by the Vendor not less than seven days before the date fixed for completion.

11. THE Purchaser shall upon completion of the purchase repay to the Vendor all moneys (if any) expended by the Vendor in complying or partially complying with any requirements enforceable against the Vendor of which notice shall be given to the Vendor after the date hereof by any local or other authority in respect of any property or thing hereby sold and shall indemnify the Vendor against any such requirements which shall not have been fully complied with Provided that the Vendor shall immediately upon the receipt by it of any such notice as aforesaid inform the Purchaser thereof and give it the option of complying therewith and shall not expend any money in compliance with any such requirement except upon the Purchaser's neglect to do so.

12. SUBJECT to the Purchaser obtaining the sanction of the insurance company and paying an apportioned part of the current premium from the date hereof the Vendor will hold the existing policy of insurance on the property in trust for the Purchaser in case the purchase shall be completed.

13. SHOULD the Purchaser fail to observe or comply with any of the foregoing stipulations on ^{his} ~~its~~ ^{his} part ^{his} ~~its~~ deposit shall be forfeited to the

Vendor who may rescind the sale and resell the property either by public auction or private contract subject to such stipulations as the Vendor may think fit and any deficiency in price which may result on and all expenses attending the resale or attempted resale shall be made good by the Purchaser and shall be recoverable by the Vendor as liquidated damages (the Purchaser receiving credit for the deposit) Any increase of price on the resale shall belong to the Vendor.

IN WITNESS etc.

THE SCHEDULE above referred to:-

PLANT.

HYDRAM AND PIPING AND TANKS

DRYING TABLES

At Factory:-

- 1 Turbine
- 1 No. 1 Coffee Pulper
- 1 Two-Disc Pulper
- 1 Drying Machine
- 1 Smout Huller
- Shafting and Pulleys
- Belting
- Maize Mill

FURNITURE, FIXTURES & UTENSILS.

- 1 Metal Safe - Large
- 1 " " - Medium
- 1 " " - Small
- 2 Office Chairs
- 1 Office Table (with drawers)
- 1 Verandah Table (" ")
- 1 Hanging Cupboard
- 2 Wash Stands (Oil Boxes)
- 2 Small Cupboards
- 1 Camp Bed
- 3 Camp Chairs

- 1 Kitchen Table
- 1 Store Table
- 1 Iron Bed
- 1 Large Bookshelf
- 2 Packing Case Sideboards
- 2 Wooden Beds
- 1 Table (Pantry)
- 1 Table (Packing Case)
- 2 Towel Rails
- 1 Chair Steel
- 1 Kitchen Stove
- 1 Sitting Room Stove
- 2 Sitting Room Chairs
- 1 Iron Spring Bed Mattress
- 1 Round Teak Table (Polished)
- 1 Shelf in Office
- 1 Typewriter Table
- 1 Veranda Tea Table

IMPLEMENTS, TOOLS &c.

- 1 Portable Vice & Stand
- 1 Forge
- 3 Forge Tools- Tongs
- 6 Handled Tools
- 2 Unhandled Tools
- 1 Grindstone and Trough
- 1 Rain Gauge
- 1 Steel Yard
- 1 Winnower
- 1 Anvil
- 1 Thermometer
- 1 Large Spraying Machine
- 1 Bucket " "
- 1 Knapsack " "
- 1 Typewriter
- 1 Hand Cart
- 5 Hammers

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3 Screwdrivers
 2 Cold Chisels
 5 Firmer Chisels
 2 Soldering Irons
 1 Pincers
 1 Large Clyburn Spanner
 1 Spirit Level - Large
 1 " " Small
 1 Adze
 1 Brace
 10 " Bits
 3 Stone Hammers
 1 Sledge Hammer
 1 Footprint Wrench
 1 Gimlet
 3 Files - Round
 3 " Saw
 4 " on Card
 2 Oil Stones Pieces
 1 Marking Gauge
 1 Gas Pliers
 2 Oil Cans
 1 Smoothing Plane
 2 Try Plane - 2½ ins.
 1 Jack Plane - 2½ ins.
 1 Foot Rule
 3 Medium Hand Saws
 2 Tenon Saws
 3 Carpenters Squares
 1 Parallel Vice
 4 Masons Trowels
 1 Steel Square
 1 Actua Blow Lamp
 10 Paint Brushes
 2 Distemper Brushes
 1 1 Ton Jack
 3 Stone Wedges
 1 Nail Puller

1 Breast Drill
 9 " " Bits
 6 Axes
 6 Rammers
 10 Pangas
 2 Crow Bars - Large
 4 " " - Small
 2 Pick Axes
 2 Shovels
 3 Forks - Manure
 2 Measuring Chains
 1 Pruners
 1 Abney Level
 1 Horse Rug
 1 " Fly Coat
 1 Saddle and Irons
 1 Bridle
 1 Headstall
 2 Curry Combs
 1 Tail Comb
 1 Measuring Tape
 5 Fork Jambies
 1 Buck Saw
 3 " " Blades
 1 Pipe Wrench
 1 Factory Clock
 2 Coffee Hand Trolleys
 1 Platform Weighing Machine
 1 Frame Saw
 2 Ladders
 1 Hawk Eye Wrench
 10 Paulins
 1 Petrol Pressure Lantern
 2 Sets of Box Spanners
 1 Wheelbarrow
 3 New Spades
 4 Old Spades

- Deming*
1 Emery Hand Pump and Hose
2 Entrenching Tools
6 Wood Splitting Wedges
171 Draining Trays
1 Shoulder Hoe
1 Bucket

MOTOR VEHICLE.

- 1 Ford Lorry.

Dated

1934.

WUNDANYI LIMITED

- and -

The Governor & Commander in Chief of
Kenya Colony & Protectorate on behalf
of His Most Gracious Majesty
the King

~~SECRET~~

DRAFT

~~SECRET~~

Agreement

- for -

at Wundanyi
sale of land in the province of
Seydié, East Africa.

S L S S

2035

Plan signed in
duplicate for execution
- single line spacing
in demis.

F.E. 5/2/35

NOTE - One agreement
wants without fail
by 4 p.m. to day

MONTAGU'S AND COX & CARDALE,
86/8 Queen Victoria Street,
London, E.C.4.

Dated

1934.

WUNDANYI LIMITED

- and -

*The Governor + Commander in Chief of
Kenya Colony + Protectorate on behalf
of His Most Gracious Majesty
the King*

~~WUNDANYI LIMITED~~

DRAFT

1-3-35

~~WUNDANYI LIMITED~~

Agreement

- for -

at Wundanyi

sale of land in the province of
Seyidie, East Africa.

MONTAGU'S AND COX & CARDALE,
86/8 Queen Victoria Street,
London, E.C.4.

This Agreement

is made the
day of _____ One
thousand nine hundred and

thirty five BETWEEN WUNDANYI LIMITED the registered office of which is situate at 86/88 Queen Victoria Street in the City of London (hereinafter called "the Vendor") of the one part and ~~ROBERT WILLIAMS THOMAS WALKER HOBART~~ ~~ALOUSUS STATHUR~~ ~~General~~ ~~in His Majesty's Army~~ ~~holding the honorary rank of Brigadier General in His Majesty's Army~~ Governor and Commander-in-Chief of the Colony and Protectorate of Kenya for and on behalf of His Most Gracious Majesty King George the Fifth (hereinafter called "the Purchaser") of the other part.

WHEREBY IT IS MUTUALLY AGREED as follows :-

1. THE Vendor will sell and the Purchaser will buy the fee simple in possession free from incumbrances (except as expressly hereinafter mentioned) of ALL THAT and those the hereditaments and premises comprised in and conveyed by an Indenture (of which the Purchaser has inspected a copy) dated the Nineteenth day of September One thousand nine hundred and six and made between Lieutenant Colonel James Hayes Sadler C.B. His Majesty's then Commissioner for the East Africa Protectorate (now known as the Colony and Protectorate of Kenya) of the one part and the Industrial Missions Aid Society of the other part and registered in the Taveta Registry of the said Protectorate as No. 10 of A 1906 together with the buildings erections crops and all other improvements and development standing and being thereon. The title to the hereditaments shall commence with the said Indenture.
2. THE price shall be FIVE THOUSAND FIVE HUNDRED POUNDS of which the sum of Five hundred and fifty pounds by way of deposit is now paid to the Vendor's Solicitors Messrs Montagu's and Cox & Cardale of 86/88 Queen Victoria Street in the City of London as Stakeholders and the balance of the purchase money shall be paid on the date fixed for completion of the purchase.
3. REQUISITIONS and objections (if any) in respect of the title abstract or description of the property or otherwise arising out of this contract and not precluded by the terms hereof shall be delivered in writing to the Vendor's Solicitors within ~~60~~ 60 days from the delivery of the abstract and any further objection or requisition arising upon any reply to a former requisition shall be so delivered within ~~30~~ 30 days from the delivery of such reply and every requisition or objection not so delivered shall be deemed to be waived and subject only to requisitions and objections so delivered the title shall be considered accepted time being in this respect of the essence of the contract. For the purpose of any objection or requisition the abstract shall be considered complete if it supplies the information suggesting the same although otherwise defective except for the purpose of any further requisitions or objections which could not be taken or made on the information therein contained.
4. IN making such requisitions or objections the Purchaser shall be bound by the following stipulations:-

(1) BY an Indenture dated Twenty second February One thousand nine hundred and sixteen and made between the East African Industries Limited of the one part Robert Williams Thomas Walker Hobart Inskip and David James Stather Hunt (erroneously therein called David James Strather Hunt) (hereinafter called "the Trustees") of the second part and the Vendor of the third part the property sold was conveyed to the Vendors by the Trustees therein named by virtue of the powers contained in an Indenture of Trust dated Twenty first November One thousand nine hundred and ten and made between East African Industries Limited of the one part and the said Trustees of the other part and in the said Indenture dated Twenty second February One thousand nine hundred and sixteen it was recited that the holders of stock issued in pursuance of the said Indenture dated Twenty first November One thousand nine hundred and ten and an Indenture dated Eighth February One thousand nine hundred and twelve supplemental to the said Indenture of the Twenty first November One thousand nine hundred and ten being

LARMIGEL
de VINS
WADE
an Officer
of the Most
Excellent Order
of the British
Empire Achuy

holders of more than three-fourths in value of the stock for the time being outstanding by Instruments in writing had sanctioned the release of the said property and had authorised the said Trustees to enter into the agreement for the sale thereof. The Vendors shall not be required to produce the said Instruments in writing nor shall any requisition or objection be made in respect thereof and it shall be assumed that the said Trustees were properly authorised and empowered to convey and release the property according to the tenor of the said Indenture of the Twenty second February One thousand nine hundred and sixteen and to vest the said land in the Vendor. No objection or requisition shall be made as to the error in the name of the said David James Stather Hunt.

- (2) NO objection shall be taken or requisition made on the ground that any Title Deed or Document was purported to be executed under a power or powers of attorney nor on the ground of the non-production of such power or powers and the Purchaser shall assume without enquiry that any such Deed or Document was properly and validly executed by the party or parties under whose powers of Attorney it purports to have been executed.
- (3) THE property is sold subject to the Crown Lands Ordinance 1902 and any substituted or re-enacted or further Ordinance or any Statute in force and applicable thereto and to the rules for the time being in force thereunder respectively and the Purchaser shall assume (as is believed by the Vendors to be the fact) that the provisions of such Statutes Ordinances and rules have been duly complied with up to the date of actual completion and shall be deemed to purchase with full notice of any such Statutes Ordinances and rules respectively and shall not make any objection or requisition in respect thereof.
- (4) THE property is sold subject to all claims and rights of natives and squatters and of any person or persons who may be in possession or apparent possession (whether as of right or by adverse claim or otherwise) of any part of the property sold (save and except the tenancy of Mr. Dru Drury) whether such claims or rights arise or are made by or pursuant to custom ordinance or otherwise. The property is also sold subject to all (if any) ~~claims and other rights~~ and to all (if any) easements and quasi-easements and liabilities to maintain fences or repair roads tracks or drains and the like to which the same may be subject. Subject as aforesaid the property is sold with vacant possession on completion. In respect of any such claim or right as aforesaid subject to which the property is sold the Purchaser may after accepting the Title and subject to agreeing to keep the Vendor indemnified from all claims by any such party as aforesaid consequential on the notice in writing require the Vendor to serve any notice to quit or other notice affecting the property which would be valid and thereupon the Vendor shall with all convenient despatch serve such notice.
- (5) THE Purchaser shall admit the identity of the property purchased by him with that comprised in the documents offered by the Vendor as the title thereto upon the evidence (if any) afforded by a comparison of the descriptions contained herein and in such documents respectively.
- (6) THE property is believed and shall be taken to be correctly described. No error omission or misdescription of the property or its area or extent shall invalidate this contract or be the subject of compensation by either party.
- (7) THE Purchaser shall not make any objection or requisition on account of the absence or insufficiency of any covenant acknowledgment or undertaking for the production or safe custody of documents.
- (8) SUBJECT to the proviso in this sub-clause contained any document which may not have been registered or properly registered in any local register and of which registration may be lawfully required by the Purchaser and be practicable and any document which may not have been stamped or sufficiently stamped shall be registered or stamped (as the case be) at the Vendor's expense. Provided

that notice in writing of the purchaser's requirements in this behalf shall be received by the Vendor before or within three months after completion (time being the essence of this provision) and in default of or subject only to any such requirement (if duly made) the Vendor shall not be required to comply with any requirement hereunder. ~~The Purchaser shall not make any other objection or requisition in respect of such non-registration or stamping or insufficient registration or stamping nor shall the completion of the purchase be delayed with a view to such registration or stamping.~~

- (9) THE Purchaser shall be deemed to buy with full notice of the actual state and condition of the property sold and shall take the property as it is.
- (10) RECITALS statements and descriptions of facts matters and parties contained in deeds instruments Acts of Parliament or Statutory Declarations Fifteen years old at the date hereof shall unless and except so far as they may be proved to be inaccurate be taken to be sufficient evidence of the truth of such facts matters and descriptions. And all deeds and instruments shall (unless and except so far as the contrary may be proved) be deemed to have been duly executed by the parties thereto purporting to execute the same.
5. SHOULD any objection or requisition whatsoever be insisted on which the Vendor shall be unable or unwilling (on the ground of expense) to satisfy or comply with the Vendor may (notwithstanding any attempt to remove or satisfy the same or any negotiation or litigation in respect thereof) by notice in writing to the Purchaser or its solicitor rescind the contract and thereupon shall within ^{2/21} days repay the deposit without interest costs or compensation to the Purchaser who shall accept the same in full satisfaction of all claims under the contract or otherwise howsoever. The Purchaser shall thereupon return to the Vendor the abstract and all papers belonging to the Vendor in his possession in connection with this sale. If the Purchaser within ¹⁴ days after receiving notice to rescind withdraws the objection or requisition the notice to rescind shall be withdrawn also.
6. THE completion of the purchase and payment of the balance of the purchase money shall take place on the ¹⁴ day of ^{July} next at the Office of Messrs. Montagu's and Cox & Cardale of 86/88 Queen Victoria Street in the City of London the Vendor's Solicitors. If from any cause whatever (other than non-completion caused by the default of the Vendor) the balance of the purchase money shall not be paid on that day the Purchaser shall pay to the Vendor interest thereon at the rate of Five per centum per annum computed from that day until actual payment.
7. THE purchaser may take possession of the property before actual completion upon depositing in any Joint Stock Bank in London approved by the Vendor in the joint names of the Vendor or its nominee and of the Purchaser or his nominee the balance of the purchase money and as from the date of taking possession the Purchaser shall pay interest on the balance of such purchase money at the rate of ^{Five} per centum per annum until actual completion when such deposit shall forthwith be released to the Vendor. The Purchaser shall as from the date of taking possession of the property pay all outgoings in respect thereof and shall not do or suffer anything to be done whereby the property may be impaired and if this Agreement shall be rescinded will forthwith deliver up possession of the property to the Vendor unimpaired as aforesaid. Possession by the Purchaser under this clause shall not be deemed to be an acceptance by him of the Vendor's title.
8. ON payment of the balance of the purchase money in accordance with clauses 5 or 6 hereof the Vendor will execute a proper assurance to the Purchaser of the property sold such assurance to be prepared and perfected by and at the expense of the Purchaser and the draft thereof left at the office of the Vendor's Solicitor for approval not less than ³⁰ days and the engrossment left at the same office for execution by the Vendor not less than ⁷ days before the date fixed for completion.

9. THE Purchaser shall upon completion of the purchase pay to the Vendor all moneys (if any) expended by the Vendor in complying or partially complying with any requirements enforceable against the Vendor of which notice shall be given to the Vendor after the date hereof by any local or other authority in respect of any property or thing hereby sold and shall indemnify the Vendor against any such requirements which shall not have been fully complied with. Provided that the Vendor shall immediately upon the receipt by it of any such notice as aforesaid inform the Purchaser thereof and give him the option of complying therewith and shall not expend any money in compliance with any such requirement except upon the Purchaser's neglect to do so.

10. ^{Rider B (delete)} SUBJECT to the Purchaser obtaining the sanction of the insurance company and paying an apportioned part of the current premium from the date hereof the Vendor will hold the existing policy of insurance on the property in trust for the Purchaser in case the purchase shall be completed.

11. ~~10~~ SHOULD the Purchaser fail to observe or comply with any of the foregoing stipulations on his part his deposit shall be forfeited to the Vendor who may rescind the sale and resell the property either by public auction or private contract subject to such stipulations as the Vendor may think fit and any deficiency in price which may result on and all expenses attending the resale or attempted resale shall be made good by the Purchaser and shall be recoverable by the Vendor as liquidated damages (the Purchaser receiving credit for the deposit). Any increase of price on the resale shall belong to the Vendor.

*Vendor's full
of the Supreme
Court of Kenya
thence
directs.*

IN WITNESS ^{See below Rider B)} whereof the Vendor has caused its Common Seal to be hereunto affixed and the Purchaser has hereunto set his hand and seal the day and year first above written.

THE COMMON SEAL of Wundanyi Limited was hereto affixed in the presence of

SIGNED SEALED AND DELIVERED by the above named Joseph Aloysius Byrne in the presence of
ARMIGEL de VINS
W.A.S. O.B.E. Acting Governor and
Commander-in-Chief of the 1st
Colony in the presence of -

Rider B

1A The Purchaser shall not be liable to pay to the Vendor or to the Vendor's solicitor or to any other person or persons or by any legal costs or legal expenses of whatsoever description (including stamp duty, if any) payable in connection with the purchase of the property (including this Agreement for sale) except as is provided for in clause 6 hereof.

D A T E D

1935

WUNDANYI LIMITED

and

THE GOVERNOR & COMMANDER IN CHIEF OF
KENYA COLONY & PROTECTORATE ON BEHALF
OF HIS MOST GRACIOUS MAJESTY THE KING

Second draft
settled 16.5.35.

Agreement

for

Sale of land at Wundanyi in the
Province of Seyidie, East Africa.

x²
P.L.

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PARTICULARS AND CONDITIONS OF SALE

State whether "freehold" or "leasehold" or "adversely affected by mineral interests." Where the property is held by trustees the fact should be stated.

Of

If necessary the particulars may be annexed with the Sale plan.

PARTICULARS.

SPECIAL CONDITIONS OF SALE.

1. The property shall be subject to the following Conditions, and to the Conditions known as the National Conditions of Sale Twelfth Edition (a print being on the back of or annexed to each Contract) so far as the latter Conditions are not inconsistent with the following Conditions.

* The deposit must not be paid to a stakeholder where the Vendor is in a fiduciary position.

2. The deposit shall be _____ per cent. of the purchase-money, and shall be paid to _____ as [stakeholder]*
[Agent for the Vendor] [Agent for the Settled Land Act Trustees of the Vendors].

3. The day for the completion of the purchase shall be the _____ day of _____ 19____.

4. The Vendor's Solicitor[s] [is] [are] _____ whose office is at _____

5. The following things shall be paid for by the Purchaser at a valuation, in accordance with the National Conditions of Sale (namely) :—

State capacity in which Vendor sells (e.g., as absolute owner, as trustee for sale, as personal representative, or tenant for life).

6. The Vendor sells as _____

State whether the property is sold subject to a reserve price or without reserve.

7. The property is sold _____

8. The title shall commence _____

Add any other special conditions required.

e.g. cl. 6. (i) to (4)

Dated

19

*I find the Contract
was in fact based on
a more form of Proceeds
- as the writing is in
many respects different
from them. In substance
it is much the same
FEL*

and

**Particulars, Conditions
and Agreement**

for Sale of

*See note on reverse
FEL*

The Soldiers' and Sailors' Club, Limited,
25 Chancery Lane, W.C.2, ST. @ 15, Walkers, E.C.4, 40 Bedford Row, W.C.1,
5 Victoria, A.W.I., 15 Lancaster St., W.1, 19 & 21 South Street, Liverpool, L.
[See reverse.] MEMS. 20-0-044

National Conditions of Sale No. 1,
[Fourth Edition.]

MEMORANDUM.—It is hereby agreed that

to the Purchaser of Lot

of the Property described in the accompanying Particulars of Sale, from

the Vendor, at the price of £

having been paid to

as a Deposit and in part payment of the Purchase-money, and that the purchase shall be made and completed according

subject to the accompanying Conditions of Sale; the sum of

As witness our hands this	£	s.	d.
Purchase-money	..	..	..
Deposit	..	..	..
Balance payable	£	..	..
Valuation money (if any)	..	..	..
Total	£	..	..

ADVERSE
STAMP 6d.

Abstract to be sent to

[As Agents for the Vendor]

[As Stakeholders]

[As Agents for the Settled Land And Trustees of the Vendor.]

We hereby acknowledge the receipt of the above mentioned
deposit this day of 19

STAMP 6d.
Value charge
given by
Substitution.

C. O.

Mr. *Fraser* 15/5/35

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

38001/35

Kanya

Post Approved by No 21

15 MAY 1935



82

DRAFT.

Thos. Mackay's and
Cox & Cardale

Fraser
W. ref: to the
conference held in this Office
on the 10th of May regarding
the affairs of Wundanyi Ltd.,
I am in the transcript
to you copies of telegraphic
corresp subsequently
exchanged with the
Mining Governor of Kenya.
2. You will observe

copy w/o incl to Kenya (30)

26
27

FURTHER ACTION.

from Mr. Wadi's telegram of the 10th of May
 that the Kenya Govt. accepts the
 amended form (as set out in the
 S.O.S.'s let^r of May the 10th) of
 Clause 7 in the draft Agreement
 for the purchase of Wundanyi Estate.
 S. 82 The S. of S.

presume that you will now proceed
 with the amendment of the ^{draft} Agreement
 and that it will be forwarded
 to this Office for ~~consideration~~
~~in a batch of the first transmission~~
 to Nairobi.

(Signed) J. E. VA FLOOD,

C. O.

Mr. Hewton 10/5
 Mr. Roberts-Wynn 10/5
 Mr. Flood 10.5 at once

Announced by No 24
 38001
 Contacted 10/1/35
 9.30pm
 by P

11 MAY 1944

Mr. Parkinson
 Sir G. Tomlinson
 Sir C. Bottomley
 Sir J. Stuchburgh
 Permt. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

No. 118... Your despatch

18th April 194. After discussion
 with Company at which Mortimer was

present all your amendments have
 been accepted subject to following

(a) In clause 4(c) delete whole
 of last sentence instead of last
 17 words

(b) Compromise reached on Clause 7
 as follows - Begins

Clause A

DRAFT.

GOV.
 NAIROBI.

6000 to 44000 - 20
 H.C.

FURTHER ACTION.

Reciev. L. for
 Minute
 A.P.

Presume you will not object

to this as suggested interest is
 equivalent to what Parliamentary
 grant is now earning in Joint
 Colonial Fund. Please notify

practically

acceptance by telegram in
order that final version of
agreement may be ~~_____~~

from Mr. Wain's telegram of the 15th of May
that the Kenya Govt. accepts the
amended form (as set out in the
S.O.S.'s let^r of May the 10th) of

Clause 7 in the draft Agreement
for the purchase of Wundanyi Estate.
S. 82 The S. of S.

presumes that you will now proceed
with the amendment of the ^{draft} Agreement
and that it will be forwarded

to this Office for examination by
a ~~committee~~ ^{committee} of the Joint Commission

E Nairobi

(Signed) J. E. W. FLOOD,

C.O.

Mr. Hewitt 10/5
Mr. Roberts-Wynn 10/5
Mr. Flood 10.5 alone
Mr. Parkinson
Sir G. Tomlinson
Sir C. Bottomley
Sir J. Saundby
Perm. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

GOV.

NAIROBI.

Letter to the Secretary of State - 26

FURTHER ACTION.

Reciev. L. M. for
M. Wain
A.P.

practically

Presume you will not object
to this as suggested interest is
equivalent to what Parliamentary
grant is now earning in Joint
Colonial Fund. Please notify

No. 118... Your despatch

18th April 194. After discussion
with Company at which Mortimer was
present all your amendments have
been accepted subject to following

- (a) In clause 4(8) delete whole
of last sentence instead of last
17 words
- (b) Compromise reached on Clause 7
as follows - *Begins*

Threat A

Amended by No 21
38001
Sent to Govt
9.30pm 10/5/35
by P

R D 11 MAY 1944

26
23

acceptance by telegram in
order that final version of
agreement may be ~~accepted~~

The purchaser having already taken
 (until, if at all, interest shall become payable under the preceding clause
 possession of the property shall pay interest on the
 balance of the purchase money at the rate of 2 per
 centum per annum from the 1st of April 1935 until
 actual completion. Such possession by the purchaser
 shall not be deemed to be an acceptance by him of the
 vendor's title. .

(Agreed by Mr.
 Robert [unclear]
 [unclear]
 [unclear])
 R.P.
 10/4

C. O.

Mr. *Fraser* 27/4/35
Mr.
Mr.
Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Perm. U.S. of S.

Parly. U.S. of S.

Secretary of State.

38001/35

Kemp

27 APR 1935

DRAFT.

SP

Messrs Montagu and
Cox & Cardale

Gentlemen

With ref to the

letter from this Office of
the 12th of April, I am
pleas'd to enclose for your
consideration - copy of

- despatch from the Acting
Governor of Kenya
containing his observations on
the draft Agreement for

20)

FURTHER ACTION.

21
(withheld and)

the sale of Wunday's Estate.

2. If in the opinion of your clients
the points slide it was could be
most conveniently discussed in conference
with representatives of this Office, the
S. J. S. will be happy to arrange
for such a meeting

(Signed) R. V. VERNON.

AIR MAIL

KENYA
No. 194.



21/80
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED
26 APR 1955
C. O. REGY

18th APRIL, 1955.

Sir,

With reference to your Despatch No. 187 of the 9th March, enclosing an Agreement for the purchase of the Wundanyi Estate I have the honour to request that the Company's Solicitors be invited to engross a revised Agreement which will provide for the following amendments

- ✓ 1. The Agreement will be signed by me instead of by Sir Joseph Byrne.
- ✓ 2. Clause 3 - The number '60' should be inserted in line 4 and the number '30' in line 6.
- ✓ 3. Clause 4(8). The last 17 words should be deleted.

In my view the purchase should not be completed until after the deeds have been inspected here and the matters referred to in this condition are settled to the satisfaction of this Government. If this is not done there is a danger of a repetition of the trouble and expense experienced in the case of the purchase of the Maseno property. It will be recalled that in that case the conveyance was prepared and executed in England and the purchase price was paid over before the title had been examined in Kenya with the result that when the conveyance and the other muniments of title arrived many defects and irregularities came to light and ultimately after no little expense and trouble a court action in England was necessary before a settlement could be reached.

- ✓ 4. Clause 5. Insert the number '21' in line 6 and the number '14' in line '12'.
- ✓ 5. Clause 6. The date to be inserted here should be 3 months after the date of the signing of the Agreement.
- 6. Clause 7. This clause to be deleted - vide paragraph 6 infra.
- ✓ 7. Clause 8. Insert the number '30' in line 6 and the number '7' in line 7.

8. ...

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

*copy of 10 sent.
to M. Wapayi + bot + L. L. L. - 27 -
Amend. Feb. 10/1/55 (26)*

Before final settlement completed

- ✓ 8. Clause 10 should be deleted since Government will not insure the property.
- ✓ 9. Clause 11. The words "unless a Judge of the Supreme Court of Kenya otherwise directs" should be inserted between the word 'forfeited' and the word 'to' in the second line: c.f. condition 20 in the National Conditions of Sale.
- ✓ 10. The signature should provide for signature by me.
- ✓ 11. A specific clause should be inserted providing that the purchaser shall not be liable to pay to the vendor or to the vendor's solicitors or to any other person or persons or company any legal costs or legal expenses of whatsoever description including stamp duty (if any) payable in England in connection with the purchase of the property (including the Agreement for Sale) except as is provided for in Clause 6 of the Agreement for Sale.

2. The special reasons to which I alluded in the third paragraph of my Despatch No. 90 of the 16th February, 1935, were (1) the precedent regarding Maseno mentioned under the third comment in the first paragraph of this despatch and (2) that the position vis-a-vis the Company of Mr. Dru Drury requires careful examination and particularly as regards any mortgagee's interest he may have acquired in pursuance of clauses 3 and 4 of the Indenture dated January 8th 1932 and also what, if any, rights he has by virtue of holding over as tenant since 1932, vide pages 2805-2816 of Vol. 3 of the Kenya Land Commission Evidence.

I still consider that the course of action proposed in my despatch No. 90 of the 16th February is preferable but, notwithstanding that some of the conditions in the Agreement are hardly applicable to a contract for sale of land in Kenya and in which the Crown is purchaser, I do not propose to object to the Agreement subject to the acceptance of the comments in the first paragraph above, and in particular the sixth and eleventh comments.

4. With regard to clause 4(3) of the Agreement as the land is freehold and it is unlikely that the non-fulfilment of any of the provisions of the Crown Lands

Ordinance ...

No 10

What is this?

28/11

1923

P. 2809

K.L.C. Evid. 3.

No

Ordinance 1902 would seriously affect the sale, I am advised that no objection need be taken to this clause.

5. As regards the fourth paragraph of your despatch under reply I am advised that it would be preferable for the vendors, on completion of the Agreement, to forward the title deeds to their agents in Nairobi.

6. As regards the sixth comment in paragraph 1 above Mr. Dru Drury has left the Estate and has gone home to England and I am advised that, in order to maintain the land in reasonable condition, it has been necessary to employ labourers and also to engage an African headman to supervise them. The departure of Mr. Dru Drury pending the completion of the purchase was unanticipated and is somewhat surprising. Since, however, he has left the Estate the above steps were unavoidable but I am wholly unwilling in these circumstances to accept clause 7 of the Agreement or to pay any sum by way of interest or otherwise in excess of the figure of £5500.

In the matter of the legal form of the Agreement, as the Company appear to prefer the form prepared by their lawyers I am prepared to acquiesce but only on the condition that no expense attaches to this Government over and above the figure of £5500 for the purchase of this property. Conformity with clause 8 will not in fact involve this Government in any direct expense.

7. The form of Agreement is returned herewith and I should be glad if it may be re-engrossed to conform with the amendments proposed in this despatch: and then sent out by Air Mail for my signature.

I have the honour to be,
Sir,
Your most obedient, humble servant,

Arthur

ACTING GOVERNOR.

BY HAND



MONTAGU'S AND COX & CARDALE

SOLICITORS.

11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

F. S. LEFFMAN

RECEIVED
5 APR 1935
C. O. REGY

TELEPHONE: *CITY 1421 (PRIVATE BRANCH EXCHANGE)
TELEGRAMS: SYNONYM, CENT, LONDON

16 91
86 & 88 Queen Victoria Street.
(OPPOSITE MARKHAM HOUSE STATION)

London, E.C.4. 5th April 1935

East African Department.
For the attention of Mr. Flood.

The Under Secretary of State,
Colonial Office,
Downing Street, S.W.1.

RECEIVED
5 APR 1935
C. O. REGY

Dear Sir,

**Wundanyi Estate. Proposed Sale to
Kenya Government.**

Our Clients are much concerned to learn that in spite of the cable which you dispatched about a fortnight ago, no communication has been received by your Office from the Kenya Government up to this morning.

In view of our conversations with you prior to the dispatch of the revised draft Agreement for sale we had no doubt in our own minds that you considered it was unobjectionable so far as the information in your possession enabled you to judge; and you have our assurance that to the best of our belief every relevant factor has been disclosed to you.

In anticipation that the matter would be dealt with as an urgent one and that it was virtually settled, our Client Company's Manager, Mr. Drury, returned to England at the beginning of last month leaving only a skeleton staff in charge. Mr. Drury was in

17

The Under Secretary of State.
East African Department.

5th April 1956.

close touch with the District Commissioner and it was clearly understood that the Kenya Government then at any rate intended to continue the cultivation of the Estate and to harvest the crop for the benefit of the Taita tribe. Mr. Drury had made the necessary detailed arrangements with the District Commissioner for completing the transfer of the Estate and as to the labourers employment as soon as the District Commissioner should receive instructions to take over the property. At the time of Mr. Drury's departure the rains had started but the staff left is quite inadequate to cope with even the minimum of work necessary to keep the plantation in reasonable condition.

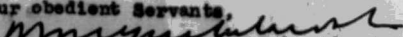
In these circumstances we feel you will appreciate that this delay is extremely serious and may well involve the loss of a valuable crop which might have been harvested for the benefit of this tribe. You will also appreciate that as far as the natives are concerned the situation is most unsatisfactory and that this appearance of indecision cannot but give a most unfortunate impression.

We most urgently press you to communicate with the Kenya Government once again by cable and to impress upon them the necessity of signing the contract immediately, and advising you by cable thereof and authorising you at the same time to place the cash purchase price in the joint names, so that possession may be taken by the Government at once.

We are,

Dear Sir,

Your obedient Servants,



C. O.

R 297

38001/35

15 91

Mr. Flood 22 adme

Mr.

Mr.

Mr. Patkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Handwritten: H6, telegraph section, Arrived by No 19, 6.30 pm 22/III, H.P.

R 23 .IAF
23

March 1935

(13)

No 75

By despatch 9 March No 187

Wardari Company anxious to know result. Please telegraph whether you are prepared to accept agreement in its revised form.

DRAFT.

Handwritten: with all no priority

Governor

Nairobi

FURTHER ACTION.

602
C.O.

3 Feb 1955

1492

Mr. Furnville 11/2/55
Mr. Free to 11/2/55
Mr.

11
D 12

Mr. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Perm, U.S. of S.
Parly, U.S. of S.
Secretary of State.

12 March, 1955

Gentlemen,

I am etc to
acknowledge the receipt
of two copies of the
file of March in which
you enclosed a revised
Agreement for the
sale of the Wundanyi
Estate.

DRAFT.

Messrs Montagu's and Co
and Cardale

(12)

I am to inform you
that the Agreement
and a copy of your
letter were sent to
the Foreman of Kenya
by the Air Mail of
the 10th of March.
A further communication
will be sent to
you in receipt of
the Foreman's reply.

FURTHER ACTION.

NOTE ON DRAFT AGREEMENT.

13

Clause of Agreement.	National conditions to be compared.	Remarks.
3	4(2)	
4(1)	-	Cf. clause 4(10) and section 45(6) of the Law of Property Act 1925.
4(4)	10(1)	
4(5)	9(1)	
4(7)	7(5)	
4(8)	8(1)	The time limit of three months proposed is understood to be designed to enable the liquidator, if the company goes into liquidation, to distribute the assets without fear of a claim under this sub-clause.
4(9)	9(3)	
4(10)	7(3)	See note above on clause 4(1).
5	4(3)	
6	3(6)(7)	
7	-	It has been ascertained from the company's solicitors that they do not intend that interest payable under this clause and any interest payable under clause 6 should be cumulative. The agreement does not, however, seem to be entirely clear on this point, and it is suggested that words to the following effect should be added at the end of clause 7: "If and so long as interest is payable under this clause, no interest shall be payable under the preceding clause".
9	11(1)(2)	
10	19(3)	
11	20	

C O

38001/35

13

Mr. Grossmith. 7,
 Mr. Hunter 7
 Mr. Roberts Way 7/3 See note below
 Mr. Robinson. Hunt 7 fs
 Sir G. Tomkinson
 Sir C. Bottomley.
 Sir J. Shackburgh.
 Perm. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

Answered by No 21

Downing Street,

9 March, 1935.

AIR MAIL.

C.D.
 R EMAR
 D G

Sir,

I have etc. to acknowledge

DRAFT.

KENYA.

NO. 187

GOVERNOR.

the receipt of your despatch No.90
 of the 16th of February ^{with} which you
 enclosed an Agreement for the purchase
 of Wundanyi state.

The Agreement was submitted

to the solicitors acting on behalf of
 the Company in a letter from this
 office
 Department dated the 26th of February,
 a copy of which is enclosed, but at
 an interview at the Colonial Office on
 the 1st of March the solicitors
 explained that they were unable to
 advise their clients to execute the
 deed, and ^{they have subsequently} submitted the ~~draft~~ ^{agreement} of a
 remodelled Agreement.

I enclose the ^{revised} ~~draft~~ letter

~~agreement~~ and a copy of an explanatory letter

To Messrs. Montagu's 26/2/35 (No.11)
 FROM " " 3/5/35 (No.12)
 Agreement.
 Agreement behind No.12)
 Note.
 National Constitution of Kenya (1924 Edition)

FURTHER ACTION.

Rescind for letter to the Co

alteration draft

letter

letter from Messrs. Montagu's & Cox & Cardale ^{for your consideration.}
It will be desired that in the agreement the original draft ^{has been modified in important certain}
I am advised that the revised Agreement ^{is suitable for the advantage}
^{of the Govt of Kenya.}

^{conforms to a considerable extent upon similar to}
conforms with the "National Conditions of Sale No. 1"

and that ^{it is} ^{real} ^{not open to any ground of objection}
it is unobjectionable in terms.

^{copy of}
Note showing the appropriate references in
the National Conditions ^{referred to above} / ^{is} enclosed for your
information ^{and} guidance.

It has been suggested that the

examination of Title ~~documents~~ could be
carried out by Messrs. Burchells. If you ^{consider}
that this suggestion should be adopted
desire to adopt this suggestion you will no
doubt instruct Messrs. Burchells accordingly

^{in due course}
furnishing them with particulars of any
entries in local registers which they may

require. ^{may be} ^{of the} ^{the} ^{other} ^{have} ^{you} ^{are} ^I ^{specify} ^{that} ^{it} ^{would} ^{be} ^{preferable}
for title to be examined in Kenya, ⁱⁿ ^{which} ^{case} ^I ^{would} ^{wish} ^{you}
I have, etc. ^{attention} ^{to} ^{the} ^{last} ^{page} ^{of} ^{the}
enclosed letter from the Company's
directors.

I have, etc.

attention to the last page of the
enclosed letter from the Company's
directors.

You will no doubt consider what
period of time it would be reasonable
to specify in the various places left
blank in the enclosed agreement, a
matter which will largely depend upon
the question raised in the preceding
paragraph.

This, however, is
mainly a question for
the consideration of
your legal advisers,
particularly so
regards clause 4(b), the
effect of which has not
been examined in detail
here in this office.

and a table
^{inter alia}
showing to what
extent they are
reproduced in the
proposed agreement, are

Note on draft Agreement.

4c

Clause of Agreement.	National conditions to be compared.	Remarks.
3	4(2)	
4(1)	3(2)	Cf. clause 4(10) and section 45(6) of the Law of Property Act 1925.
4(4)	10(1)	
4(5)	9(1)	
4(7)	7(5)	
4(8)	8(1)	The time limit of three months proposed is understood to be designed to enable the liquidator, if the company goes into liquidation, to distribute the assets without fear of a claim under this sub-clause.
4(9)	9(3)	
4(10)	7(3)	See note above on clause 4(1).
5	4(3)	
6	3(6)(7)	
7	-	It has been ascertained from the company's solicitors that they do not intend that interest payable under this clause and any interest payable under clause 6 should be cumulative. The agreement does not, however, seem to be entirely clear on this point, and it is suggested that words to the following effect should be added at the end of clause 7: "If and so long as interest is payable under this clause, no interest shall be payable under the preceding clause".
9	11(1)(2)	
10	19(3)	
11	20	

note to Kanga (13)

~~The State Government of India.~~

5th March 1938.

Having refreshed our memory on the earlier correspondence we conclude that the sole objection, in substance, to our draft was due to a misapprehension of the effect and object of clause 6. The Government appears to think that this clause obliges it to accept a bad title and to preclude inspection of the Deeds. This is far from being the case.

May we first point out that under any Contract of sale, a Vendor must prove a good title according to the Contract and that if there emerge any flaw or the evidence of any fact cannot be made available, the Purchaser can formally rescind, unless the facts have been disclosed in the Contract. With an experience extending over many years, we say that points such as these do not arise in clause 6 of our draft crop up in every contract for sale and it is the Vendor's Solicitor's duty to deal with them. In the best of our belief there is in this case, no flaw whatever in the title, but there do exist particular difficulties of proof, in addition to general points which every purchaser who has inspected a property and knows it, may reasonably be expected to accept without raising requisitions or objections, especially where the Vendor has been in undisturbed possession for many years. These points could not be disposed of without undue expense, which the Vendor could not reasonably be expected to incur.

An example of difficulties of proof, we may refer to sub-clauses (1) and (2) of clause 6. The Company is not and could not be expected to be, in possession of the contents of the

~~The Under Secretary of State.~~

5th March 1936.

numerous Debenture Holders of East African Industries Ltd. whereby the Trustees of that Company were authorized nearly twenty years ago to sell the property to Wundanyi Ltd. Were it not for sub-clause (1) inserted in the draft, the Government would be entitled to insist upon the Company (possibly at great expense) producing the consents and to be satisfied that the persons signing them were in fact the Debenture Holders entitled to give the consents. Again, certain documents were executed under powers of attorney which for one reason or another are not now in the Company's possession. It may be that they have been lodged at the local Registry or were kept by the attorneys, but we do not know, and accordingly sub-clause (2) asks the Government to forgo any right to ask for production of them. Neither of stipulations is unreasonable, but they are none the less important and must be disclosed and dealt with in the Contract.

The other matters dealt with in the clause need no further explanation in detail.

No provision is made in the Government's form of contract for a deposit or for a date for completion. It is understood that the Government wished to take possession as soon as possible and there is no objection to this, provided that the usual and proper course of putting the balance of the purchase money up in the joint name of the parties, pending acceptance of the title by the purchaser, be adopted.

The Under Secretary of State.

8th March 1938.

The Company do not wish the Government to gain the impression for one moment that the Company has any doubt but that the transaction will be completed; the Directors, however, have to protect their Shareholders, as well as Debenture Holders, and would be liable in damages to them if they failed to make ordinary businesslike arrangements in relation to the transaction and as a result it, should for one reason or another, fall through.

We trust that these explanations will serve to elucidate our Clients' position and, believing this to be so, we enclose a remodelled form of contract for consideration and, as we hope, execution by the Government. If it is desired that the Book should be inspected in Kenya rather than in London, we will immediately upon intimation that the Government has transmitted the signed Contract to London, forward them to our Agents in Nairobi with instructions to produce them, and we will also hand you the contract duly executed by our clients, and the Abstract of Title against receipt of the Deposit.

We are,

Dear Sir,

Your obedient Servant,



(OVER)

The Under Secretary of State.

8th March 1955.

P.S. There is one blank in clause 4 and there are two blanks in each of the clauses 2, 5 and 7 of the Agreement. We leave them to the Government to insert, presuming that it will make the periods or dates, as the case may be, reasonable. You will no doubt make arrangements to notify to us, when you inform us of the transmission of the completed Contract, the necessary particulars for insertion in the blanks of our copy of the Agreement.

We enclose as arranged, revised draft of the Agreement for comparison by you with the original.

WAC

4th March

36

The Under Secretary of State,
Colonial Office,
Downing Street,
S.W.1.

Dear Sir,

**Wundanyi Limited.
Sale to Kenya Government.**

We duly received your letter of the 28th February in which you were good enough to send us the form of Agreement in duplicate received from H.K. The Governor of Kenya. We have since been favoured with an opportunity to discuss the matter with your Department.

We regret that we cannot advise our Clients to execute the Contract in its present form and we respectfully ask you to draw the Governor's attention to the fact that in view of the wording of clause 3 it would not in fact constitute a contract binding on either party.

The contract as drafted by us originally is clearly not now applicable having regard to the arrangement made with regard to the plant etc. and the crops and we expected that the Government would revise the draft as submitted by us in the light of this arrangement.

Having refreshed our memory on the earlier correspondence we conclude that the sole objection, in substance, to our draft was due to a misapprehension of the effect and object of clause 6. The Government appears to think that this clause obliges it to accept a bad title and to preclude inspection of the Deeds. This is far from being the case.

May we first point out that under any Contract of sale, a Vendor must prove a good title according to the Contract and that if there emerge any flaw or the evidence of any fact cannot be made available, the Purchaser can formally rescind, unless the facts have been disclosed in the Contract. With an experience extending over many years, we say that points such as those dealt with in clause 6 of our draft crop up in every contract for sale and it is the Vendor's Solicitor's duty to deal with them. To the best of our belief there is in this case, no flaw whatever in the title, but there do exist particular difficulties of proof, in addition to general points which every purchaser who has inspected a property and knows it, may reasonably be expected to accept without raising requisitions or objections, especially where the Vendor has been in undisputed possession for many years. These points could not be disposed of without undue expense, which the Vendors could not reasonably be expected to incur.

As examples of difficulties of proof, we may refer to sub-clauses (1) and (2) of clause 6. The Company is not and could not be expected to be, in possession of the consents of the

The Under Secretary of State.

4th March 1938.

The Company do not wish the Government to gain the impression for one moment that the Company has any doubt but that the transaction will be completed; the Directors, however, have to protect their Shareholders, as well as Debenture Holders, and would be liable in damages to them if they failed to make ordinary businesslike arrangements in relation to the transaction and as a result it should, for one reason or another, fall through.

We trust that these explanations will serve to elucidate our Clients position and, believing this to be so, we enclose a pencilled form of contract for consideration and, as we hope, execution by the Governor. If it is desired that the Deed should be inspected in Kenya rather than in London, we will immediately upon intimation that the Government has transmitted the signed Contract to London, forward them to our Agents in Nairobi with instructions to produce them, and we will also hand you the contract duly executed by our clients, and the Abstract of Title against receipt of the Deposits.

We are,

Dear Sir,

Your obedient Servants,

C. O.

Mr. *Wright* 26/2
Mr. *Robert Wray* 26/2
Mr. *Hood* 26 *g/s.*

38000/35

Kang
Answered by No. 12

11 105
A

Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

To go Today

26 FEB 1935

O. D.
R 26 FEB
D 26

DRAFT.

Montague's and
Cox & Cardale

12

Gentlemen

W. ref. to your letter of the 7th of Feb. and subsequent telephonic communications on the subject of Wundanyi Estate, I am now to inform you that he has now received from the Governor of Kenya an agreement (in duplicate) ^{relating to} ~~provision for~~ the transfer of the Estate.

2. Sir Joseph

Byrne suggests that the ~~Agp~~ agreement be

FURTHER ACTION.

copy to Kenya (13)

executed by the Company; and that one completed copy, together with all the original title deeds and other documents relating to the title should be forwarded to Nairobi, in order that they may be examined, the title investigated, and the draft conveyance prepared.

3. The agreement (in duplicate) is enclosed herewith. If the Government's proposals are acceptable to the ^{Wundanyi} ~~Company~~, I am to request that one completed copy of the agreement may be returned to this Office, together with the title deeds and other documents, for transmission to the Government of Kenya.

(Signed) J. E. W. FLOOD

It will be appreciated that it is now impracticable to complete the purchase by the date suggested in Karibu correspondence viz: Feb 20th.

executed by the Company; and that one completed copy, together with all the original title deeds and other documents relating to the title should be forwarded to Nairobi, in order that they may be examined, the title investigated, and the draft conveyance prepared.

3. The agreement (in duplicate) is enclosed herewith. If the Government's proposals are acceptable to the Company, I am to request that one completed copy of the agreement may be returned to this Office, together with the title deeds and other documents, for transmission to the Government of Kenya.

(Signed) J. E. W. FLOOD

It will be appreciated that it is now impracticable to complete the purchase by the date suggested in earlier correspondence: Feb 25th.

C. O.

Mr. *Went* 26/2
Mr. *Roberts Wray* 26/2
Mr. *Hood* 26/2
Mr. *Parsons*

38001/35

Kearney
Answered by No 12

11/105

Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shickburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

To go today

C. O.
R 25 FEB
U 26

26 FEB 1935

DRAFT.

*Montague's and
Cox & Cardale*

Gentlemen

W. ref. to your letter
of the 7th of Feb. and
subsequent telephonic
communications on the subject
of *Wundangi* Estate, I
am - c. to inform you
that he has now received
from the *Byrnes* of *Byrnes*
an agreement (in duplicate)
relating to
~~provision~~ for the transfer
of the Estate.

2 Sir Joseph

Byrnes suggests that
the *Ag* agreement be

FURTHER ACTION.

*copy to *Wray* (13)*

executed by the Company; and that one completed copy, together with all the original title deeds and other documents relating to the title should be forwarded to Nairobi, in order that they may be examined, the title investigated, and the draft conveyance prepared.

3. The agreement (in duplicate) is enclosed herewith. If the Government's proposals are acceptable to the ^{Wundanyi} ~~Company~~, I am to request that one completed copy of the agreement may be returned to this office, together with the title deeds and other documents, for transmission to the Government of Kenya.

(Signed) J. E. W. FLOOD

It will be appreciated that it is now impracticable to complete the purchase by the date suggested in Karbin's correspondence viz: Feb 25th.

AIR MAIL

KENYA
No. 90



10
106
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED
25 FEB 1935
C. O. REGY

16th FEBRUARY, 1935.

Sir,

No 8

With reference to your telegraphic despatch No. 33 of the 8th February, in which you notified me of your approval and the approval of the Directors of the Company to the purchase of Wundanyi Estate for £5500 on a walk in walk out basis, I now forward an agreement in duplicate which I have signed and which I suggest be submitted to the Company for execution.

2. I have to request that when this has been completed one executed copy of the Agreement together with all the original title deeds and other documents relating to the title should be forwarded to me in order that they may be examined, the title investigated, and the draft conveyance prepared.

3. I am advised that special reasons exist for adopting this course of action in preference to that of preparing a draft conveyance at this stage, and I trust you will agree to the course now proposed.

4. With regard to the question of payment of the purchase money I note that you would be prepared to arrange if desired for the sum involved to be advanced by the Crown Agents. In view, however, of the necessity for examining the title deeds here in Kenya prior to the preparation of the conveyance payment of the purchase money may not require to be effected for the present.

I have the honour to be,
Sir,
Your most obedient, humble servant,

BRIGADIER-GENERAL.
GOVERNOR.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

Encl. - orig. to ... and ...

C. O. Room 297.

38001 / 85 ^{Kege}

8 107
Booked & sent
12 noon
8/2/15
W.L.G.

- Mr. Fenton 7/2
- Mr. Roberts Way 7/2
- Mr. Flood 7.2 above
- Mr. Parkinson
- Sir G. Tomlinson
- Sir C. Bottomley.
- Sir J. Sluchburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

C.O.
3 ER
8

Amended by Mb 10

WUNDANYI

DRAFT. Tel.

Gov. Nandi

N^o 33. Your let^r N^o 18. &
 Director accept and I approve.
 They suggest that revised
 draft agreement and

(without prejudice
 to examination of
 and requisition on
 title)

draft conveyance he
 sent by air mail for
 execution in London. They
 are not prepared to
 give possession till purchase
 money has been deposited.
 If you desire to take
 possession before Parliamentary
 grant is available I
 can arrange for money

FURTHER ACTION.

Copy con^g with the
 Co. to Gov air Mail

to be advanced by C.A.



MONTAGU'S AND COX & CARDALE

SOLICITORS.

R & B. BOLTON & CO. L.L.C.
H. D. HYER
R. W. SIMON & CO. L.L.C. F. E. LEFFMAN

The Under Secretary of State,
East African Department,
Colonial Office, Downing Street,
S.W. 1.

Dear Sir,

Wundanyi Estate. 38001/35.

6
We thank you for your letter of yesterday's date and are instructed to accept the terms therein set out.

Vacant possession can be given at any time convenient to the Kenya Government. Considerable expedition will, however, be necessary, if the Government are to investigate the title before completion and payment of the Purchase money by the 28th instant. We respectfully suggest that the Contract should be revised and returned by next Air Mail together with a draft of the Conveyance which we think could easily be prepared from the information appearing in the Contract and by reference to the documents registered at the Local Land Registry. It would, of course, be understood that the submission of the draft Conveyance would be without prejudice to the Government's right to investigate, and to deliver Requisitions on, Title.

We understand that the Contract will be executed on behalf of the Government of Kenya in London under Power of Attorney and indeed this is the only possible means of completing the matter by the 28th instant.

We are, dear Sir,
Your obedient Servants,

W. Montagu

108
TELEPHONE: *CITY 1421 (PRIVATE BRANCH EXCHANGE)
TELEGRAMS: SYNONYM, CENT. LONDON.

86 & 88 Queen Victoria Street,
(OPPOSITE MARSH HOUSE STATION)

London, E.C.4. 7th February 19 35

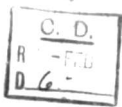
W. Montagu

38001/35

109

W.C. C.O.

- Mr. *Evans* 3/2/35
- Mr. *Roberts-Wray* sp
- Mr. *Freestone* 6 p.
- Mr. Parkinson
- Sir G. Tomlinson
- Sir C. Bottomley
- Sir J. Shuckburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.



February, 1935

Gentlemen

I am etc to refer to the letter from this Department of the 5th of January regarding the Wundanyi Estate and to inform you that a telegram has been received from the Governor of Kenya ^{from which it is understood} ~~in which~~ ^{understands} that the Government of Kenya are prepared to offer, a sum of £25500 for the parcel of land known as the Wundanyi Estate ^{including} and all ^{on or} things ^{including the items} pertaining to the estate, described in Clauses 3(i) of the Draft

DRAFT.

(2)

Messrs Montagu's and Cox and Cardale.

Copy to Montagu (9)

subject to contract

FURTHER ACTION.

together with and all the Company's rights & property

together with and all the Company's rights & property

Draft Agreement and
the Schedule thereto and
~~including the amount~~
~~payable~~ for growing crops
maize tillages and
other matters referred
to in Clause 3(ii)

~~of the Draft Agreement.~~

The offer is made on the
basis that the purchaser
shall acquire the property
with vacant possession
on the 28th of February, 1931
or such earlier date
as can be arranged
locally.

I am to enquire
whether the Directors of
Messrs Wundanyi Limited
are prepared to accept
the offer on these terms.

I am etc.

RECEIVED
E 4-FEB 1935
C. O. REGY

REGISTRATION 2822/2
110
15

Telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 4th February, 1935. Received 10-55am 4th February.

No. 18.

7113

Your despatch No. 11 of the 5th January Wundanyi have been in touch with the local manager and in all the circumstances I am prepared subject to your approval to offer £5,500 on the basis of walk in walk out with effect from the 28th February or such earlier date as can be arranged locally. Understand from him that his directors will accept this.

Please telegraph earliest possible
their acceptance and your approval. Money to be paid in locally as soon as Parliamentary grant becomes available.

C. O.

38001/35.

3

Mr. Flood. 4/1
 Mr. Roberts - Gray. 4/1
 Mr. Flood 4/1 fs
 Mr. Parkinson.
 Sir G. Tomlinson.
 Sir C. Buttomey.
 Sir J. Shuckburgh
 Permt. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

By Air Mail.

DOWNING STREET,
 5 January, 1935.

C. D.
R 4-JAN
D 5

Ans'd 5

DRAFT.

KENYA.

NO. 11.

GOV. SIR J. BYRNE.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 645 of the 13th of December on the subject of the proposed purchase of the Wundanyi Estate and to transmit for your consideration the enclosed copy of correspondence with the Solicitors for the Company.

You will observe that

in communicating with the Company I thought it advisable to ~~use~~ ^{omit} the statement contained in the opening sentence of the seventh paragraph of your despatch, that the Kenya

Government

31 Dec
 41 n 23205/35
 2 Jan
 No 1 n 38001
 Jan
 374 Kenneth (2)

FURTHER ACTION.

Government did not propose to proceed further in the event of the Company wishing the to maintain/conditions set forth in Clauses 3(1) and (2) of the draft Agreement. My reason for this was that if it had been stated to the Company, it might have been ~~concluded~~ ^{concluded} ~~assumed~~ that the Government would not in any circumstances proceed to acquire the property by compulsory purchase and it may be advisable to consider this question should the negotiations with the Company definitely break down. You have no doubt ~~considered~~ ^{considered} ~~this possibility~~ ^{in a} and before further correspondence takes place with the Company, I would wish to be informed as to whether you would propose to proceed to compulsory acquisition, in the event of negotiations coming to a deadlock.

- 3 You will no doubt furnish me with your observations upon the Company's latest letter by an early air mail.
- 4 You will notice that the Company's

- Mr.
- Mr.
- Mr.
- Mr. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh
- Perm. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

Solicitors attach importance to the question of the crops on the property. The position in this respect is not ^{quite} the same as in the case of an ordinary sale, since the purpose of Government is not to acquire the Estate as a commercial undertaking but to ^{secure} ~~acquire~~ it for the purpose of addition to the native reserves. It follows from this that questions of the crop are not of ^{importance} interest to the purchaser ~~in this case~~. It has been suggested that it might be possible to make some arrangement whereby the Company ^{would} ~~might~~ retain the growing crops for a limited period with the right to go on to the land to attend to ~~the~~ crops and reap them before final transfer to Government for inclusion in the reserve.

I have, etc.

FURTHER ACTION.

*2000. 21. 1944
no. 10 for you at
the minute?
provisionally*

(Sgd.) P. CUNLIFFE-LISTER.

- Mr. Flood. 4.1
- Mr. Roberts *Wray 4.1*
- Mr. *Flood 4.1*
- Mr. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DOWNING STREET,

5 January, 1935.

ack. N. 14

SA 74

DRAFT.

MESSRS. MONTAGU'S AND COX & CARDALE.

Gentlemen,

I am etc. to acknowledge the receipt of your letter of the 2nd of January on the subject of the Wundanyi Estate and to inform you that a copy of it is being sent by air mail to the Governor of Kenya for his observations.

copy to...

Pending the receipt of the reply it is not likely that an interview would take matters much further, but your offer to attend with your Chairman is ^{appreciated} noted, and I am to say that a verbal discussion such as is suggested ^{will} ~~would~~ probably be useful if it can be arranged after

receipt

FURTHER ACTION.

receipt of the Governor's reply.

With regard to the question of the crops standing on the Estate, I am to point out that ^{an} essential difference between the sale to the Government in the circumstances at present in contemplation and an ordinary sale is that the Government does not wish to acquire the property for the purpose of continuing cultivation as ^a European managed estate but for ^{its restoration} addition to the native reserves in Kenya.

apart from other com

I am, etc.

(Signed) C. A. L. CLIFFE.



TELEPHONE "CITY 1421 PRIVATE BRANCH EXCHANGE
TELEGRAMS SYNPHYM.CENT.LONDON

MONTAGU'S AND COX & CARDALE

SOLICITORS.

MR SOLOMON H.C. LL.B.
MR HENRY
MR EDWIN GALLS

FR LEFFMAN

RECEIVED
- 3 JAN 1934
C. O. RECORD

174
101
101 Queen Victoria Street
GRAND 17, MANXION HOUSE STATION

London, E.C.4. 2nd January 1934

East African Department,
The Under Secretary of State,
Colonial Office,
Downing Street, S.W.1.

Dear Sir,

Acckd PC. 31/1/34

Wundanyi Estate, Voi, Kenya. Your ref.
23208/34.

We are in receipt of your letter of the 31st December and as we understand therefrom that it is now agreed that the sum of £5000 covers the sale only of the immovable property of the Company at Wundanyi, we refrain from further discussion of the past correspondence, except to observe that in quoting the Secretary's letter of the 27th August, H.E. the Governor has taken the words "acquire the property" out of their context; these related to the Report of the Land Commission, whereas but a few lines down the Secretary referred in terms to "the first offer for the land at the the price of £5000.....".

The only substantial questions now apparently outstanding are those of the disposal of the movable property and the tillages. We think any legal adviser versed in agricultural matters would readily agree that in the taking over of an agricultural estate the purchaser is expected to pay for fixed plant and machinery as well as pure chattels used in connection with the property. In our experience in this country, this is invariably the case, and while we do not pretend

Amend 2

NOH

23208/34

NOH

23208/34

Copy to Kenya

The Under Secretary of State,
Colonial Office,

2/1/35.

to any knowledge of the practice in Kenya, we cannot think that it differs. In this particular case, the household and office furniture falls under this head as any resident Manager must have them and we believe they are the minimum necessary. Mr. Drury naturally has many of his own goods there, but they are, of course, not included in the schedule to the contract.

With regard to the tillage, it is to our mind inconceivable that a purchaser could expect to take over any agricultural property without paying for what has been put into the land since the last harvest. The vendor is obviously entitled to his crops and it is in order to avoid a difficult situation that it is the practice to insert a clause such as 3 (ii) of the draft contract. So fixed, indeed, is the practice in this Country that the Agricultural Holdings Acts actually make it compulsory as between Landlord and Tenant; and sales under these conditions are made day after day.

The amount which will be payable is indefinite, as the Governor states, but according to very recent advice, no official of the Government has inspected the property, and we suggest that such an inspection will give a close idea of the very moderate sum which will, in fact, be involved, not only for tillage, but for the other items under discussion.

We need hardly say that both before and since the Government put forward their offer of £5,000 the property has

But do things
want a
"resident" manager??

Did he
buy them

That is an
entirely different
matter.

There as the
offer has come
to £2000 but
the Govt want the
moderate sum.

The Under Secretary of State.
Colonial Office.

8/3/35.

116

been carried on to the best advantage, and becomes, therefore, daily more valuable as the season advances.

As to Clause 6 of the Contract to which objection is taken, we would respectfully suggest that this is a matter for consideration by the legal advisers of the Government. They would readily recognise that no increments of title can be handed over until completion by the Government, and that the bulk of the sub-paragraphs in the clause are quite usual, being in fact, common to every contract of a similar nature. We would refer you, for instance, to the General Conditions of Sale published by the Law Society and to the National Conditions of Sale both of which contain similar provisions. It is true that sub-paragraphs 1 to 4 relate chiefly to matters directly connected with this particular property and are, therefore, not usual in the same sense, but they are points of comparatively trifling importance. There is no intention to, nor does the clause, in fact, restrict the purchaser's right to full investigation of the title; it merely discloses and explains matters which should be cleared up before the contract is signed. We will gladly produce the originals or copies of any documents referred to for inspection and answer any queries.

We sincerely hope that in the circumstances which we have endeavoured to explain above, it will be appreciated that the Company cannot reasonably be expected to forego the

*No doubt
it has been
considered -
The Govt would
get the abstract
etc*

*I have not
seen this*

?? -

The Under Secretary of State.
Colonial Office.

2/1/35.

117
END

natural claim and (as we think) right, of an agriculturalist (especially an owner of a property remote from any centre of commerce or industry) to ask the purchaser of his land to take over at a fair figure, the plant, machinery and movables directly employed in connection with the land, and the tillages.

We repeat that we will gladly attend with Sir Fowell Buxton, the Chairman of the Company, at the Colonial Office, preferably, we would suggest, upon an official who could be accompanied by a legal representative versed in these matters. We are sure you will agree that a meeting will serve to dispose of any misunderstandings more rapidly and satisfactorily than correspondence. Sir Fowell Buxton will be coming to London on Monday next, the 7th instant for the day and can attend an appointment at any time after noon. We shall be glad if you will telephone us as soon as possible after receipt of this letter, so that we may notify Sir Fowell in good time.

We are, dear Sir,

Your obedient Servants,