

EAST AFR. PROP.

1911



34320



Please see

Date

19 Oct.

Last previous Paper

M
B3551

Kenia Forest Concession

Considers that Lord Bunsford-Lord Brooke
 & Mr. Frewen should have the first choice
 of first class over other applicants.

Mr. Fiddes.

This is a direct challenge of the Secretary of State's liberty in approving of ~~the~~ concessions in the Kenia Forest and as such demands careful consideration. In the minutes and drafts on H.31767 our attitude is that it is open to the Secretary of State to invite concurrent and competing offers from the two applicants now in the field. The same attitude coloured by interviews with Mr. McNeill reported in H.33461 below. It is evident that if Mr. Frewen's contention is justified that attitude will have to be abandoned. It has never occurred to me nor apparently to Mr. Head, who has been familiar with the Frewen correspondence from the very start, that Mr. Robertson Frewen and his friends (among whom are or have been included Lord Winchester, Lord Warwick, Lord Brooke, and Lord Dudley) had acquired a position in this country which made it necessary to grant them the first concession in

the

the forest irrespective of other applications.

The claim made by these gentlemen to be the "discoverers" of the forest appeared very early in the correspondence and was thus dealt with by Mr. Head in his minute dated the 12th of April 1907 on Gov. 71813/07.

"I do not suppose that it is proposed to consider seriously their claim to preferential treatment on the ground of having discovered (as they say) the forest but it may be as well to dispose of that claim once and for all. If by discovery they mean the finding of a forest hitherto unknown to Europeans their position is untenable. For Mr. Mackinder, the Director of the London School of Economics, passed through the forest some years ago when he made the ascent of Mount Kenia and at Fort Hall we have had a collector within easy reach of the forest for a considerable time. If by discovery they mean that they have tested and shown for the first time to the world the value of the forest, it is only necessary to refer to what is stated in the earlier part of the minute, viz. that Mr. Hutchins says that the description of the forest applied for is vague and unsatisfactory, that some of the best forest is not embraced in the applications, and that on the western side most of the area applied for contains no forest. (Mr. Hutchins and I have just seen Mr. Brown and find that he does not claim to have spent more than £4,000 or £5,000 in exploring the forest, so that this is a small matter in any case.)"

By Mr. Head's argument that it was their discovery of the forest, as he stated in the despatch of Mr. Hutchins to report it, it is only necessary to observe that it had been decided to engage Mr. Hutchins to report on the forest resources of the Protectorate in February 1906. (Five minutes

on G.O. 3857/06) and that, as far as the correspondence shows, the application of Mr. Frewen and his friends was first heard of here in a despatch received from the Governor on the 18th of May 1906. (Gov 17620/06)

The correspondence has pursued a dilatory course with singularly little result ~~ever~~ since it began in 1905. - Various proposals have been made and various reports have been furnished and commented on by one side and the other, but I cannot discover anywhere in the correspondence ^{a definite promise} ~~a statement~~ that Mr. Frewen and his friends shall have the first concession in the forest or indeed any concession in the forest. On the ^{one hand} ~~contrary~~, nothing has ever been said to indicate that they would not be granted a lease, and they have been fortunate so far in the fact that, until quite recently, no other applicant for a concession has appeared, so that the question of prior rights has not until now arisen. In a letter of the 21st of April ^{last} we called Mr. Frewen's attention to the interview which he had with Sir F. Harcourt in this country in January, and said that Mr. Harcourt thought that the time had now come when Mr. Frewen and his colleagues should state definitely whether or not they intended to proceed further. In the latter ~~part~~ of Mr. Frewen's reply (13540) was to the effect that they were quite ready to make application for a lease if they could have some further information about railway rates and royalty.

Further dilatory correspondence on these subjects has since passed without any very definite result though Mr. Frewen has, in his letter of the 6th of May (14915) accepted the principle that the construction of

has been many
and interview with
of Ball and
boarding at
not always
in the
are 3.2.1906
at 4.30.1906
by the presence
of some poles at
Frewen's would
be a serious
with some of these
in the
1906

a railway into the forest would have to be attached to the grant of any concession.

Then came Mr. McDonnell's letter dated the 29th of September (1877) on which we took up the attitude as to concurrent offers referred to in the opening sentences of this minute.

It would no doubt be a great blow to Mr. Frewen and his friends if they did not now get a large concession in the forest. But I cannot see that they have any claim to such a concession as being "discoverers", nor do I think that the correspondence with them gives them a position which debars the Secretary of State from considering other applications and from accepting any other application which offers greater advantages to the Protectorate than any that Mr. Frewen and his associates are prepared to put forward. It is clear, however, that if no application were forwarded to the Government than theirs were received, the result as between applicants of equal merit, ^{and as to} ~~be restricted~~ to the concession in virtue of priority of application, ^{and} the expense to which they have already gone in the matter.

If this view is accepted, I would propose to be guided in the receipt of this letter, explaining in ^{the first part of} the opening of our despatch of 1877 that Mr. Harcourt considers that the only proper method of procedure is to grant one concession only in the first instance to which the obligation to construct a railway into the forest would be attached, and that it is for the purpose of ~~obtaining a concession~~ necessary to secure definite offers for such a concession that he is seeking from the Governor

a list of the applicant's

might

first part of

Governor the further information referred to in our letter to Mr. Frewen of the 13th of October (1877). I go on to say that Mr. Harcourt cannot admit that Mr. Frewen and his friends are the discoverers of the forest in any sense which would justify him in refusing to consider other applications for the concession or would debar him from accepting any other offer which was more to the advantage of the Protectorate than an offer ^{made by} secured on the same information from Mr. Frewen and his friends, but that in the event of the offers received being of equal merit, he will be prepared to give due consideration to the fact that Mr. Frewen and his friends were the prior applicants and have already gone to some expense in the matter.

If the contrary view is taken, and it is held that, by virtue of the negotiations which have already taken place, Mr. Frewen is in the position which makes it necessary to give him the first chance, we should acknowledge the receipt of this letter and, while answering on the question of "discovery" as proposed, say that the Secretary of State is nevertheless prepared in view of the correspondence and negotiations which have already taken place, to invite an offer from him on the receipt of the further information which the Governor has been asked to furnish, before offers are invited from other applicants. In this event it would, I think, be necessary to tell Mr. McDonnell with reference to our letter of the 13th of October, that on further consideration of the position of the applicant for a concession in the forest, who is, as Mr. McDonnell

is aware already in the field, the Secretary of State is of
opinion that he is committed to making ^{the first offer of}
the proposed concession for a lease of the forest coupled
with the obligation to construct a railway, to that
applicant before any other applications can be considered.
I should also ask permission to inform Mr. McDonnell semi-
officially that, owing to my not having ascertained the views
of the Secretary of State beforehand, that part of my con-
versation with him which contemplated the invitation of
concurrent offers from applicants must be regarded as
based on a misunderstanding, as it is found that we are
committed to invite an offer from the first applicant
alone in the first instance.

(In all that is said above it must be remembered
that a small lease of 2,000 acres with the option to take
up another 2,000 has been granted to Lord Cranworth in the
forest on the Western slopes of Kenia, on the ground that it
can be clearly differentiated from these applications
for large concessions and that it is in no way involved
with the construction of the railway into the forest.)

2008

31

Sir J. Anderson

I have not had any verbal
communication from people, but I am desirous
to provide a few copies of
the present attention.

Ed 30/10

A will
14/31/10

34520

153

Inver Lodge

Maam Cross R.S.D.

Co. Galway

OCT 11

Oct

905

Sir

I have the honor to

acknowledge your letter of 31st/10/11

relating to the Kesh Forest

which I have the

pleasure to point out to

the Secretary of State as

I have the honor to

enclose herewith

the Forest as com-

considered, and an honorable
employment exists to suit
Lieutenant, Lord Brooke,
& is the first class &
the first class. We are
so far as we can see
the number of that forest,
the number of which was
in 1800 & was 1000
& included Reports &

Survey, we are at least
30000 at a pocket 151

It was no discovery &
application in 1806 which
resulted in the dispatch
of Mr. Hutchins to
report to you,
Department

The regulations as
to the papers have been
been necessary. No
fault must be pointed,

white is a rubber

marking ink

and cannot print

in solution

Believe me

Yours truly

W. Weston Truman

~~at 2:30 Sept~~

~~at 9:00~~

~~and 10:00~~

6

82120, 7/11/11

Downing Street,

6 November, 1911.

DRAFT.

ROBERTON BREWER, ESQ.

Handwritten vertical text: *Downing Street*

Sir,

MINUTE.

Mr. Butler, 2nd Nov

Mr.

X Mr. Frides. 4 *fr*

Sir H. Just. *HJ*

Sir J. Anderson

Lord Exces.

Mr. Harcourt

I am directed by Mr. Secretary Harcourt to acknowledge the

receipt of your letter of the 17th of October, relating to your application for a concession in the Kenia Forest.

2. Mr. Harcourt has come to the conclusion that the only proper method of developing the Forest is

to grant, in the first instance, a single concession to which will be attached the obligation of constructing

a railway from a point on the Uganda

railway into the Forest. Such a

concession

O161

34310

Handwritten note: *from a point on the Uganda Railway from the Kenia Forest to the station*

46/11/11

concession would have to be the subject of special negotiations and special conditions would be attached to it. Later concessions would be granted on more onerous conditions in consideration of the fact that by that time the transport difficulties would have been overcome. It is with a view to obtaining definite offers for a first concession of this nature ^{desired} that Mr. Harcourt is now obtaining from the Governor the further information referred to in the letter from this Office of the 13th of October. †

(in the
11/10)
T.N.L.

3. Mr. Harcourt regrets that he is unable to admit that you and your friends are the discoverers of the Forest in any sense which would justify him in refusing to consider other applications for the concession in question or would deter him from accepting any offer which

was more to the advantage of the Protectorate than the offer which will no doubt be made by you and your friends on the receipt of the further information which has now been ^{in answer} asked for. In the event, however, of the offers then received being of equal merit he will be prepared to give due consideration to the fact that you and your friends were the first applicants and have already gone to some expense in the matter.

I am, etc.,

SH
S. W. Foster