



EAST AFR T...  
32076

Name of Individual

an Capt. Ed

Cancellation of Progan & Lingham Concessions

1909

2 Oct.

States that Co. names will be requested, give names of legal representatives to whom all further communications should be addressed.

at Previous Paper

W  
29442

~~W. Progan~~ Sir J. H. Wood  
W. Coan

The question of policy involved in cancelling the agreements to lease concluded with W. Lingham & Mr Progan has been fully and adequately discussed in the previous papers; see particularly G 19350/05 & G 47219/05 and

W 28442/09 there is no need to go into the question again.

But Mr Progan here asserts that neither agreement reserves any such power of cancellation or any right of re-entry on the part of the Colonial Office

\*... of copy ... of 6/5/05 ...

Subsequent Paper

2644  
to

(Of course he means "Government") Copies of the agreements will be found at pages 26, 27, & 28 of African No. 772 & pages 267-9 of African No. 773.

It is true that no express provision for cancellation & recission appears in the agreements. But the prospective lessees agree to carry on operations on a certain scale (clause 5). It appears from the papers that they have been formally requested to carry out this obligation, & that it is on the ground that they have not done so that proceedings for forfeiture are being taken. There is every reason to believe from the correspondence that the local authorities are fully alive to the legal aspect of the question.

2. Ackn receipt without remark, & send copy to the Govt, with copy of my reply.

Oct 6

Proceedings in default are being, or will be taken under Sec 10 of the Crown Lands Ord 1902 which applies to all leases however the 2 Agreements in question are expressly made subject to that Ord.

C 111 X

AFSC 7/10

Proceed on proposed

SSA 6/10

9/9.10

CAMP HILL,

Nr. Newcastle, 456

STAFFS

October (End) 1909.



THE RIGHT HON.  
THE EARL OF CHEWSE, K.G.

His Majesty's Secretary State for the Colonies.

2890

OCT 11

My Lord,

1. I have now had the opportunity of considering with those associated with me, the result of the communications which we have had with your Lordship's department on the subject of the Agreements for the Lease to Mr. F. R. Lingham and to me, of certain forests situate near the Eldons Ravine in the East Africa Protectorate.

2. I beg, at the outset, to point out that these communications have resulted from the wish of the Colonial Office to effect a modification of the terms of these Agreements. We, upon our side have always been satisfied with their existing terms and now ask for no more than that they should be complied with. The questions pending between the Colonial Office and ourselves have arisen only upon the discussion of terms proposed by the Colonial Office to be substituted by the terms of the original Agreements. We have endeavoured to arrive at a settlement of these questions by an appeal to what we venture to consider the justice of our case, and in my

letter to your Lordship of the 28th of December last, I stated at length for your consideration, the history of what has taken place in connection with the two Concessions. I endeavoured to show that if in fact, which is by no means admitted, there has been any default, on our side, in the observance of the conditions of the Concessions, such default has been the result of their performance being made impossible by the breach on the part of the Colonial Office of antecedent conditions.

3. I now understand that these representations have been made in vain and that it is the intention of the Colonial Office to cancel the Concessions. It is stated by your Lordship's Department that this conclusion has been come to in the interest of the Public and of the Lessees.

4. In these circumstances no course is left open to me or my associates but to insist, so far as we are able to do so, upon our legal rights in accordance with the two Agreements which have been made with Mr. F. B. Lingham and with me respectively.

5. Your Lordship appears to have been advised to deal with the matter upon the assumption that the Colonial Office has power to cancel the Leases. I beg to respectfully to point out that this appears to be a misapprehension. Neither Agreement reserves any such power of cancellation or any right of re-entry on the part of the Colonial Office. Moreover, nothing has been done or omitted to be done upon our side.

which, as I am advised, would entitle the Colonial Office to succeed in any action of ejection, and any proceedings taken by the Colonial Office, whether with a view to the cancellation of the Agreements, or the usurpation by the Colonial Office, of our territories, will be resisted upon our part.

6. We have already called upon the Colonial Office to fulfil the conditions of the two Agreements, the fulfilment of which alone makes it possible for us to carry out in letter, as well as in spirit, our obligations thereunder. I now beg formally to repeat that request.

7. It has become necessary for us to place the protection of our interests in the hands of our legal advisers who are, - Mr. G. B. Allen of Nairobi, East Africa, and Messrs. Agur, Morris & Crisp of Throgmorton Av. E.C. and I have respectfully to request that any communication in regard to these matters may be addressed accordingly.

I am, *jc*

~~Your Lordship's obedient Servant,~~

*David S. Gurney*



DRAFT

Capt S. S. Zogor

London

19 Oct 09

MINUTE. 11/20 Oct 12

Mr. North 14/10

Mr. Butler 11/10

Mr. Fisher

Mr. Judd

Mr. Galt

Mr. C. Lucas

Mr. P. Hammond

Mr. Seely

Lord Cromer

Sir

I am directed by the  
E of Crewe to ack. the  
receipt of your ltr of the  
14<sup>th</sup> 2<sup>nd</sup> of October on the subject  
of the agreements for the  
lease to yourself & to Mr. R.  
Kingham of certain rights  
in the East

I am, Sir,

(Signed) G. V. FISHER

1/10 1909  
2480-15  
No 32196