

1937

38005

CO 533/476
KENYA

38005

LAND COMMISSION REPORT

REMOVAL OF THE TIGONI PEOPLE

Previous

1936

SEC. R.O. FILE

Subsequent

See 38005/44/40

See 38086/44/40

38005/10/40

(Lanhamana - Petition from 20/1/37)

R. 297 11/37

R. 297 12/1

R. 309

297 4/3/37

R. 309 6/3

M. Paskin 8/3

M. Flood. 8/3

Sic. C. Bottomley 8/3

Sic. J. Maffey 9/3

E. A. de la 10/3

R. 299 15/3

297 4/4

R. 309 16/4

M. Flood 15/4

Sic. C. Bottomley

M. Flood

R. 297

R. 80

R. 298

297

M. Paskin

M. Flood.

297

W. Paskin

R. 297

R. 309

M. Paskin

M. Flood

R. 309

M. Paskin

M. Flood

Sic. C. Bottomley

Sic. J. Maffey

Sic. C. Bottomley

R. 297

M. Paskin

297

309

15/4

16/4

17/4

22/4

27/6

297

7/5

24/5

3/5

1/6

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19/8

10/8

25/8

6/7

7/7

23/9

24

24/9

16/10

M. Paskin

M. Flood.

Sic. C. Bottomley

R. 297

R. 80

R. 298

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C. 1.

LAND.

P. Q. BY MR. RILEY FOR ORAL REPLY 2-2-37

(Not on P.Q. FILE)

2. A/GOV.NO.4. 5.1.37.
Trs. a further petition from certain residents of Tigoni and reports upon the arrangements which have been made for the move.

Named (x.)

3. KIKUYU CENTRAL ASSOCIATION.....TEL.....4.3.37.
States that Kenya Govt. forwarded false report that Tigoni natives accepted land in exchange and urges that a special commission be sent to investigate ~~and~~ the natives are seriously pressed to move.

X. An island like
is the (island)
(and) alienated
by European
farmers.

referred to

The Petition ~~under~~ No. 2 emanates from the minority of the people of Tigoni who refuse to be reconciled to being moved from the area which they occupy at present. It will be seen from the Governor's despatch that 7 1/2 clans are co-operating with Government and that 2 1/2 clans are not reconciled to the move. Compensation has been fairly, if not generously, assessed by the Government and all arrangements for the movement of the co-operating clans ~~are~~ in train.

The recalcitrants do not recognise the right of any one Headman to represent the Tigoni inhabitants as a whole, and they do not hold themselves bound by the arrangements made with the Headman Luka and other elders in Tigoni.

I think it is true to say that the whole of the Tigoni people are loath to move, but nevertheless it is a fact that all but two of the Mbari Heads have agreed that the land to which the Tigoni people are to be moved is suitable.

The line taken by the recalcitrants is to refuse to point out their property, so that the value cannot be accurately assessed for compensation purposes. They argue that they cannot be forced to move before

an Order in Council has been promulgated to legalise the move. On this point the Governor says that they will be informed that they will be moved, forcibly if necessary, when the new Native Lands Trust Order in Council and the new Native Lands Trust Ordinance are promulgated. He invites reference to Clause 49(2) of the draft Bill, a copy of which I annex. Government is reserving a sum to compensate these recalcitrants and sufficient land for them at Nyamweru, so it appears that they will not be forcibly moved until the new legislation is promulgated. The legislation in question, viz:-

- Draft Native Lands Trust Bill.
- Draft Native Lands Trust Ordinance.
- Draft Bill to amend the Crown Lands Ordinance.

is now under consideration in the Department.

The petitioners further ask that if it is decided that they should be removed from the vicinity of the European (this has already been decided), their land should be held by Government on their behalf, and that if and when leased, the proceeds should be theirs and applied to a scheme or schemes for material uplift, the exact details of which might be settled later.

Clearly this cannot be conceded since generous compensation is being given not only for nuts and trees but also in the form of 50% additional area of equally good land.

In all the circumstances? Governor may be asked to inform the Petitioners that the

Secretary

Secretary of State has nothing to add to his previous communications on this matter.

No. 3. This telegram may have a bearing on the reply returned to Mr. Riley in the House of Commons on the 2nd February. The fact that 7 1/2 of the 10 clans are actively co-operating in the move invalidates the statement in the telegram.

I send a copy to the C.A.G., Kenya and ask him to inform the Kikuyu Central Association that the Secretary of State is not prepared to intervene.

C. P. G. Smith

5.3.1972

There is nothing new in this. We have always known (1) that none of the Tigoini natives wished to move & (2) that while a majority were prepared to acquiesce, & (3) (given the necessity to move) were satisfied with the revised arrangements for their accommodation elsewhere, there remained a recalcitrant minority. This petition is from the said minority.

Their claim is based on their submission that the land was acquired by their forefathers & has been in their possession since 1870 & was never abandoned.

The passage from the Land Commission Report, quoted in para 3 of the letter, is from para 124 of the Report which deals with the history of the Limerick area (in which Tigoini is an included island), and it is noteworthy that in the above map showing p. 76 of the

See 30/1/72

Richard Duff

Chairman

15/4/37

110. Kent

6/5/37

6. To Major Hilben (S/O) (5/4/37) — 6/5/37

7 P.Q. BY MR. CREECH JONES, FOR ORAL REPORT ON 20.4.37
 (RESP. NO. 2 IN P.Q.)

8 P.Q. BY MR. CREECH JONES, FOR ORAL REPORT ON 21.6.37
 (RESP. NO. 3 IN P.Q.)

9. GOV. KENYA..... CONF. No. 70..... 27.4.37.
 States that action has been taken as desired in
 (4) and urges that very early consideration be given
 to measures in (1) on 38005/6/36.

So far as concerns the urgency for
 proceeding with the consideration of the
 legislation referred to, a copy of
 this Dep. has been placed on
 38005/6/37 for consideration.

So far as the Tigrini natives
 are concerned, it is disturbing
 to learn that the delay in
 making that legislation not only
 makes it impossible, in the meantime,
 to compel the recalcitrant minority
 to come into line; but may also
 possibly have reaction on those who
 had been prepared to cooperate —
 the more.

However, apart from making an
 effort to get this legislation forward
 (it is being dealt with on other P.Q.)
 there is nothing to be done.

So 3 and file can be put by.

J.P. Pami
 7/5

See minutes on No 3 on P.Q. file.

10. To a. Creech Jones (40) 11th May 37.

11. To Kenya (w.c. Q.A. No 3 in P.Q. file) 26 May 37 (sent on P.Q. file)

12. To Kenya 209 (w.c. 10) a/f. 21 May 37

13. A. CREECH JONES (S/O TO S.O.F.S.) 24.5.37.
 Acks (10) with comments.

The Creech Jones says that acceptance
 of the Land Commission's recommendation
 does not dispose of the fundamental
 issue of social justice. But the
 Commission went to great trouble
 to ascertain whether or not the
 inhabitants of Tigrini were, in
 fact, "individual land owners" who
 have lived for generations and still
 live on their own land — ancestral
 lands which have never been
 alienated by force.
 The Commission's finding is stated

Paragraph 387 of the Land Commission Report - "We are satisfied from the evidence that about the year 1904 the land was uninhabited." (Paragraph 388)

"The most probable conclusion is that the Kikuyu had acquired some rights in the land before the famine, but the amount of bush which admittedly covered the land in 1904 shows that occupation can never have been very effective. When the famine occurred they left the area and did not return to it in any considerable numbers until the surrounding farms had been alienated. This is our finding on the facts." (Paragraph 392.)

There is nothing in the Creach Jones' statements to prove that the Commission were wrong in their finding. The way be told is.

C. J. P. P. 1/6/37

I assume that on 5.9.37 will will a sub. & finally deal with the Creach-Jones & submit 4th accordingly.

J. P. P. 2/16

We haven't heard that it is the intention of Govt to start a Township for European settlers on the evacuated Tigon land, but there is no harm in Govt's clearing the area rendered free by the movement of the Co-operating class. It hardly seems likely, in view of No. 9, that instructions have been issued to move the non-cooperators.

See para 1 No. 9.

Send a copy of No. 14 to Mr. Kemp for stamp.

C. J. P. P. 10/11/37

J. P. P. n/p

- 15. EXTRACT FROM KENYA LAND COMMISSION 6TH PROGRESS REPORT FOR PERIOD ENDING 30TH JUNE, 1937. (REGD. ON 38008/37 KENYA)
- 16. A. GREACH-JONES (S/O. TO S. OF S.)..... 13.8.37. Urges that transfer of Tigon be abandoned.
- 17. GOV. KENYA..... CONF. No. 109..... 13.8.37. Urges early promulgation of necessary legislation.

Mr. Paskin prepared the draft of a letter to Mr. Creach-Jones which I did not altogether like. In particular, since the debate on the Colonial Office Vote took place after his letter was written, no reply was really called for. It is now, however, necessary to say something to him also

to deal with the whole situation. I have sent on separately the duplicate of the despatch with a suggestion for an interim reply.

It is necessary once more to consider the facts in regard to this particular area as found by the Carter Commission. The area in question is considered in Chapter 10 of the ~~Carter~~ Commission's report. Paragraph 381 says that the area remained an island of unalienated Crown Land in the middle of areas alienated for farms. The fact that it was not alienated was simply due to an oversight and had nothing to do with any question of native rights (under 382)

The Commission stated that they were satisfied that in about 1904 the land was almost uninhabited (Section 388). They pointed out that people living in the area were in some difficulty when they ^{moved & came} ~~moved out of~~ it (Section 393). Their final conclusion was that they believed it to be to the advantage of the natives and the reserve as a whole that they should be ordered to quit Tigon and be accommodated and compensated as proposed by the Commission. In their specific recommendation dealing with the Kikuyu they recommended that the Tigon area should cease to be subject to native rights, subject to compensation as proposed, and in Section 392 they found on the facts that, while the Kikuyu might have acquired some rights in the land before the famine, the occupation was never effective, and when the famine

(about

(about 1897) occurred they left the area and did not return till after the surrounding farms had been alienated.

In accordance with the policy of the Government to implement the Carter Commission report, an area of land was offered to the people of Tigon. It must be admitted at once that the area proposed by the Commission was not satisfactory, but Government was able to make more satisfactory proposals which were accepted by the majority of the people concerned. Their move is taking place and there are left only a few who object. The Governor says that they are deliberately hanging on in order to be obstructive. Unless there is legislative power to turn them out, they cannot be turned out; and it must be admitted that to alienate people from land where they are admitted to have a right is a difficult proposition. However, that has been the finding of the Carter Commission, and that finding has been accepted. It therefore follows that effect must be given to it. I submit the draft of a letter to Mr. Creech-Jones.

25.8.37.

This may & probably will meet some vocal opposition but anything that is done will do some good and it is as well that it should be done. Government has done all it can to secure an agreed settlement.

sec. 9.

20th 6th 1937

P.T.O.

This is waiting for the Carter Commission to be - P.P. sent to Mr. Jones on 20/8/37 and

because they are liable to arrest if without a registration certificate

See attached

The general part of the Governor's despatch is being answered (on the duplicate) by a draft which you found on Sept. 2nd

As regards the Tigoni, I agree with the draft reply to Mr. Cresson Jones. It is ~~in~~ inevitable that the recommendations of the Commission should not please anyone, whether European or African.

Oct 5 89 37

- 17th To Kenya Comf (copy on SF 3) 17th Nov 89 37.
- 18 To A. Cresson Jones MP 16th Nov 89 37
- 18th A. Cresson Jones s/o ——— 10 9 37. Ask to 18

Put by

J.J. Pascoe
22/9
at once

19 Transferred
C.I. 15 3005/11/37
Nominal. 19.

Grisham Njuguna S/O Tharau.....16.9.37.

Petitions against appropriation of their land, Nyanweru, by the Government.

It is not certain whether the people on whose behalf the petitioner writes are inhabitants of Tigoni land for whom land has been found at Nyanweru, or natives who claim to have rights to the land in the Lisuru area which was alienated some years ago. (See Chapter X of the Land Commission Report).

(See 38005/11/37)

The difficulties of dealing with the latter type of claim is discussed in Nos. 17 and 17A. This is not the first we have heard of European farmers taking action against native right holders. But it seems that there is nothing that can be done pending the issue of the Orders-in-Council expunging native rights. However the petition is addressed through the Governor and we should have his observations.

Inform the Governor that a copy of the petition has been sent direct to the S. of S. and ask for his observations. At the same time a copy of No. 14 might be enclosed for the Governor's observations.

(Sgd.) C.A. Grossmith.

15.10.37.

It is I think quite clear that these are not inhabitants of Tigoni, but natives claiming rights in other land, among which is Nyanweru, to which the Tigoni natives are to be moved. I have therefore had this petition transferred to 38005/11/37.

As far as I can see, the only paper on which action is outstanding is No 14. The representation of the Nyanweru Central Council etc. if course has been sent through the S. of S. presumably the action will be prepared in the Government's interest of 10/9. In view of the case, you can.

No
7/2
action required
13
copy of...
14
copy of...
15
copy of...
16
copy of...
17
copy of...
18
copy of...
19
copy of...

London, & for fact that representation
was not sent through the proper channel.
I suggest that No 14 might be
put by.

If London it is considered
that a reply shd. be sent, I see
no reason, in this case, to go through
the motion of asking the Gov. for
his views. It has been decided
that the motion must come from
Tizon & what is done with the
land is no concern of mine.

If therefore a reply is considered
desirable, I suggest that the Gov.
shd. be asked to cause the answer
to be framed that he has seen?
that air representation
shd. have been made through the
Gov. but that the S.P. is
not prepared to intervene.

The decision that
the motion must
come from Tizon
is irrelevant &
that.

J. P. Pearson
2/21

It is the case that the land is to be made
available for Europeans, that is the whole object of it.

But I think that he can as suggested be
put by. The work is probably completed now and
we have heard no more and but know what the
legal situation will be.

11.0.20

I do not see that action can now be
successfully taken on no. 14, but there is
the further hope that the Government can
do as it pleases. Truly Yrs. J. P. Pearson

1914 7/16/20 10. 28.11.

10/18

10/18

10/18/20

A. CRECH JONES

TRANSPORT HOUSE,
SMITH SQUARE,
LONDON, S.W.1.

Phone: VIC. 7430



10th September 1937

Rt. Hon. W. G. Ormsby Gore, M.P.,
Colonial Office,
Downing Street, S.W.1.



Dear Mr. Ormsby Gore,

Thank you for your letter of the 8th September in reply to my appeal for the remaining independence of the Tigon area in Kenya. I appreciate all the points in your letter, and the arguments of the Kenya Land Commission. I still feel that the position is an unfortunate one. I am grateful to you, however, for the clear statement of the position of the Government in this matter.

Yours sincerely,

W. G. Ormsby Gore

18 10

36005/7/37.

C. O.

Mr. Flood. 25/8/37.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomkinson.

For sig. S. L. S. 18

X Sir C. Bottomley.

Sir J. Shackleton.

X Perm. U.S. of S.

Party, U.S. of S.

X Secretary of State.

10/3/37 9-37

8th

August, 1937.

Dear Creech-Jones,

DRAFT.

A. CREECH-JONES, ESQ., M.P.

Thank you for your letter of the 15th August in continuation of your earlier one about the inhabitants of the Tigon area in Kenya. You say that there is a comparatively small number of people involved and that their transfer is bound to create unsettlement. You also say that the majority of the people are opposed to transfer.

As regards the latter point, my information is that the majority of the residents in the area have agreed to the new proposal which has been put before them, and that their removal

FURTHER ACTION.

removal has been completed; ~~some~~ *a few*
of them, however, declined to move.

Let me now call your attention
to the findings of the Kenya Land
Commission. That Commission was
appointed in order to settle once and
for all matters relating to native land
in Kenya. You no doubt have a copy
of their report. In Section 64,
after a prolonged review of the
situation, they recommended that, provided
that their recommendations for the
extinction of native reserves were accepted,
provided that compensation in other forms
can be paid where they have recommended it,
and provided that the Protectorate is not
involved, then all native rights outside
the reserves shall be extinguished.

The recommendations of the Commission have
by my predecessor myself
been accepted and the necessary adjustments
as regards the native reserves are being
made. As announced already, it is the
intention of Government to proclaim the final

settlement

C. O.

Mr.
Mr.
Mr.

Sir H. Moore.
Sir G. Temington.
Sir C. Boltonley.
Sir J. Shackburgh.
Parnt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

*The Commission's proposals are
designed to secure finality
and it is not possible
to satisfy everyone.*

FURTHER ACTION.

settlement, in accordance with the
Commission's recommendations, by an
Order-in-Council. When that
Order-in-Council has issued and the
necessary legislation is enacted in
Kenya it will be possible ~~for Government~~
to order the Tigoni natives to move,
provided there is land on which they
may be settled.

I may as well say that nobody
particularly wishes to remove people
are aware another
from their homes, but in the interests of
peace and final settlement in Kenya as a
whole
I do not see what else can be done.

The original proposal was that these
natives should be settled in two separate
blocks, but when the blocks were
investigated it was pointed out that
the natives desired to be together and,
first of all, an alternative area was
selected which would enable them to be
accommodated in one block. It turned

out,

out, on examination, that this block was not altogether suitable and a further area was suggested for exchange after examination. That area has been accepted by most of the people in Tigon. and, as I have already said, most of them have now gone there.

I would also call attention to the various statements made by the Land Commission in their examination of the Tigon question in Sections 381 to 398 of their report. The Commission stated that the fact that the particular area had not been alienated was due to accident, ^{by natives} that the ~~the~~ occupation can never have been very effective, and that they did not return to it after the famine ^(about 1898) until after the surrounding farms had been alienated. Finally, in Section 398, ^{Commission} they stated that they believed it would be to the advantage of the natives and the reserve as a whole that they should be ordered to quit Tigon, subject to receiving compensation and

accommodation

C. O.

Sir,

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bannister.

Sir J. Shackburgh.

Paras. U.S. of S.

Paras. U.S. of S.

Secretary of State.

DRAFT.

accommodation as suggested.

I would also wish to draw your attention to paragraph 657 of the Commission's report where they state that the Kikuyu had been putting forward claims and pretensions which were exaggerated out of all proportion to the truth, and that it was essential for the future well-being of the Kikuyu and the country at large that the settlement proposed should be definite and final and therefore all claims should be definitely extinguished.

Since it would have been impossible to do everything at once, my predecessors and I thought that it would probably be best for Government to endeavour to arrange for the adjustment of boundaries and for the extinction of native claims to be done gradually, and if the people in Tigon had been willing to accept the situation ~~equally~~

FURTHER ACTION.

See also 8/11/37

the move would no doubt have been completed. As it is, the remaining minority appear to be content to be obstructive in the hope that Government will not carry out its declared ^{& approved} policy.

There the position stands and my view is that the Government of Kenya, having tried to get a solution of this problem by agreement, is now fully justified in resorting to compulsory powers as soon as they are made legally available. and that the two points to be borne in mind are:

- (1) the decision that the Tigon area must be vacated is irreversible, and
- (2) that the Government of Kenya has been anxious to make every effort to ensure that the move shall not be accompanied by hardship and that there shall be suitable land for the natives to inhabit.

Yours sincerely,
W. W. G. G. G.

C. O.

- Mr. Paskin 21/6
- Mr. Flood
- Mr.
- Sir C. Parkinson
- Sir G. Tomlinson
- Sir C. Bottomley
- Sir J. Shackburgh
- Para. U.S. of S.
- Party. U.S. of S.
- Secretary of State.

For Sig: by the S. of S.

I feel that I owe you an apology for not sending an earlier reply to your letter of the 24th of May about the Tigon natives; but I wanted to refresh my memory by looking up the earlier correspondence.

DRAFT.

A. CRECH-JONES, ESQ., M.P.

You say that these natives are individual land owners who have lived for generations & are still living on their own lands. But I must remind you that the Royal Commission found as facts that the amount of land which covered the land in 1904 shows that the occupation of this land had never been very effective; that when the natives left this area in 1898/99 the natives did not return to it in any considerable numbers until after the surrounding farms had been alienated - H. H. H. H.

Although, as I said in my letter of the 11th of May, I think the ~~Commission~~ Commission were right in recommending the removal of these natives to another area, ~~the Commission~~ not only I but my predecessors have shared your sympathy with the distaste which these people feel at being required to uproot themselves from land which they had come to regard as their own; and we have been most anxious to ensure, not only that the new

FURTHER ACTION.

land to which they were being asked to move should be in every respect suitable to their requirements but that the arrangements for their move should involve as little hardship as possible.

I am also anxious that you should not be misinformed as to how the matter has been dealt with.

Now in the first place I admit

quite frankly that none of these natives wanted to move, and that such measure of acquiescence in the proposals as has been secured has only been on the basis that the fundamental decision to move them is irrevocable. But on this basis, and in view of the very real effort made by the Government of Kenya to find really *I am satisfied that* suitable alternative accommodation, there was

a very much greater readiness, than is suggested in your letter, on the part of the leaders of these clans to co-operate with the Government in making the move a success.

Moreover, what you have been told about the peremptory demeanour of the Kenya officials

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson

Sir G. Tomlinson

Sir C. Dainton

Sir J. Shackleton

Parli. U.S. of S.

Parli. U.S. of S.

Secretary of State

DRAFT.

FURTHER ACTION.

at their meetings with these natives is possibly true so far as it goes, but is only one side of the picture.

Perhaps it will be more convenient if I deal with this point first.

As I have said, there are two separate aspects of these proposals to be borne in mind:

- (a) an irrevocable decision that these natives must move from Tigon, and
- (b) a real anxiety on the part of the Government of Kenya (as well as of successive Secretaries of State) that every effort should be made to find suitable land for them to go to, and to ensure that the move should involve as little hardship as possible.

Now as regards (a), there is no room for argument at any "baraza", and on this point the officials concerned have had no option but to adopt an uncompromising attitude. This was quite clear from my

(15 on -/36). letter of the 23rd of October to

Major

Major Milner.

As regards (b) however, it is quite definitely not true that the attitude of the Government of Kenya has been one of "take it or leave it".

You may remember that the proposals in the Morris Carter Report involved the settlement of these natives in two separate blocks. When, however, steps were taken to survey these blocks, representations were made that they were strongly opposed to this and desired to be together in one block.

Accordingly an alternative area was selected and the District Commissioner went over the ground with the Local Native Council (in, I think, March 1935), and he reported that they had expressed their unanimous approval of the proposal. A few months later, however, it was reported that, on further consideration, these natives were dissatisfied with the new block proposed on the ground that it was inadequately watered and was moreover unfertile. The Governor thereupon instructed P.W.D. and

(3 on -/35)
- page 3)

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson

Sir G. Tomkinson

Sir C. H. St. John

Sir J. St. John

Parry U.S. of S.

Parry U.S. of S.

Secretary of State

DRAFT.

FURTHER ACTION.

(15 on -/36)

15
Agricultural Officers to inspect the land. They did so and reported that although the water supply was adequate, certain parts of the area were in fact poor land.

On this the Governor called a conference attended by the Colonial Secretary, the Chief Native Commissioner, the Commissioner for Local Government, the Acting Conservator of Forests, the Acting Provincial Commissioner and the District Commissioner, to discuss the problem and decided that in the interests of an amicable settlement a more suitable piece of forest land should be made available.

The District Commissioner and the Conservator of Forests then (on the 4th of Nov. 1935) inspected the area in company with Chief Koinange & Luka, and (as I said in my letter to Major Milner of the 23rd of Oct.) the party included all the Mbari heads of the Tigoni natives except two; and they were satisfied that

the land was suitable. At a meeting held on the 11th and 12th Dec. 1935 the Local Native Council also approved of the exchange area.

In the light of this summary of the proceedings I hope you will agree that the Government of Kenya has done all in its power

not only to assure itself that the land to which it is proposed to move these people is suitable to their requirements, but also to assure itself that (again granting the necessity for the move) the selected area is such as would satisfy the natives themselves. My letter of the 23rd of

(15 on -/36)

Oct. 1936 was based on a despatch from the Governor written in Sept. and at that time the Governor was fully satisfied after due enquiry that (again with the proviso that all of these people would prefer to stay where they were) the more enlightened of the leaders had the large majority of the Tigonu Natives with them in their acquiescence in the arrangements which were being made for the move, and the

Governor

C. O.

Mr.

Mr.

Mr.

Sir C. Phipps

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Shackburgh

Parlt. U.S. of S.

Parlt. U.S. of S.

Secretary of State

DRAFT.

FURTHER ACTION.

(9)

Governor has recently reported that the removal of these natives has been proceeding smoothly and steadily, their goods and general effects being transported by lorry.

Having satisfied itself on these points, the only possible course for the Government of Kenya was to take a firm line with the calcitrant minority. Unfortunately, (and in using this word, I do not wish to be other than quite frank with you) there are not at present any means of compelling this minority to move. The necessary powers will be taken in the new Native Lands Trust Ordinance which with the Native Lands Order in Council, will be required to give effect to the Morris Carter recommendations. The delay in proceeding with these measures has been due mainly to the time necessarily taken in surveying the boundaries of the additions to

the

C. O.

Mr. Flood.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley. 1.9.37

Sir J. Shackburgh

X Parlt. U.S. of S.

Parly. U.S. of S.

X Secretary of State.

O. D.
R 3-SEP
D 6

8 Sept.
August, 1937.

DRAFT.

KENYA.

CONFIDENTIAL.

Governor.

Sir,

I have etc. to acknowledge the receipt of your despatch No.109 of the 9th of August, on the subject of the legislative measures required to implement the Kenya Land Commission Report. I regret the delay which has taken place in considering this draft legislation. ^{The} delay has been due to the necessity of ^{for} close examination of the effect of the drafts which have been prepared, and ~~it has also been due to the difficulty~~ in finding any ^{satisfactory} suitable definition for the Highlands which would be suitable for embodiment in an Order-in-Council. Eventually, as you know, the conclusion was reached that

FURTHER ACTION.

R

Copy to
28/9/37

that the only satisfactory method was to define a boundary, and the final information to enable the boundary to be set forth has just been received.

2. As you recognize, since the

Land Commission has recommended that course, it is necessary that native rights existing outside the reserves should be expunged by an express provision in the Order-in-Council.

I need hardly say that such a provision will be ~~attached~~ ^{subject to addition} in many quarters, but the recommendation has been adopted by His Majesty's Government and will be carried into effect. It had been

my hope, and the hope of my predecessors, that

the necessary adjustments and removals of existing communities or individuals could be effected by amicable arrangement, without

having recourse to compulsory powers. Since,

however, it appears that this hope is not being ~~completely~~ ^{completely}

fulfilled, I can assure you that early action

will now be taken to implement the recommendations

of the Land Commission. That action will

generally follow the lines of ~~the~~ ^{the} ~~proposed~~ ^{proposed}

C. O.

Mr.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

~~Ordinance~~ ^{Ordinance} ~~and of~~ Sir Joseph Byrne's

~~despatch~~ ^{despatch} of the 21st of May, 1935.

I have, etc.

(Signed) W. ORMSBY GORE

DRAFT.

FURTHER ACTION.

Despatch regd. no. 3005/11/37

12

AIR MAIL

KENYA
No. 109



GOVERNMENT HOUSE
NAIROBI
KENYA

CONFIDENTIAL

RECEIVED
G. A. REGY

9 August, 1937.

Sir,

I have the honour to refer to my Confidential Despatch No. 70 of the 29th. April, last, on the subject of the removal of Kikuyu Natives from Tigon.

2. The fears expressed in paragraphs 4 and 5 of that Despatch have now materialised and, as an illustration of the difficulties with which the Administration is at present faced, I attach copies of a letter No. LND.17/6/III/26 dated 21st. July, 1937, received from the Provincial Commissioner, Central Province, and a letter No. LND.2/2 Vol. III dated 3rd. July, 1937, addressed to the Provincial Commissioner, Central Province, from the District Commissioner, Kiambu. These will, I trust, serve to emphasize the importance and urgency of the early promulgation of the Order in Council expunging Native Rights outside Native Reserves and the other legislative measures to carry out the recommendations of the Land Commission.

3. On the kindred issue of the occupation of farms, particularly in the Limuru area, by natives who allege they have claims of rights to the lands in respect of which freehold title was issued to Europeans many years ago, the situation has become increasingly difficult, even since my Despatch under reference was posted.

THE RIGHT HONOURABLE,
W. G. A. CROMBIE-GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

On the 22nd. June last I received a deputation from the Limuru District Farmers' Association and in reply to their representations informed them that this Government was unable to act in the matter pending the issue of the Order in Council, and the expungement therein of native rights in these lands. They fully appreciated the position but urged that action should not be unduly delayed in view of the difficulties which they were experiencing in restraining certain of the European farmers concerned from taking overt action against the natives.

4. The position is undoubtedly serious. During the last few weeks I am informed that the natives on certain of the farms in question have been joined by relatives and friends from the Reserve, all of whom claim to belong to the same Clan and to participate in the Clan's land claims. They have enlarged their cultivation on the farms quite extensively and in one case have deliberately cultivated a piece of land which they knew the farm-owner was on the point of ploughing up. They pay no heed to instructions as to where they should cultivate and their attitude to the farmers is intransigent to a degree. Last week one farmer essayed to fence off a portion of his farm. Holes for fencing posts were dug and overnight were filled in again by the natives. Four of his cattle were found dead from arsenic poisoning though no arsenic is possessed by the farmer. This matter was enquired into by the District Officer who reported that he had arrested four of the natives who were resident on the farm. He stated that this action alone prevented a breach of the peace. The natives were charged for a breach of the Resident Native Labourers Ordinance, 1925, and were remanded to Kiambu Gaol. When the matter was reported to Government on Friday last, it was evident

that, if a Court action in which the whole question of Kikuyu land rights would be raised was to be avoided, the natives would have to be discharged. The one thing which, for the last four years, this Government has been endeavouring to avoid is an action of this kind which would probably find its way to the Privy Council and would effectively hamper you in regard to the Order in Council.

There is no doubt that the natives know this and are trading on what they regard as Government's weakness. On the other hand the Europeans realize the Government's difficulties but cannot be expected to tolerate much longer the infringement of their freehold rights and the general obstructiveness of the natives.

5. Notice of motion has been given by Major F. Cavendish-Bentinck to the effect that an urgent Despatch should be addressed to you pressing upon you the importance of early action towards the promulgation of the Order in Council. This will be debated tomorrow. As this is a course which this Government has already pressed upon you in a number of Despatches I cannot but accept the motion, and I can only hope that nothing will be said during the course of the debate which will prejudice the issue.

The draft legislation prepared here was sent to your predecessor in May, 1936. Since then the under-noted 4 Despatches have been sent but to none of them has a single reply come:-

- Kenya No. 441 of 25th. August, 1936.
- Kenya Confidential No. 138 of 8th. December, 1936.
- Kenya Confidential No. 10 of 14th. January, 1937.
- Kenya Confidential No. 28 of 12th. February, 1937.

I feel sure that when this is brought to your personal notice you will readily appreciate the awkward position in which this Government has been placed and I would most earnestly beg of you to give me some indication of the reasons for the long delay in replying to these Despatches and of the difficulties which I assume you are experiencing in carrying into effect the Cabinet decision announced in the White Paper which was issued together with the Kenya Land Commission Report.

6. With the exception of the survey of the new Kasigau Reserve and the Mwachi Valley exchange which will be completed in a couple of months' time - and these can be described forthwith, if necessary, with sufficient accuracy for the purpose of a Schedule to the Order in Council - everything is ready on this side for the gazettment of the Highlands and the Native Lands. Local discussion of the draft Ordinance must - as has been pointed out in previous Despatches - take some appreciable time even if the general line of the drafts sent home with Kenya Despatch No. 72 of May 31st. 1955, are agreed to by you, though as you will be aware, several points of principle of prime importance were discussed in that Despatch.

Both you and I have come comparatively recently into this matter and I am confident that you will appreciate my difficulties and will understand my desire to be acquainted fully in regard to yours.

I have the honour to be,

Sir,

Your most obedient, humble servant,

O. Brooke-Polham
 AIR CHIEF MARSHAL.
 GOVERNOR.

21st July, 1937

Ref.No.LND.17/6/III/28

The Hon.Colonial Secretary,
Thro' The Hon.Commissioner for Local Government,
Lands & Settlement,
Nairobi.

OCCUPATION BY KIKUYU OF TIGONI TOWNSHIP.

I forward herewith copy of a letter from the District Commissioner Kiambu and would refer you to my Nos.LND.17/6/III/19 of 28.4.37 and LND.17/6/III/25 of 19.5.37 addressed to the Commissioner for Local Government, Lands and Settlement of which I append a copy for your reference.

2. I am aware from the contents of the Despatch No.70 of the 29th April 1937, to the Secretary of State that the difficulties of the position have been fully emphasised to the Secretary of State, but I would urge that the attention of the Secretary of State be again invited to the urgency of the matter and that no opportunity be lost of impressing on the Colonial Office the early need for action.

3. I have every sympathy with the District Commissioner who is compelled to see his own position and authority and those of Government, undermined by the successful defiance of a handful of malcontents, who rely upon the alleged inadequacy of the law to deal with the recalcitrants. In my view, the law is entirely adequate but, in this matter, I must naturally bow to the advice of the Acting Attorney General as communicated by the Commissioner for Local Government, Lands and Settlement in his letter No.LND.20/12/18/1/50 Vol.II. of 11.5.37.

Sd.S.H. La Fontaine
Provincial Commissioner
Central Province

Copy: - to the Hon.Colonial Secretary,
for information.

The D.C. Kiambu.

3rd. July,

7.

The Hon'ble,
The Provincial Commissioner,
Central Province,
Nyeri.

I beg to draw your attention to the following facts regarding the move of the natives living in Tigoni Township.

During the last 18 months these natives have been informed on numerous occasions at barazas attended by the Chief Native Commissioner, the Deputy Colonial Secretary, the Provincial Commissioner and the District Commissioner, that Government had decided that they must move off Tigoni Township. They have also been told that the Secretary of State has replied, in answer to their petition, that he is unwilling to reconsider his decision that they must leave Tigoni Township. Notwithstanding these announcements, however, Government has decided with the advice of the Ag. Attorney General that the move of those who will not go willingly cannot be enforced until the issue of the Order-in-Council.

In April last I wrote to you that I considered it most important that the orders to move should be enforced as otherwise the Kikuyu Central Association would be likely, once more, to become a power in the District.

Unfortunately there are already unmistakable signs that the prestige of this Association has increased considerably in the last two or three months with the result that they are once again looked upon by recalcitrant members and sections of the community as a means of avoiding or delaying obedience to orders issued by the Administration or Native Authorities.

It is well known that the Kikuyu Central Association consult Nairobi lawyers to advise and assist them

in their struggles against Authority and while I still have the Native Authorities and the vast majority of the tribal elders solidly behind me, the success of the Kikuyu Central Association in delaying obedience to orders in the matters of the Tigonj move (and the closing of the Independent schools) is inevitably causing many to doubt whether Government is prepared or able to enforce orders, even when issued by its Senior Officers, if the help of lawyers is invoked to oppose them.

Natives are beginning to realise that even if obedience to an unliked order cannot, in all cases, be avoided altogether, it can at any rate be delayed considerably by making it the subject of a letter or petition to an Officer of Government more senior than the one from whom the order emanated. It is difficult to see how this can be avoided, but the fact remains that this state of affairs tends to slow down all work and add considerably to the difficulties of the Administration in this District.

While the move of the seven and a half Tigonj clans who accepted compensation is still proceeding satisfactorily there are signs that the two and a half passive resisting clans are becoming more and more truculent by reason of their success in resisting the orders to move, and are now endeavouring to persuade those who have agreed to go, to change their minds.

Headman Luka reported recently that one of the recalcitrants had started to make use of some cultivated land which had been abandoned by a man who had already moved and it seems possible, if we have no power to stop this, that eventually the passive resisters and their friends will spread over the vacated portion of Tigonj.

It is unnecessary for me to stress the deplorable

effect which the success of the passive resisters in opposing Government's wishes is having on those who have consented to move and on native public opinion generally, as very few Kikuyu are sufficiently enlightened to appreciate that Government's forbearance is due, not to weakness, but to a desire to do nothing which is not scrupulously fair and legal.

I feel very strongly, now that the move has gone so far, that it is in the interests of Government's prestige and good Administration generally that it should be completed with as little delay as possible.

The Native Authorities and the Administration who were at considerable pains to obtain for the Tigoni natives a piece of land acceptable to them, agree that they are getting a very fair deal and that it is in the ultimate interests of the Tigoni natives themselves that they should move from this island of Crown land in the middle of European farms to the Nyngweru area which is consolidated with the main Kikuyu Reserve and where they can develop unhampered by opposing European interests.

If an Order-in-Council is necessary before the move of the passive resisters can be enforced, I feel that every effort should be made to bring about its promulgation in the near future and, failing this, some other means of solving the problem should be found. No longer is only the move of a few Tigoni natives at issue, the matter is now looked upon by all as a test of strength between the Kikuyu Central Association and other subversive influences on the one side, and Government and the Native Authorities on the other.

Our failure to deal with the Tigoni passive resisters here is, moreover, not only affecting native opinion in the Reserve, it is reacting adversely on the behaviour of settlers living as of right on European

farms and making more difficult and urgent the settlement of that problem.

(Sgd) J. Gerald Hopkins.
District Commissioner.
Kiambu.

JGH/JMP.

R

August 13th, 1937.

Rt. Hon. W.G. Ormsby Gore, M.P.
Colonial Office,
S.W.1.



Dear Mr. Ormsby Gore,

I wrote you previously on the subject of the proposed transfer of Fijian natives and stated my views in reply to your letter of May 11th.

I have now had a very urgent message from the people concerned which I hope can receive your sympathetic consideration. In view of the comparatively small number of people involved and the unsettlement transfer is bound to create in view, too, of their very human appeal not to be disturbed from what they regard as their ancestral lands and the fact that apparently no practical administrative or any other convenience is secured by the transfer, may I urge that the proposed transfer should not be proceeded with. The majority of the people are opposed to the transfer and their petition of November, 1936 is still unanswered.

On July 29th, the District Commissioner of the District with several chiefs, visited the land apparently with a view to taking stock of the situation and apparently consider dispossessing the present occupiers. There is a considerable alarm among the natives concerned and I sincerely hope this unhappy transfer will not be proceeded with.

Yours sincerely,

W.G. Ormsby Gore

SUMMARY OF ACTION TAKEN ON COMMISSION'S RECOMMENDATIONS.

(WIKIYU PROVINCE)

<u>SECTION.</u>	<u>SUBJECT.</u>	<u>RECOMMENDATION.</u>	<u>ACTION TAKEN.</u>
10 also 394-398	Portions of Forest Reserve. Tigoni Move.	Natives to be removed and accommodated in Bathi Forest. (Part of 21,000 acres).	Compensation paid and removal to approved new area completed in respect of majority of residents. Others decline at present to move.

COPY FOR REGISTRATION

RECEIVED

- 5 AUG 1937

C. O. REGY.

Telegram from Limuru to the Secretary of State for the Colonies.

Dated 4th August, 1937. Received 6.15 a.m. 5th August, 1937.

Kikuyu Central Association protesting against districter Kiambu action demolishing Tigoní inhabitants villages to establish new township for European settlers according Kenya Land Commission recommendations before both Home and Kenya Government decisions of which recommendations were not accepted as final one take necessary action immediately.

Stephen Box 39 Limuru

by the
Tigoní
People

R

May 24th, 1937.

Rt. Hon. W.G. Ormsby Gore, M.P.
Colonial Office,
Downing Street. S.W.1.

Dear Mr. Ormsby Gore,

Tigoni Native Land Transfer.

I duly received your letter of 11th May and regret I have not thanked you for it before this.

I remember well your previous letter to me of November 10th and the letters to Major Milner. But several points emerge on which your letters do not satisfy me.

You say in your personal addendum to your letter of May 11th that you "have always considered that the Morris-Carter Commission were right in saying that it was in the very real interest of the Tigoni squatters that they should be removed elsewhere". The natives I have been enquiring about may be described as Squatters on Government land (though I am sure the natives do not admit the accuracy of the description), but in fact they are individual land owners who have lived for generations and still live on their own lands, ancestral lands which have never been alienated by the Government.

It may be that the fundamental point is that the recommendation of the Morris-Carter commission has been accepted (though Parliament merely received the Government announcement in 1934) but that does not dispose of the fundamental issue of social justice. These landowning natives are being deliberately dispossessed of lands which previously have never been alienated and which in its present ownership presents no administrative difficulty to the Government and is not required for public purposes. This is being done in the face of considerable feeling and protests. You mentioned in a reply to a question that the transfer was - being done with the co-operation of 7½ of the

- 2 -

clans residing on Tigon and a sub-committee of the local native council. I don't know how these calculations are arrived at, possibly by adding together odd fractions of the clans, but as late as a fortnight ago I was assured by the native owners themselves that only the Ikumu and Kamuyuka Mbaris have fallen in entirely with the wishes of the Government and have consented to move while very few responsible members of the other clans have consented. Even in the case of official headman Luka (Mbari of Hongu) his elder brother Simeon has definitely declined to be dispossessed and/or to accept compensation. I assume the co-operating sub-committee are Government nominees, for often the Native Councils are controlled and presided over by the European officers and these are Government officials present. In point of fact there is no voluntary consent to removal.

The method of consultation is disquieting. I am creditably informed there is little discussion and no explanation. A meeting (baraza) is called by the District Commissioner or District Officer and he states categorically that "the people must go to x", "that it has been decided to pay compensation 'for crops and buildings', that 'transport' will be supplied". The attitude is take it or leave it. As it is put to me, "whatever you feel, it has been decided that you have to go and go you must, willingly if you like, but you just must go". I have reason to suppose that often the matter is put "the Government is getting tired of the delay, if you don't consent now you will be turned out and no other land given in exchange". It takes some pluck to stand up and refuse, as such conduct is apt to be dealt with as defiance of authority;

It is true of course, that the people concerned object to any removal at all and it is significant that many of those who are allowed themselves to be persuaded to be moved are already regretting it. What is not understood by these people is how it was to the advantage of the natives that the transfer should be made. Even their petition to you on the matter has never been replied to. Thus, in

these matters the native feels completely at the mercy of the local officials. There is a healthy respect for justice in the law courts, but the system applicable to Africans who have an appeal only to District Commissioners or to Provincial Commissioners does not gain in respect when it is believed that administrative officers are concerned more with upholding 'authority' than with dispensing justice.

My reference to the headman consenting to alienate lands was that he was consulted and ultimately consented, that it was generally believed that he could be relied on to carry on the policy of the officials, hence his appointment, that as headman he made it clear there was no objection to the alienation when he had no authority to act or speak on behalf of the other landowners, particularly as the land was not communally owned. You say however that there was consultation with certain elders as to the suitability of certain alternative accommodation and they gave their acquiescence- but this is an inadequate and partial statement of the facts.

It is difficult for me to feel easy that the interests of the African natives are paramount when incidents such as these occur under British rule.

Yours sincerely,

Alfred Jones.

38005/37. P.Q.

10

C. O.

Mr. Parkin 1/5
 Mr. Flood 8/5
 Mr.
 Sir C. Parkinson
 Sir G. Tomlinson
 Sir C. Bottomley 10/5

Sir J. Spenceburgh
 * Mr. [unclear] 11/5
 Ferns. U.S. of S.
 Paris. U.S. of S.
 Secretary of State.

13

Downing Street.

11th May, 1937.

DRAFT.

A. CREECH JONES, ESQ., M.P.

Copy to Kenya & [unclear] 13

(3) in the House on the 21st of April about the natives who are to be transferred from Tigon in Kenya, I promised to look into your suggestion that the local officials on the spot should be instructed that no headman should be allowed to alienate the land of individual owners unless consent has been given by the individual owners beforehand.

I am afraid that there has been some misunderstanding on this matter. There never has been any question of any headman being allowed to alienate this land either with or without the consent of the natives concerned.

FURTHER ACTION.
 Copy with copy Q.A.
 to Kenya Lt.

What has been decided, on the recommendation of the Kenya Land Commission, is that the whole of the natives occupying this land should be moved to another area. Protests were received both as to the move and as to the unsuitability of the land to which it was proposed to transfer them.

As regards the move itself, the Government has never deviated from its decision. As regards the area to which these natives are to be transferred, however, it was found on examination that the representations as to the unsuitability of the area proposed were justified, and the Government of Kenya went to a good deal of trouble to find another area which would be really suitable to the requirements of these natives, and in this connection, they took the very proper precaution of consulting the responsible elders. As was explained in the letters to Major Milner, of which I sent you (18 on /36) copies with my letter of the 10th of November, these elders were satisfied with the new proposals for the alternative accommodation of these natives, and on being so satisfied were

Prepared

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Shuckburgh

Perm. U.S. of S.

Privy. U.S. of S.

Secretary of State.

36
prepared to acquiesce in the arrangements for the move.

In this acquiescence they have been followed by 7½ of the clans concerned.

The fact that the remaining 2½ clans assert that the elders have no right to accept these arrangements on their behalf is really irrelevant to the fundamental point that it has been decided that the whole of these natives must move from the area in question, and in any case, as I have said, there is no question of the alienation by the headman of any land belonging to anybody.

DRAFT.

FURTHER ACTION.

W. H. M. J. J. J.

AIR MAIL

KENYA

No. 70

CONFIDENTIAL



RECEIVED
7 - MAY 1957
C. O. REGY.
GOVERNMENT HOUSE
NAIROBI
KENYA

37
9

24th April, 1957.

Sir,

I have the honour to inform you that action has been taken as desired in your Despatch No. 228 of the 15th March, 1957, relating to the removal of certain Kikuyu natives from Tigoni. In making this intimation the Provincial Commissioner told the natives concerned that they should arrange to move in a month's time.

4.

2. The removal of the natives has so far been proceeding smoothly and steadily. Their goods and general effects are being transported for them by lorry and the cost of removal will amount to considerably more than the sum of £400 referred to in Mr. Wade's Despatch No. 4 of the 5th January, 1957.

2.

3. There is, however, little doubt that the recalcitrant clans will not move voluntarily, and I am advised that in the circumstances it is not feasible to take action against them either under Section 12 of the Native Authority Ordinance, 1957, or Section 144 of the Crown Lands Ordinance (Chapter 140), and that legal proceedings must await the issue of the new Native Lands (Order in Council) and the enactment of the new Native Lands Trust Ordinance.

4. You will, I have no doubt, appreciate the administrative difficulties which this position involves. The recalcitrant natives take up an attitude of defiance and, notwithstanding the finding of the Kenya Land Commission, recorded in paragraph 392 of their Report,

THE RIGHT HONOURABLE,
W.S.A. ORMSBY-GORE, P.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

we ---

- 2 -

we are powerless to enforce the order for removal which has been given. It is feared that the apparent success of this attitude may react on the minds of those who have voluntarily moved and if these returned we should be in the same unfortunate position in regard to them.

o. In paragraph 5 of Kenya Confidential Despatch No. 132 of the 8th Decemoer, 1956, Sir Joseph Byrne asked for an early expression of your views on the principal points raised in Kenya Despatch No. 72 of May 21st, 1956, and in Kenya Confidential Despatch No. 10 of January 14th last stress was laid on the importance of early progress being made with the requisite legislative measures from the standpoint of extinguishing native rights on certain farms in the Kikuyu area. Reports have on several occasions been received from the District Commissioner, Nairobi, regarding the difficult attitude adopted (particularly in the Limuru area) by natives resident on farms in respect of which their rights have been acknowledged. In view of the time which has passed since the publication of the Kenya Land Commission report these natives appear to cherish the view that no action is in fact contemplated by Government, and this opinion is leading them to actions which the European farm-owners find great difficulty in tolerating. In some cases the natives are cultivating in any part of the farm which attracts them - they decline to sign resident native labour agreements with the farmers - and adopt a posture of obstructiveness almost amounting to truculence. Hitherto the Europeans have behaved with forbearance in response to representations made to them by the District Commissioner, but I am advised that they are becoming increasingly restive and that incidents are likely to occur if evident indications of Government's intentions to introduce the legislation contemplated by the

(1) av 38005/13/37

(1) av 38005/6/35

(1) av 38005/11/37

Commission are not given in the near future.

6. I would therefore urge that very early consideration be given to the measures sent to your predecessor with Kenya Despatch No. 72 of May 31st, 1935, and to the points discussed in that despatch.

(1) or 38005/6/35

The land transactions for carrying into effect the Commission's Report are approaching completion. The survey of boundaries common to Native Lands and Highlands is practically finished, the principal outstanding matters being the addition of 40,000 acres of Elgon Forest Reserve to the North Kavirondo Reserve; and the delimitation of a corridor to give access from the Mukogodo Reserve to the Uaso Nyiro river. The demarcation of the Kasigao Reserve is also outstanding. This work can, however, proceed concurrently with discussion of the draft legislation. That discussion may be expected to occupy a considerable time, and it is of great importance that it should be initiated as soon as possible.

I have the honour to be,
Sir,

Your most obedient, humble servant,

Brooke-Popham
GOVERNOR.

C. O.

39005/7/37

Mr. Grossmith
Mr. *1/10/15-4*
Mr.

Sir C. Parkinson
Sir G. Tomkinson

X Sir C. Bottomley
Sir J. Blackburne

Perms. Dept. S.

Party U.S. of S.

Secretary of State

1574

154

16-4-37

For signature by the S. of S.

16 April, 1937

Dear Milner,

I have received the petition, dated the 27th of November, to which you refer in your letter of the 13th of April, and I presume that you have had a copy. My letter to you of the 3rd of October contained a full statement *in regard to the petition in regard to the establishment of a report of the position up to the middle of September. I learn from the Atty. Genl. that ~~some~~ that date arrangements for the move have proceeded actively with the co-operation of 7 of the 10 Mbaris (clans) residing on Migeni together with a sub-committee of the Local Native Council. The area occupied by these Mbaris has been measured, the trees counted and compensation assessed. Areas in the new block at Nyamweru have been selected by the Mbaris co-operating in the move, and additional land is being held in reserve*

DRAFT.

Major J. Milner,
M.C., P.D., M.P.

FURTHER ACTION.

those who have not at present for the non-co-operating, cooperate in the organization of the move

The Acting Governor says that the compensation assessment has been carried out on a generous basis and reaches a total of £1239.16.0. for the 7½ Mbáris who have pointed out their holdings. Although in practically every instance the amount ^{first} originally claimed was double or treble what was eventually assessed, not a single complaint was received after the assessment was made. The Land Commission's provisional estimate for this compensation was £400. A motor lorry has been provided ^{by Government} to transport the residents and their effects and I understand that the move was to have been carried out early in this year.

The Acting Governor pointed out that the attitude of the ^{as} recalcitrant ^{has} clans increased the difficulties of the move but ^{and it} should not retard the movement of those who are willing to go. These ^{recalcitrant} clans have resolutely refused to point out their property with a view to its assessment. No assessment has, therefore, been possible but a sum which is judged by the District Commissioner to be sufficient will be kept in reserve to provide compensation for them and ^{they} will be informed that they will be moved, forcibly if necessary, ^{? will manage in []} when the Native Lands Trust Order in Council and the new Native Lands Trust Ordinance are promulgated.]

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parly. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

Land will be reserved at Nyamwera for their occupation until such time as they can be removed from Figeni.

In the Acting Govnr's view, the claim in the Petition that, when the move has been completed, any proceeds from the sale of the evacuated area should be the property of the former residents cannot be admitted, since generous compensation is being given not only for huts and trees but also in the form of 30% additional area of equally good land. In this view I entirely agree and in the circumstances I have asked that the petitioners should be informed that I have nothing to add to my previous communications regarding their movement of the inhabitants of Figeni to Nyamwera.

FURTHER ACTION.

Remain,

Your sincerely,

W. D. ... for

RECEIVED
22 APR 1937
C.C.

AM 13/37

Dear Drury, You,

I should be
grateful if you would
let me know the
position regarding
the Kikuyu petition
dated the 27th Nov
1936. It referred to
the proposed removal
of Tionni natives

Yours sincerely,

Heinrich

Deja Dine

Ans 2

C. O.

38005/7/37.

Mr. Grossmith.

Mr. ~~Parkin~~

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permi. U.S. of S.

Parly. U.S. of S.

Secretary of State.

12/2/37
13/2/37

AIR MAIL

Downing Street,

15. March, 1937.

Sir,

15 MAR 1937

I have etc to acknowledge

the receipt of your despatch No. 4 of the 5th January regarding a petition dated the 27th November, from certain of the residents of Tigon, &

2. I am obliged for your observations on the petition and I

request that the petitioners may be informed that I have nothing to add to my previous communications regarding the proposed movement of the inhabitants of Tigon to Nyamvera.

3. I take this opportunity to transmit to you a copy of a telegram addressed to me by the Kikuyu Central Association. I shall be obliged if you will inform the Association that I am not prepared to intervene.

I have, etc.

(Signed) W. ORMSBY GORE.

DRAFT.

KENYA.

No. 228

O.A.G.

*For Kikuyu Central Assoc. (3)
4/3/37*

FURTHER ACTION.

34
COPY FOR REGISTRATION

3

Kenya
TELEGRAM from the Kikuyu Central Association to the
Secretary of State for the Colonies.

Dated 4th March, 1937. Received 3.24 p.m. 4th March,
1937.

RECEIVED

C. O. REGY

Kenya Government forwarded false report
that Tigonu natives accepted land in exchange.
natives seriously pressed to move send special
commission to investigate urgently

Spice to Kenya (4)

KENYA

No. 4



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

5 January, 1937.

Sir,

I have the honour to refer to your Despatch No. 869 of the 28th. of October, 1936, and to enclose a further Petition from certain of the residents of Tigonj.

2. A full statement of the position up to the middle of September was made in my Despatch No. 489 of the 15th. of September. Since that date arrangements for the move have proceeded actively with the co-operation of 7½ of the 10 Mbaris residing on Tigonj together with a sub-committee of the Local Native Council. The area occupied by these Mbaris has been measured, the trees counted and compensation assessed. Areas in the new block at Nyamwera have been selected by the Mbaris co-operating in the move, and additional land is being held in reserve for the non-co-operators.

3. The compensation assessment has been carried out on a generous basis and reaches a total of £1283.18.0. for the 7½ Mbaris who have pointed out their holdings. Although in practically every instance the amount originally claimed was double or treble what was eventually assessed, not a single complaint was received after the assessment was made. The Land Commission's provisional estimate for this compensation was £400. A motor lorry has been provided to transport the residents and their

THE RIGHT HONOURABLE
W.G.A. GRESBY-GORE, F.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWLING STREET,
LONDON, S.W.1.

effects and the move will be carried out early in the new year.

4. The attitude of the recalcitrant clans increase the difficulties of the move but should not retard the movement of those who are willing to go. These clans have resolutely refused to point out their property with a view to its assessment. No assessment has, therefore, been possible but a sum which is judged by the District Commissioner to be sufficient will be kept in reserve to provide compensation for them and they will be informed that they will be moved, forcibly if necessary, when the Native Lands Trust Order in Council and the New Native Lands Trust Ordinance are promulgated. Clause 49 (2) of the Draft Bill deals with this point. Land will be reserved at Nyagweru for their occupation until such time as they can be removed from Tigonj.

5. The claim in the Petition that, when the move has been completed, any proceeds from the sale of the evacuated area should be the property of the former residents cannot, of course, be admitted, since generous compensation is being given not only for huts and trees but also in the form of 50% additional area of equally good land.

In the circumstances I trust you will agree to my informing the Petitioners that you have nothing to add to your previous communications upon this matter.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Ad. W. ...

ACTING GOVERNOR.

27th November, 1936.

To,
The Right Honourable
H.M. Principal Secretary of State
for the Colonies,
Whitehall,
LONDON.

through
H.E. The Governor and Commander-in-Chief
of the Colony and Protectorate
of Kenya.
NAIROBI.

Right Honourable Sir,

We, the undersigned, being of the
people of Tigon in the Limuru area, near Nairobi, Kenya
Colony, beg leave most humbly and respectfully to petition
you in the matter of our lands at Tigon.

2. The lands claimed by the clans at Tigon
comprised originally a great deal more than the one
thousand acres (approximately), which have been dealt with
by the Kenya Land Commission as being unalienated (by the
Crown) in that particular area.

The said land was and is claimed as land
acquired by our forefathers - the exact method of
acquisition is not, now, very material - and in our
possession since 1870, and never abandoned.

On 3. The Land Commission dealing with the
claims of Tigon Natives has come to this conclusion:

"It appears to be a just conclusion on the evidence"
"that the Limuru farms were sparsely occupied by the"
"Kikuyu prior to alienation, were somewhat heavily"
"covered with bush but were not forest, and it is"
"probable that before the famine the degree of"
"cultivation and occupation was greater".

para 134

4. The land now the subject of this petition is the land remaining after alienation to settlers, land unalienated, and still in the unquestioned occupation of the ten Tigoni mbari-(clans).

5. It is difficult for us, the petitioners, to understand exactly what is being done or is to be done by the Administration with reference to this land; we learn on the one hand that before steps are taken to remove us, there will be an Order-in-Council which will legalise this move. We presume that such an Order-in-Council will deal with our position; we know that it will deal with the matter of Natives residing on land sold to Europeans, (for which Natives provision is made in the law as at present in force), for we do know of certificates being issued by the District Commissioner to such Natives in this form:

"This is to certify that-----and
 "-----are living on Mr. A's
 "farm at Limbo pending the Order-in-Council
 "following on the report of the land
 "Commission before whom they laid claim."

Sd/-

District Commissioner.

6. On the other hand, though so far as we are aware, there has been no Order-in-Council dealing with this matter, we find from the Official Gazette of the Colony and Protectorate - the issue of September 1, 1936 that the Government has appointed a Headman with effect from 1st January 1936, to be the Official Headman for the Tigoni area and the exchange area Nyanweru. The remarks on his appointment reads as follows:- "Luka has acted as headman of the Tigoni people for several years. It is considered necessary to regularize his position now that the Tigoni natives are being moved to the Nyanweru area."

7. We beg most respectfully to point out that in the matter of the claims to this land Luka has never purported to act as sole representative of, or otherwise solely on behalf of the Tigoní mbari (clans), and we again respectfully and emphatically submit that our land at Tigoní is not commonalty, but comprises several individual plots held by members of each family, and we are not reconciled to having our land treated as common land.

8. In general we submit that among us, the Akikuyu, as also among other tribes, whether Kikuyu or not, who have a system of private tenure, no one "headman" can be taken to have any authority, unless such authority has been expressly given, to bind any individual landholder.

9. Although our position, as it seems to us, should be better than that of persons whose lands have already been alienated, we are, nevertheless, not being permitted to remain on our land, but even before the promulgation of such an Order-in-Council, we are being pressed to move. We cannot but feel that it is being attempted to make it appear that we have consented to the move before the promulgation of the Order-in-Council.

WHEREFORE we pray:-

(a) that we be not forcibly dispossessed,

(b) that if it be finally decided that it

were better that we remove from the immediate vicinity of the European, our land be held by Government on our behalf, and that if and when leased, the proceeds be ours, and applied in a scheme or schemes for our material uplift, the exact details of which may be settled later, and

(c) that by so doing our lands be reserved

4.

for us and our rights acknowledged, as
has been done in the case of Uganda, and
of the Mohammedan Coast tribes.

we beg to remain
Your humble servants

Obarius n. Karatta
 Simon muthunga
 Karuki musinga
 Kingi mucina
 Kingi mukura
 Philip mugwera
 Niganga Githanga