

July, 1910, have now been
exchanged.

?

EAST AFR. PROT.
ZANZIBAR
6236

C O
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Recd
28 FEB 12

Foreign
Date.
1912
27 Feb.
previous Paper.
10.
4442

Mainland Dominions
of Sultan of Zanzibar.

Submits views regarding the possibility of restricting the limits of the inland boundary as proposed, for considers it too late now for H.M. Govt. to attempt to disregard line adopted in 1899. Cannot say what construction German Govt. have placed on Agreement of 1886, but, if desired, they will be approached in the matter.

~~Mr. Tennison~~ Mr. Read
~~not Read.~~

(pp. 107r
108r of 7090)
(pp. 74 + 75
of 7402)

So far as I can gather from Sir A. Hardinge's despatch of the 19th of July 1898 & the notes exchanged in Zanzibar on the 13th of July 1899, the only section of the boundary there in question was that extending for a few miles on either side of the Railway. The reservation made by Mr. Cave in agreeing to this boundary leaves it open to contend, it seems to me, that a more strict interpretation of the description given in the Notes of 1886 should be

subsequent Paper

adopted in marking out the remainder
of the boundary, & it is with the remainder
of the boundary, no doubt, that Sir P.
Girouard is now, or mainly, concerned.

In view, ^{however,} of the reasons given in the
notes of the 13th of July 1899 for adopting
the boundary as marked out near the
Railway, it would no doubt be a material
point, in laying out the rest of the
boundary, what localities have hitherto
been recognised as lying either within
or without the Zanzibar dominions. There
must be some well-established local
practice in this connection, though we do
not know what it is. In so far as Sir
P. Girouard may be wishing to change
this local practice, the arrangement of
the 13th of July 1899 will be against him.
In so far as local practice may still
have left it doubtful whether a locality
is or is not within the Sultan's dominions,
we may still, it appears to me, press

for ~~the~~ a boundary ten miles from
high water mark along the coast washed
by the sea.

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We can only wait for Sir P. Girouard,
as contemplated in Sir J. Anderson's
minute on $\frac{7.0}{40012}$.

I think we had better not ask
Germany what construction they placed
upon the agreement of 1886 in connection
with the coast strip of German East
Africa. They have now bought their strip,
and they might therefore be tempted to
favour a construction which embarrassed
Great Britain without harming them.

H.B.

March 2.

It is true that the note of 13th July (from
H. Lane) only alluded to "the line of
demarcation ... as set out by H.B.
his agent & Consul General ^{appointed} the Govt of
2. & Mr. Whitehorn" so that it might
be argued that we were not bound to
any greater extent of boundary than
they had set out. The object of this ^{arrang.} ~~arrang.~~
is stated to have been "that no change
may be made which could affect

localities hitherto recognized as lying
either within or without the
Langiban dominions. It would
appear from Sir A. Hardinge's despatch
of Dec. 13. 1898 - see part LVI. 7600
p. 35 - that the boundary had
ever since ¹⁸⁵⁶ been regarded locally
as lying (over) ^{at least} ^{considerable} ^{distance}
10 miles from the heads of creeks
to. Before we can decide whether
to press Sir P. Girouard's view or
not be ^{certainly} ^{to} bear more
of local circumstances, the only
course seems to be to wait as
suggested by Mr. Butler.

CT 19/3.

~~Mr. Butler~~
~~Mr. Read~~
Mr. Tennyson.

This was discussed yesterday by
Sir P. Girouard, Mr. Tilley (F.O.), Mr. Read
& Mr. Butler. Without elaborating all
the arguments, the position finally
arrived at may be summed up as
follows:-

What is wanted.

1. Sir P. Girouard wishes to be allowed to
interpret the documents to mean that,
with the exception of the small portion of

of the boundary already fixed on the
railway track, the line of demarcation
shall be 10 miles from the ^(I give the) coast line,
i.e. not from heads of creeks, bays etc.

2. If he cannot get this, he would
then be willing to try for a com-
promise in the Langiban Cpt. so
as to get a line including in the
"Sultani's dominions" towns, villages
etc. which have been recognized
in the past as the Sultani's and
excluding everything that has not so
been recognized.

3. To avoid, if by any means possible
it can be avoided, having the boundary
all along marked on the same
principle as the small portion on the
railway.

=
F.O. attitude.

Mr. Tilley holds the view that, as the
F.O. legal advisers maintain that
the documents must be interpreted
as in F.O. letter 27 Feb. 1912, there can
be no question of Sir P. Grey accepting
any other interpretation; nor are the
F.O. legal advisers likely to alter their
opinion, with which indeed Mr. Tilley
himself concurs.

as a matter
of fact
of more
of the
seems to
run
evenly
for
large

Conclusion
If, therefore, C.O. is determined to get Sir P. Girouard's first solution, it will be necessary for the F.O. legal advisers to be recruited as to the interpretation of the documents. This can only be done by C.O. legal advisers taking up the view ~~that C.O. has not~~ that the documents can be interpreted & should be interpreted in the way Sir P. Girouard suggests & then submitting these opposing views "to arbitration", as it were, by the hand of officers.

It was decided, consequently, that Sir P. Girouard should discuss the matter with Mr. Jernynson as soon as can be conveniently arranged, in order that the views of the C.O. legal advisers may be crystallised one way or the other.

= Then:-

- (a) If L.O. decide for C.O. view, F.O. must give way.
- (b) If L.O. decide for F.O. view, C.O. will initiate a "compromise arrangement" - the second

of Sir P. Girouard's ~~first~~ solution.

Accd

31/5

133

28/3.

June 1

H. J. R.

Mr Read

3/V

I have now discussed this question with Sir P. Girouard. He tells me that there is a Commission now going through the country ^{with a} ~~in the~~ view to the settlement of land coast titles. The Commission will consist of three branches (a) Native arbitrators (under our direction) who will unofficially ascertain the boundaries of private titles (b) a survey to lay out the boundaries, to ascertain ^{Judicial} (c) a Judicial Commission to give their titles legal effect.

This Commission is bound to throw important light on the question now under consideration, because private titles only exist within the Sultan's dominions, being in fact derived through the Sultan. Outside his dominions there is nothing but common

ownership. Sir Percy does not think
that the result of the Commission
will be to show private titles beyond
the ten mile strip as laid down
according to his view of the proper
construction of the original convention.

[It seems therefore that the result
of the Commission may be ^{to} ~~to~~ ^{condually} strengthen
our position ~~to~~ to enable ^{us} to secure
the Compromise (2) referred to by
Mr. Parthian if not the result (1)
which Sir Percy most desires to attain.]

Under these circumstances
Sir Percy thinks it best not to
raise the question definitely now
but to ^{if possible} wait until the Commission
have completed their investigations.
- Ct. 27/6

Sir G. Fiddes.

This is a case in which time is on
our side & I would temporize by writing
to the F.O. in the sense of Mr. Dunnington
minute - omitting, of course, the portion in
pencil brackets.

H. J. R.

27/VI

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In any further communication
on this subject, please quote

No. 2626/12.

and address—
The Under-Secretary of State,
Foreign Office,
London.

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C O
0236
REC'D
28 FEB 12
FOREIGN OFFICE

February 27 1912.

Sir:-

With reference to your letter, No. 40012/1911, of
the 18th. ultimo, regarding the inland boundary of the
mainland dominions of the Sultan of Zanzibar, I am
directed by Secretary Sir E. Grey to state, for the
information of Mr. Secretary Harcourt, that the points
raised in that letter as to the possibility of maintain-
ing the attitude that the measurement of the coast strip
should be made from the actual coast line of the open
sea, and should exclude estuaries, inlets and mouths of
rivers have been under careful consideration.

Sir E. Grey is advised that if the matter rested
merely upon the notes exchanged with Zanzibar,
December 3rd, 1886, and of those exchanged with Germany
October 21st. 1886, both of which use the words "an
November 1st.
internal depth of ten sea miles measured from the coast
direct into the interior from high water mark", there
could be little doubt but that the inland boundary of

the

Under Secretary of State,
Colonial Office.

(2626/12)

the Sultan's mainland dominions would properly be placed ten miles from high water mark along the coast washed by the sea, and not ten miles from the high water mark of estuaries, inlets or creeks connected with the sea. He thinks, however, that it is impossible to read the notes of July 13th, 1899, between Mr. Cave and Sir Lloyd Mathews otherwise than as meaning and as showing that as between Zanzibar and Great Britain another boundary has been adopted in lieu of that agreed to in the notes of 1886. The notes exchanged in 1899 show that a line of demarcation had been set out by the British Agent (acting on behalf of Zanzibar) and the Engineer of the Uganda Railway: that this line was formally communicated to the Zanzibar Government and had been accepted by them: and that where this line crossed the railway it had been marked by posts. All the forms of delimitation were therefore completed. The last paragraph in Mr. Cave's note to Sir L. Mathews, dated July 13th, 1899, only shows that the boundary so fixed had departed from the Agreement of 1886; that is to say, the parties had mutually agreed to adopt another

line

line. There is no suggestion that if the line departed from the 1886 agreement the boundary then laid out and marked with posts was 'non avemu'. The whole matter is appropriately summed up in the second paragraph of Sir Ll. Mathews' note to Mr. Cave of the 13th. July, 1899, as follows:-

"The boundary which was agreed to was not measured according to any hard and fast rule, but for mutual convenience in order that no changes might be made which could affect localities hitherto recognised as either within or without the Zanzibar dominions".

It seems to Sir E. Grey that it is too late now for His Majesty's Government to attempt to disregard the line adopted in 1899 and to claim the demarcation of a new boundary laid out in accordance with a strict construction of the notes of 1886.

I am to add that there is nothing within the knowledge of this Department to show what construction the German Government have placed upon the Agreement made in 1886; but should Mr. Harcourt desire that the German

Government

(2626/12)



Government should be approached on the subject, a communication will be made to them through His Majesty's Ambassador at Berlin.

I am,

Sir,

Your most obedient,

humble Servant,

W. Langley

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C. D.
R. 2 JUL
D. 5

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F.O./6236/East Africa Protectorate
Zanzibar.

Downing Street,

5 July, 1912.

DRAFT.

The Under Secretary of State,

FOREIGN OFFICE.

Sir,

I am directed by Mr. Secretary

MINUTE.

- Mr. Butler 1st July.
- Mr. Read!
- Mr. G. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

Harcourt to request you to inform Secretary Sir Edward Grey that he has had under his consideration your letter No. 2626/12 of the 27th of February last relating to the inland boundary of the mainland dominions of the Sultan of Zanzibar.

2. Sir Percy Girouard, who is now on leave and with whom the question has been discussed, has pointed out that operations are now in progress for the determination of titles to land in the coast strip of the

Protectorate.

2 drafts)

Copy for Capt & Mrs

Protectorate. The work is being done by means of Boards of Arbitration presided over by officers of the Protectorate, who ascertain in a preliminary fashion the boundaries of estates privately claimed, and whose work is then followed by a survey to lay out the boundaries thus ascertained and by judicial proceedings designed to give effect to the titles as finally determined. This work of clearing the titles is, in Sir Percy Girouard's opinion, bound to throw important light on the question of the land boundary of the Sultan's dominions because private titles to land other than titles which may have been given in recent years by the Protectorate Government, exist only within the Sultan's dominions, being in fact derived through the Sultan. Sir Percy Girouard is of opinion that

the

the result of the coast land settlement operations will be to show no private titles beyond the ten mile strip as laid down according to the interpretation which he ^{suggests} ~~wishes to~~ ~~accept~~ of the description of the boundary given in the notes exchanged between His Majesty's Government and the German Government on the 1st of November 1886.

3. In these circumstances Mr. Harcourt considers it desirable not to press the question any further at this stage, but to wait, if possible, until the ^{work} ~~operations~~ of coast land settlement ^{is} ~~are~~ completed.

I am, etc.,

(Signed) H. J. READ.

F.O./6236/East Africa Protectorate
Zanzibar.

Downing Street,

5 July, 1912.

DRAFT.

EAST AFRICA PROTECTORATE.

CONFIDENTIAL.

THE OFFICER ADMINISTERING
THE GOVERNMENT OF
THE EAST AFRICA PROTECTORATE.

MINUTE.

Mr. Butler 1st July

Mr. Read 1/8

Sir G. Fiddes.

Sir H. Just.

Sir J. Anderson.

Lord Emmott.

Mr. Harcourt.

Foreign Office 27th February.
(6236)
Foreign Office.
(draft herewith) July.

Nov. 4.

F.O.
(on 34762/11)

Dec. 13.

F.O.
(40012/11)
to F.O. Jan. 15.
(on 40012/11)

F.O. Feb. 12.
(40012/11)
(drafts)

Sir,

With reference to Sir P. P. Girouard's confidential despatch No. 81

Girouard's confidential despatch No. 81 of the 27th of September last, I have the honour to transmit to you, for your information, a copy of correspondence with the Foreign Office relating to the inland boundary of the mainland dominions of the Sultan of Zanzibar.

2. You will see from the correspondence that I consider it desirable