

EAST AFR. PROT.

13728

13728

APR 15 APR 14

Foreign Office

1914

11 Apr.

at previous Paper.

Claim of Emil Post.

Submits ~~it~~ ^{it} and sends for concurrence
off. note to German Amb. on the subject.

W. Fenwick to Read
W. B. Stansfield

This off. note, I think, will
meet the case. I.O. have
ruled out ^{item} 3 out of the claim for
R 1486, but they have put
items 2 & 10 wh. we proposed
to rule out on a par with
items 7, 8, 9 which may be
considered favourably on receipt
of more inf. The note
does not commit us, ~~but~~
I see no need to prep
for the immediate exclusion of
item 2 & 10.

Copy covers for 400 - 28 April 14

subsequent Paper.

ack. concn in terms of sta-
note - send Gov. for inf
Ltr copy of this concn
with 70.

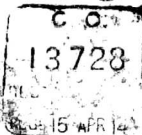
ack
10/4/14

CB. 10/4/14
Ltr. 10/4/14

at once.

H. J. R.

2/12/14



FOREIGN OFFICE

April 11th, 1914.

In any further communication

No. 13244/14.

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

Sir:-

With reference to your letter No. 9343 of the 24th ultimo, I am directed by Secretary Sir E. Grey to transmit to you herewith the draft of a note which it is proposed to address to the German Ambassador, respecting the claim of Emil Tost against His Majesty's Government.

It appears to Sir E. Grey that items 2 and 10 in the claim for expenses stand on much the same footing as items 7, 8 and 9, in that, while there is at present, in the absence of further particulars, no ground for admitting liability, it is possible that fuller information might indicate that part, at any rate, of the amount claimed represents expenditure properly incurred in connection with the case, which His Majesty's Government might accordingly be disposed to repay to Mr. Tost. The draft note has been prepared, subject to Mr. Hartcourt's approval, with a view to declining to accept liability

Under Secretary of State,
Colonial Office.

(13244/14).

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liability at the present stage for items of this nature, while expressing the readiness of His Majesty's Government to consider any further information which may be furnished in connection therewith.

Sir E. Grey would be glad to learn whether Mr. Secretary Harcourt concurs in the terms of this draft.

I am,

Sir,

Your most obedient,

humble Servant,

W. Langley

Draft

Your Excellency:-

Man Ambassador.

With reference to my note of the 26th February last I have the honour to inform Your Excellency that reports by the authorities of the East Africa Protectorate on the case of Emil Tost have now been received. The particulars of the claim put forward by the German Government on behalf of Tost were contained in Herr von Kuhlmann's note of the 14th June 1912, and it was suggested that Rs. 3,000 would represent fair compensation for the occupation of the land in question by the local Government and that Herr Tost was entitled to receive a further sum of Rs. 1,486 in repayment of expenditure incurred by him for various purposes in connection with the land.

From a legal point of view His

Majesty's

Majesty's Government are unable to admit that Mr. Tost and his predecessors were in undisturbed possession of the land for more than 12 years, or that a title to land as against the Crown can be acquired by such undisturbed possession. Nor is it admitted that Mr. Tost was in possession or occupation of the land at the time when the Government erected buildings thereon. But although His Majesty's Government cannot admit that Mr. Tost's title to the land is legally a good one, they are, and always have been, ready to pay a proper sum to him by way of compensation, as a matter of grace and favour. In explanation of the fact that the case has not been previously settled in this way, I am to point out that an offer was made to Mr. Tost in 1910, but unfortunately he was at the time about to leave the Protectorate, and he appointed a Mr. Graham Griffiths to negotiate the terms of a settlement. That gentleman first

put

put in a claim which could not possibly be entertained, and indeed far exceeded that now put forward by the German Government, and on the Government of the Protectorate refusing to pay the amount claimed he notified them that he could not negotiate further without reference to Mr. Tost. It was, therefore, decided to await Mr. Tost's return and this decision was communicated to the German Vice Consul in July 1910. Nothing further was heard of the matter until the receipt of Herr von Kühlmann's note of the 14th June 1912.

The Governor when the case was first brought to his notice was ready, while not admitting any legal claim, to settle the matter by the payment of a sum equal to that which Mr. Tost would have received had his title been admitted and the land acquired by compulsory purchase, plus compound interest at 6% from the 18th

December.

F. O.

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by No.

Draft

December 1906, the date on which the Govern-
 ment began building operations on the land.
 The value of the land on this basis is given
 as Rs.30 an acre or as the size of the plot
 is about 1 1/2 acres, approximately £3 for
 the whole area, and His Majesty's Government
 are willing to adhere to the Governor's
 offer, and to pay to Mr.Tost the sum of
 £3 together with interest as indicated
 above, or say a total sum of £5.

This sum would, in the opinion of His
 Majesty's Government fairly represent the
 value of the land at the time when the
 Government took possession of it, together
 with compensation for the loss of the enjoy-
 ment of the land from the same date down to
 the time of payment.

That this estimate of the value of the
 land is not unduly low is shown by the fact
 that Mr.Tost himself states that the price
 he paid for it was Rs.16. In these circum-
 stances His Majesty's Government find it
 difficult

difficult to understand how Mr.Tost can
 consider himself justified in putting for-
 ward a claim for Rs.3,000 for the value of
 the land, in addition to Rs.1,486 for ex-
 penses.

With regard to Mr.Tost's claim for
 Rs.1,486, representing his expenditure in
 connection with the land, the particulars
 of which were given in Herr von Kühlmann's
 note already referred to, His Majesty's
 Government are unable to admit that the
 Protectorate Government is liable for
 these expenses. They are however willing
 as an act of grace, to pay Rs.24
 (Purchase price) and 5, (Registration)
 amounting together to Rs.24 or £1-12-0
 though they must point out that it is not
 easy to see on what grounds Mr.Tost can
 be held entitled to payment of the pur-
 chase

purchase price in addition to the value of the land.

His Majesty's Government would also be prepared to give further consideration to the claim for Rs.400 for improvement of the road, (Item 6) on receipt of evidence as to how far the improvement of the road was made by Mr.Tost for the use of the land in question. As to items Nos.3 (Clearing and planting of 180 cocoanuts) and 4 (Seed), it is clear that these must be covered by the amount which Mr.Tost would have received if the land had been acquired by compulsory purchase. Further His Majesty's Government understand that there were no coconut trees or other cultivation on the land when it was taken possession of by the Government. In the case of the remaining items the information given by Mr.Tost is so scanty that His Majesty's Government are at present unable to see on what grounds it is contended that these sums should be paid to Mr. Tost

in

in addition to the value of the land. If Mr.Tost desires them to be taken into further consideration he should furnish full particulars and indicate the grounds on which he considers that these items can properly be claimed from His Majesty's Government.

F.O. 13728/1914 *ead.*

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DRAFT.

APR 24 1914

27 April 1914

Sir,

I am to acknowledge the receipt of your letter of the 11th of April (No. 13244/14) and to ~~inform you that~~ request you to inform Secy Sir Edward Grey that he concurs in the terms of the note which it is proposed to address to the German Ambassador respecting the claim of Emil Test against H.M.S. *Ind.*, a ~~copy~~ ^{draft} which accompanied your letter.

The U.S. G.S.
F.O.

23/4/1914

Read 23

13728 + the
for 27.]

Copy for 400. 28 April 14 91

(Signed) W. H. READ

for the United States of America