

1938

38005

CO 533/488

38005

KENYA

19

19

LAND COMMISSION REPORT

EXCHANGE OF LAND BETWEEN MABAI RESERVE & THE HIGHLANDS

Previous

Subsequent

R 297	12/3/28
309	16/3
M Parkin	17/3
M. Dams	15/3
MR C. BOTTOMLEY	15/3
Mr Davidson	16/3
S/S	17
Mr Chapman	17/3
M Parkin	18/3
297	21/3
M Dams	22
297	

CODE

Kenya

Submits proposal for exchange of land whereby the Masai would obtain the Mile Zone, Chyulu Triangle + Trans Rombo Area for the Yatta area and eastern apex of Masai Reserve - ^{Yatta Area} commensurate, attaching plan, and requests approval by telegram.

The transfers of land ^{to} the Masai Reserve, which are proposed in this despatch, were foreshadowed with approval by the Land Commission in Section 682 (attached at No. 2), where the suggestion was made, as one of the two ways whereby the Masai might be given the use of the Mile Zone and the Chyulu Triangle, ^{that} land already forming part of the Reserve should be swapped for these two areas.

The only comments which suggest themselves ^{on} the method now proposed to give effect to this otherwise admirable proposal are:-

(1) It is not clear why, in view of the fact that the Masai stand to make a net loss by the swap of 21 square miles, more of the Trans Rombo area, coloured pink in the map attached to No. 1, is not to be added to the Reserve (by inclusion within the area bordered red).

(2) The Yatta "D" area, which is to be included in the Highlands in part exchange for the Mile Zone, is an area which matches with the Kikuyu and the Machakos Reserves and has, no doubt, a number of both of these tribes living on it. If the "D" area now becomes part of the Highlands these natives will either have to move or become squatters. Thus the Masai, for whose benefit the change is to take place, will gain at the expense of the other two tribes. As, however, according to paragraph 542 of the Land Commission's report (attached at No. 3), the area is one which "should be regarded as especially an area in which non-natives should be

encouraged

3

encouraged to take up land" there is perhaps insufficient reason to object to its transfer to the Highlands.

(3) The explanation of ~~the~~ the "D" area ^{having} been shrunk to 25 square miles in the despatch from the 33 square miles in paragraph 542 of the Land Commission report is to be found in paragraph 3 of No. 2 on 38005/4/35 (flagged and attached), where it was directed that part of the original "D" area should be added to the neighbouring "BI" area in compensation for a reduction of the latter.

? The proposed transfers of land may be approved.

Draft telegram for consen. herewith.

Charles White 1913

As regards the Masai, I think we are entitled to assume that they are satisfied that although, under this exchange, they will be giving up more land than they will be receiving, the difference in area is sufficiently compensated by the greater value of the land wh. they will be receiving.

As regards the loss of D land to be added to the Highlands, the proposal is not inconsistent with the recommendation of

the Land Commission in para 542 of their Report.

These exchanges have clearly been the subject of close negotiations with the representatives of the Masai & the Europeans - the Highlands & I think can be accepted.

J. J. Payne
15/3

A. J. Wawe
15/3

I do not think that we have ever had extensive talks about their Masai claims, but they have often been mentioned to me by Major Johnston - a matter in which he was making himself a nuisance on behalf of the Masai. I am glad that they have found a solution which provides permanently for Masai wants.

As regards the 4000 "D" land, there is force in the point that it was at one time destined for European cultivation, but so it would be if it remained "D". But we have already obtained the necessary for "D" land, even so

European purposes. The
Commission, while leaving
this area's future indefinite,
waved between B, & D,
the change over to high land
may prove convenient. But
I do not think it is necessary
to prejudice the Masai
settlement on this account.

W.S. 10.3.38

Sec. of State

It would be a very satisfactory
thing to clear up the long
outstanding Masai claim
to the Mile Zone.

? Approves as proposed.

W.S.

16.3.38

Letter to Kenya

TEL. 28 Conf (Duffin 38006/38) 18.3.38

M. J. ...
18/3/38

C. O.

38005/19/38

Mr. Costley-White

16/3/38

Mr. ~~Reakin~~ 15/3

Mr. Dawe 15.3

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley. 15.3

Sir J. Shuckburgh.

+ Perm. U.S. of S. 16.3.38

Parly. U.S. of S.

x Secretary of State.

W 17.3.38

Not to go on separate sheet
I have included it in
Tel. on 38005/19/38

No.

Your despatch 15. 181.

Proposed exchanges ~~of~~ approved.

DRAFT. TELEGRAM CODE

GOVERNOR,

Secy.

NAIROBI.

FURTHER ACTION

KIKUYU PROVINCE

PART I—CHAPTER XV

THE ECONOMIC ASPECT

until the means of supporting a family are apparent, and if in consequence the rate of population-increase has begun to decline, if all these conditions exist then a respite of a few years may be very useful so that: (i) the economic lesson may be better learnt; (ii) the agrarian adjustments may be effected, and (iii) congestion may not occur until the rate of increase has slackened and simplified the problem.

341. It is true that, whether such addition is made or not, an equilibrium would eventually be reached, but the danger that the final equilibrium will be a low-grade population living on impoverished soil is somewhat diminished if the addition is made and a respite received. But it is obvious that the economic adjustments for which the respite is desired would take a very considerable time.

342. After considering these matters and having regard to the actual areas available, we think that the addition of an area of some 350 to 400 square miles is warranted, and would be of very substantial assistance to the Kikuyu in affording them a respite during which they must learn to improve their methods of agriculture and land-holding so that, when the existing degree of density is again reached, they will be better able to face the position. We recommend that this area be found on the northern Yatta in the general position shown on the map here following. The extent of the area as shown on the map is 383 square miles. We recommend that the addition be made to the Kikuyu Native Reserve as Class B1 (see section 23 above).

It will be observed from the map that L.O. 7048 forms a salient into this area. It is 33 square miles in extent, and is land for which Messrs. Swift and Rutherford applied in order to undertake a large sisal growing enterprise. But in 1931 the application was withdrawn, although the possibility was envisaged that at some future date the application might be renewed.

We have agreed to consider that this area should be regarded as a "D" area (see section 25 above) and that its future destiny should be determined by the course of events; the Chairman would, however, have preferred that it should have formed part of the extension to the Kikuyu with the proviso that it should be regarded as especially an area in which non-natives should be encouraged to take up land and that consequently it should not be included in the first blocks for Kikuyu settlement.

343. It is essential that the land to be added ~~must~~ be used in such a way as to assist in the learning of economic lessons. It should certainly not be reserved as a commonage to the tribe. Such a course would be retrogressive and injurious both to the soil and to the people.

Extension of
the Block
Addition on
the Yatta.

KIKUYU PROVINCE

PART I—CHAPTER XV

THE ECONOMIC ASPECT

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CHAPTER XV

REQUIREMENTS EXTERNAL TO THE RESERVE

536. The effect of the economic evidence is to suggest that something in the nature of a general congestion is threatened in the Kikuyu District within three years, unless very great improvements in agricultural method and the holding of land take place. Improvement in so high a degree cannot safely be assumed, and it is apparent that we cannot rely on internal adjustment alone, but that facilities in land external to the reserve will have to be found.

537. We shall pass briefly in review the various forms which this assistance might take.

538. We have recommended block additions amounting to 21,000 acres to be made permanently to the reserve in settlement of the claims of right. This addition has been recommended for the removal of grievances, and not on economic grounds. It will have a certain economic effect, in that it will help to knit the reserve more closely together by the elimination of the "islands" of Tigoni and Kithurion and by joining the existing "islands" of Lari and Ngarariga by corridors to the main reserve. It is also to be hoped that the better spirit which is likely to be engendered in the Kikuyu by the settlement of their past grievances will make them more amenable to the advice and instruction given them by administrative and agricultural officers. But as a direct contribution to the solution of a problem of incipient congestion the addition of these compensatory blocks is clearly inadequate, and needs to be supplemented by the addition of further blocks on economic grounds.

539. It is clear that no addition of territory, however large, can by itself solve problems caused by density of population, if the population continues to increase. All that it can effect is a certain saving of time, and the value of the addition depends on the use made of the time.

540. If a population is showing signs of becoming economically minded; if it has begun to sweep aside agrarian restrictions which have lost their uses and devise others which ensure the occupation of the land to better advantage; if it has realized the futility of trying to secure particular pieces of land by a sort of entail to the same family for ever; if it has begun to build up derivative industries on the basis of agriculture instead of expecting every family to be supported directly from the growing of crops; if it is showing a tendency to delay the age of marriage

Block Addition.
(1) The Compensatory Blocks.

Block Addition.
(2) An Addition recommended on Economic Grounds.

CHAPTER II

THE MASAI PROVINCE: CERTAIN SPECIFIC LAND PROBLEMS CONNECTED WITH THE MASAI TRIBE.

675. We now turn to an examination of certain specific claims which have a certain local importance but are, by comparison with the more comprehensive considerations which we have just been discussing, entirely of a minor character.

Certain Specific Claims.

676. The Masai claim the area one mile in width on the south side of the railway line from Athi-River Township to Sultan Hamud Station, and the triangle between Chyulin, the Kiboko River and Sultan Hamud. These areas are known as the Mile Zone and the Chyulin Triangle and it is convenient to discuss them both together.

Claims to Mile Zone and Chyulin Triangle.

677. Two facts emerge clearly from our examination of the evidence: the land claimed is not included in the Agreement boundaries of 1911 or in any other agreement with the Masai; and the Masai know that it was not included. We have therefore concluded that the Masai cannot claim it as of right.

678. When the Agreement was signed, it was certified that the document was explained to the chiefs and representatives of the Masai, who entered into the Agreement of their own free will and with full knowledge of its contents. This certificate was signed by the Crown Advocate, the Secretary for Native Affairs, four Provincial Commissioners and the Treasurer of the Protectorate.

679. Evidence was given to the sub-committee of Executive Council, which went into the matter, by Mr. R. W. Hemsted, Officer in Charge of the Masai for many years, to the effect that, although in the absence of demarcation, neither he nor the Masai knew precisely where the boundary was, they knew quite well and had been told many times that it did not extend up to the railway line. We have also had evidence (p. 1262) to the effect that Major E. D. Browne, when District Commissioner, Ngongu, began to erect beacons to demarcate the Mile Zone.

680. It has been represented to us in some quarters that the Masai have a good claim to the area on economic grounds. It contains sources of water supply of considerable value to them, of which they have had the unimpeded use for a number of years. It will entail some hardship on the tribe if it is deprived of the use of these areas, pending the provision of an adequate alternative supply, and we recommend the adoption of one of the following courses



4 MARCH, 1958.

Sir,

I have the honour to refer to sections 675 to 682 of the Land Commission Report wherein the Commissioners rejected the claim of right made by the Masai to the Nile Railway Zone from Athi River Township to Sultan Hamud, and to the Chyulu Triangle, but proposed that the way be left open for annual leases of these areas to be granted to the Masai, or for exchanges of land to be carried out, whereby lands within the Masai Reserve which would be of value to other tribes or communities would be ceded in exchange for these portions, or for any other land desired by the Masai.

2. The eagerness of the tribe to acquire these areas has in no way relaxed. In addition, the Masai covet an area in the Trans Rombo district over which grazing rights have occasionally been granted to the tribe in periods of drought.

3. Definite proposals have recently been submitted by the Masai for a comprehensive exchange of land which would release from the Masai Reserve certain areas which are not required for the support of the tribe in exchange for the Nile Zone and the Chyulu Triangle from Sultan Hamud to the Kiboko River.

4. The areas proposed for surrender comprise:-
(a) ...

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

- (a) 300 square miles at the eastern apex of the Reserve. This land will if it is expected be included in a scheme which the Acting Game Warden is formulating for the establishment of a series of National Game Parks.
- (b) The area of 10,000 acres (16 square miles) near Athi River Township at present leased to Messrs Liebigs for a term of 10 years. Under the terms of the agreement between this Government and Messrs. Liebigs Government is under obligation if on the expiration of the lease the Masai refuse to extend the term for a further period of 10 years, to provide an equivalent area in the same locality. The only suitable land is the eastern portion of the Nairobi Commonage, which must in consequence be kept free for disposal in this way. This lien on part of the Commonage land is delaying the consideration by this Government of the proposal to establish thereon a Game Sanctuary, for which there is a strong public demand.

5. The Masai would gain:-

- (i) the Mile Zone, about 55 square miles, including several coveted springs;
- (ii) the Chyulu Triangle from Sultan Hamud to the Kiboko River, about 165 square miles.
- (iii) the Trans Rombo area, 70 square miles. The boundaries of this portion will be aligned to exclude a portion on the southern side which will be suitable for settlement. The eastern end which is infested by tsetse fly will also be excluded.

6. Of these areas the Mile Zone (55 square miles) is at present in the Highlands as defined by the Land Commission. The area of 16 square miles at present

leased ...

leased to Liebig's would pass into the Highlands. In order in part to compensate the Highlands for a reduction of area it is proposed to transfer the Yatta "D" area (25 square miles) to the Highlands. The character of this land is such that its most probable future use would be for sisal cultivation (for which purpose it was at one time leased); it cannot, therefore, be regarded as an important reduction of the "D" areas as classified by the Commission.

7. These proposals which emanated from the Masai have been discussed over a long period with the accredited Representatives of the Highlands who have not expressed their agreement. My Executive Council has with my concurrence endorsed the scheme subject to your sanction having been first sought and obtained.

8. The following statement shows the relative approximate areas of the exchange proposals:-

	<u>Square Miles.</u>
A. <u>The Masai would obtain:</u>	
(a) The Fife Zone	55
(b) The Chyulu Triangle (Sultan Hamud to Kiboko River)	165
(c) The Trans Rombo Area.	75
	<u>295</u>
B. <u>The Masai would surrender:</u>	
(a) The Liebig area	16
(b) The eastern apex of the Reserve	300
	<u>316</u>
C. <u>The Highlands:</u>	
(a) Would lose (Fife Zone)	55
(b) Would gain (Liebig's area and Yatta "D" Area)	41
Difference.	<u>14</u>

A plan is enclosed showing the various portions of land concerned.

9. It is with some satisfaction that I have

before ...

before you these proposals for the settlement of a long standing grievance of the Masai tribe which will I am confident result in improved relations between the tribe and Government and in the steady co-operation with Messrs. Liebig in their enterprise.

10. I have given an assurance to the European Unofficial Members of Executive Council that if your sanction is accorded no public announcement of the fact shall for political reasons be made until April 1st, 1938, and that the terms of the notification shall be a matter for consideration between the Chief Native Commissioner and Major Cavendish Bentinck.

It is, however, necessary to amend the descriptions and plans of the Native Reserve and Highlands boundaries, which have already been prepared, in order that there may be no delay when the time arrives for their publication.

I should be grateful, therefore, if you would signify by telegram your approval of the proposals.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R B Rocke-Vopham

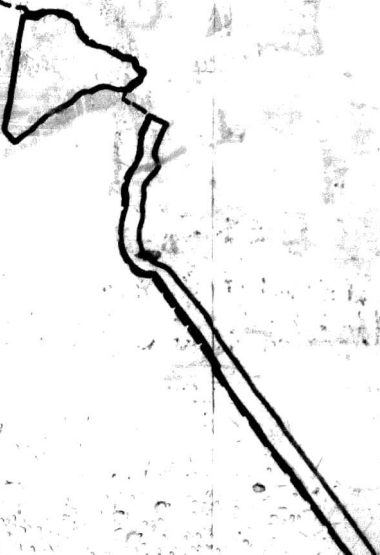
AIR CHIEF MARSHAL.
GOVERNOR.

G.R.

COLONY 6 PRAIRIE

YATTA D' AREA
5 SQ. MILE

LIEBIGS AREA
16 SQ MILES



STATE OF KENYA
YATTA "D" AREA
25 SQ. MILES

END

MILE ZONE
55 SQ MILES

CHYULU TRIANGLE
165 SQ MILES

REFERENCE

- BORDERED BLUE = AREAS MASAI TO SURRENDER.
- BORDERED RED = PROPOSED FOR INCLUSION IN MASAI RESERVE.
- BORDERED YELLOW = AREA TO BE INCLUDED IN HIGHLANDS.

MASAI RESERVE BOUNDARY

CHYULU TRIANGLE
165 SQ MILES

MASAI

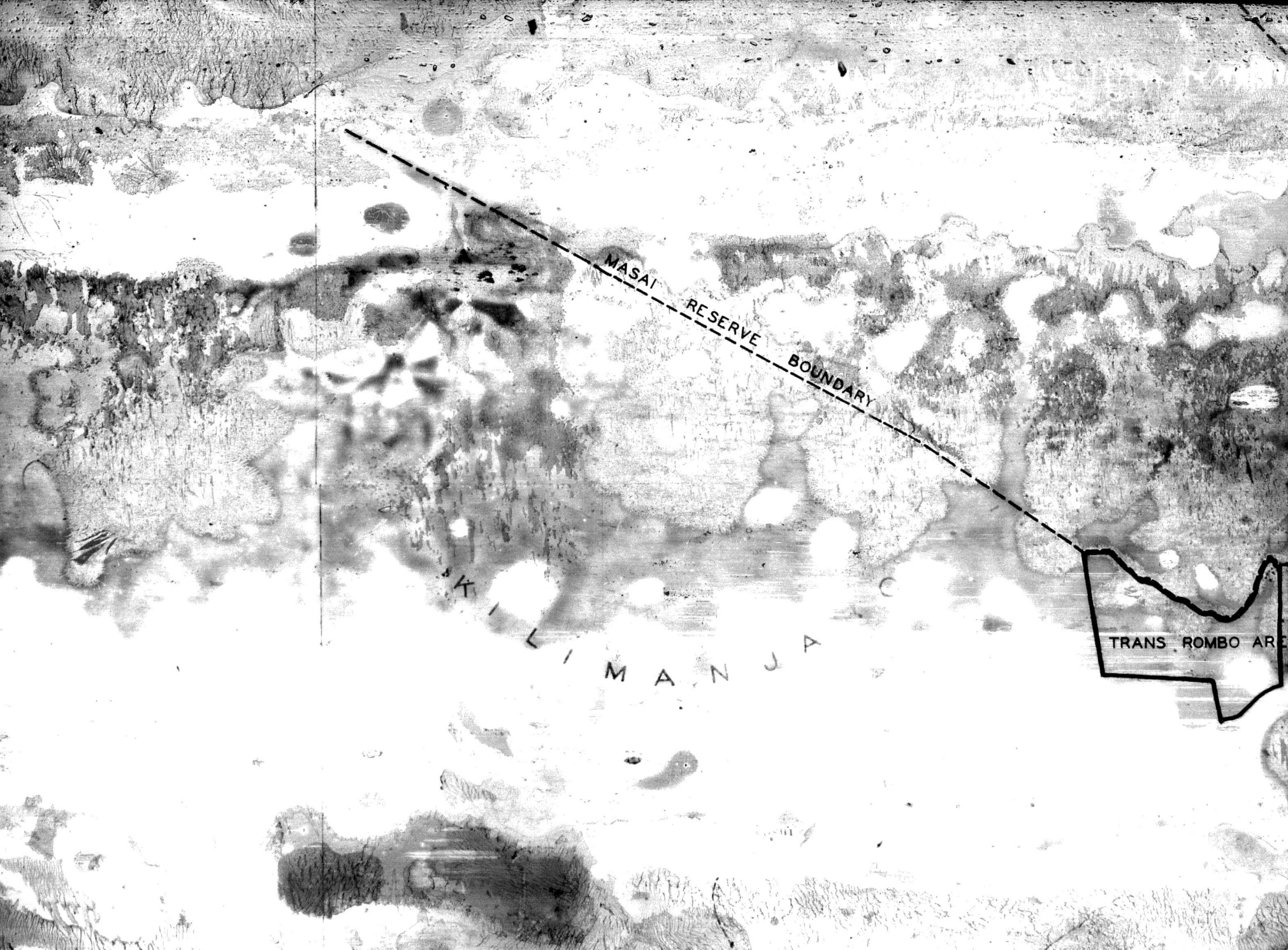
RESERVE

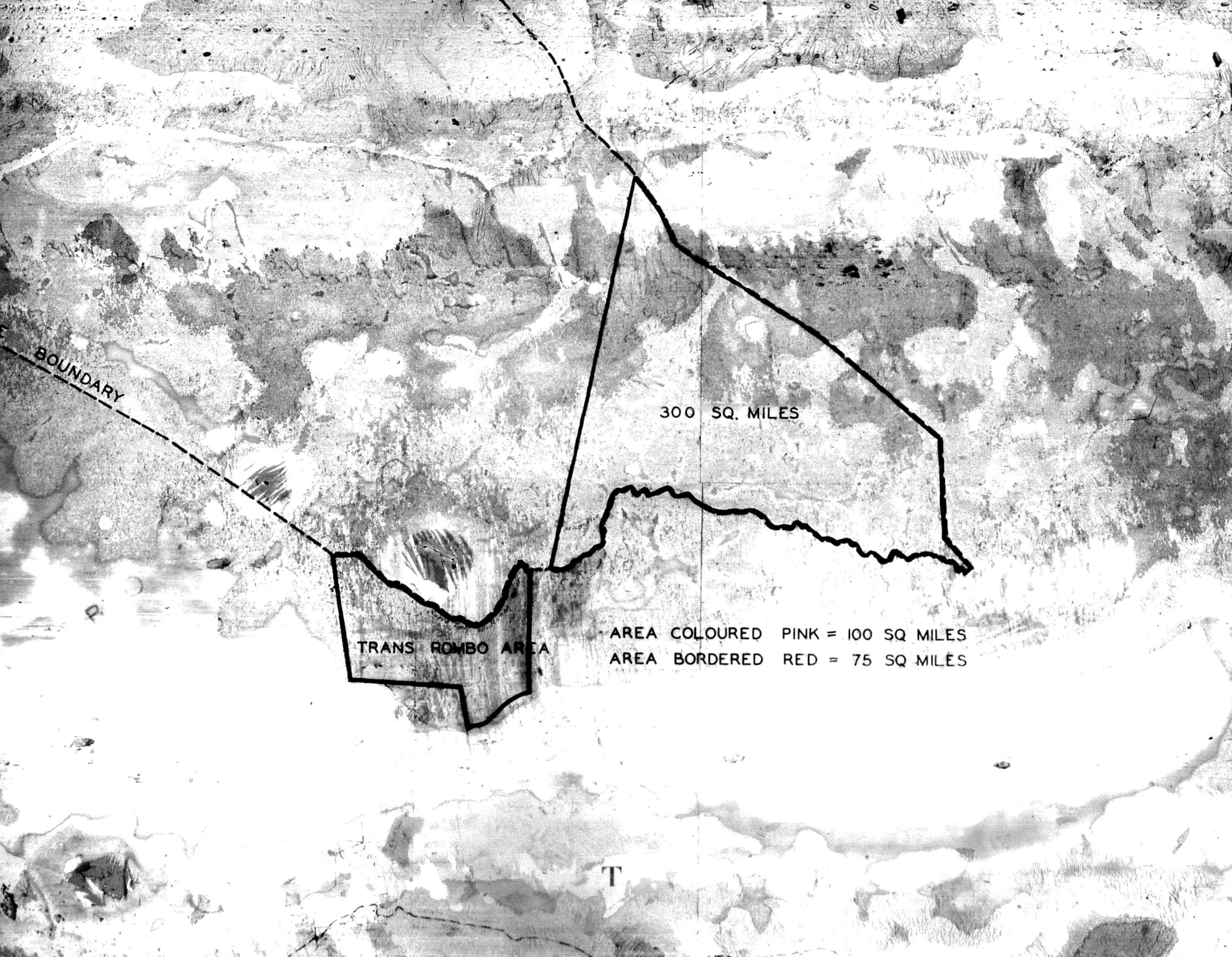
BOU

MASAI RESERVE BOUNDARY

KILIMANJARO

TRANS ROMBO AREA





BOUNDARY

300 SQ. MILES

TRANS ROMBO AREA

AREA COLOURED PINK = 100 SQ MILES
AREA BORDERED RED = 75 SQ MILES

T