

4702
REC'D
REG¹ 16 FEB 10

EAST AFR. PROT
4702

1910
25 Jan.
Last previous Paper
6/
39252/9

Re. Poyze Cotton's Concessions

*Contravert to Cotton's statements & explain
first action. Also for some mitigation of the
concessions on Land Dept. Submit them
generally regarding procedure on applics for concessions*

W. Read.

This is no doubt a reply to the letter written by W. Fiddes in pursuance of Lord Crewe's instructions (given on the draft on ^{Gov} 34026/109) that the Govt. should be informed privately that the Land Dept. have been dilatory and rather inefficient in dealing with this case.

Sir P. Curzon appears to think that this opinion is based merely on Mr. C.W.'s statements. But Mr. C.W. took the precaution to back his statements with copies of correspondence and I am assured that the correspondence

and I have marked in blue on pp. 15 & 16
the printed copy of ^C 3772/09 just fig
up opinion

I really don't understand what
Sir P. Eyraud says in the last part of his
letter. It is not our practice to offer final
terms here to a concessionaire without
local concurrence. We are careful to
consult the Govt. at every turn, and we
are only too glad to let him settle
matters outright ^{in the case of some of} ~~in the case of some of~~
the larger concessions the agreements have
had force to be made here, but that
has been by understanding with the
Govt. and the negotiations have been
based on the views of the local authorities.
I should be much surprised if Sir
P. Eyraud could point to any case
in which final terms were offered here
without local concurrence.

It would be foolish to try to make
these arrangements ~~over the heads of~~
the local officers in the P.C. But that
does not mean that the S. of B. will

refuse to listen to anyone who
appears in his country. That
could be an attitude that could not
be defended. The representations so
made must no doubt be referred to the
Govt. with such observations about them
as the S. of B. seems fitting. If the
Dept. would soon be accused of
wasting or incompetence it is only
reply to a man anxious to do business
was to next settle it with the Govern-
ment a certain amount of control and
suggestion from his end must be
tolerated even in the most independent
Governor.

Southward of the
In the respect Mr. Coll's case is
indeed typical. Mr. Coll ships in an
enormous screed stating his points
and detailing his grievances. The S. of B.
consents to discuss them in detail
while making it plain to Mr. Coll that
this is done in order to clear the way
for referring the matter to the Govt.
again. Finally a despatch goes (on the

Mr. D. Hopwood

See the letter & the proposed reply

Pr. 19

Feb 21 2

The letter is a very good one
in many respects but as time
he cannot have a monopoly of
criticism on certain acts of
administration in BEA

24 II

10th of Dec. on ^C 39252/109) sending the Govt
a record of all that has passed here
appearing in the main with the attitude taken
up by the local Govt. but making one
or two suggestions for getting round
difficulties, & ending with the expression
of the hope that it will now be possible
to settle with Mr. CSM (in the Protectorate)
the outstanding questions connected
with his concession.

I cannot conceive a more reasonable
or less dictatorial way of dealing
with a case of this kind & I cannot
think what the Govt. finds to object to
in it.

Hats

Feb 17

Mr. Butler I agree - & if the Secy of State
also concurs in what the new draft proposed
by Mr. Butler or otherwise might
be sent in the Sept for your report.
Indecision reply.

H. J. R.

Mr. Reed

Please have a copy prepared, 17/II
Hats
Pr. 17 2

C.O.
4702
PLS
16 10

Government House,
N A I R O B I.

25th January 1910.

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Dear Fiddes,

With reference to the statements made by Mr. Powys Cobb, I would venture to ask that Lord Crewe may be informed of the facts of the case which as far as we know them differ very materially from the version which he has heard.

The situation is briefly as follows:-

Mr. Powys Cobb came out to this country and after travelling in different districts applied for an area in a locality which had not been surveyed but was known to be suitable. As he gave proofs of considerable capital and was acting as trustee for others, general sanction was given by the Secretary of State for a grant of 35,000 acres.

A rough survey was made of the area applied for, and it was found to contain no less than 70,000 acres and to include a certain amount of good forest. Mr. Cobb was then asked to modify his application and to select land up to the amount sanctioned. It was, I think not unreasonably, stipulated that the land was to be chosen in such a way as not to render the remaining 35,000 acres useless and, although a certain amount of small timber might be included, no areas of true forest could be granted.

Mr. Cobb made a good deal of difficulty over this. He wished to have certain spots of great natural beauty brought within his boundary and also some 'pans' and pieces of marshy ground. The latter were to form part of his estate but were not to be counted in the sanctioned acreage.

To put the matter shortly, he wished to pick all the plums out of the total 70,000 acres. The Land & Survey Departments did not feel justified in accepting his boundaries, and he was requested to make a more reasonable selection.

He failed to do this and left the country in July without coming to a satisfactory settlement and without leaving a responsible agent to carry on negotiations. His representatives, in reply to communications addressed to them by the Land Office, declined to make any definite choice in the absence of their principal, and merely put forward vague demands for exceptionally favourable treatment on the strength of his proved possession of capital, which was of course admitted by the Protectorate authorities and formed the justification for the consideration of the grant in the first instance.

As this state of affairs was felt to be unsatisfactory, the Secretary of State was addressed in our Despatch of ¹⁸⁵⁵ 27 October at the instance of the Land Office. Mr. Cobb was written to by the Colonial Office, and the letter in which he criticized the various Departments concerned was sent in reply. This letter is, so far as the least of it, somewhat startling as he implies that he had all along been pressing for a settlement and that the Government had been obstructing him, whereas the exact converse was in reality the case. He also introduces references to the administration of the Protectorate as a whole, and to the distrust which he says exists between settlers and officials. These observations, even if they had been true, would have been quite irrelevant. The relations between the official and unofficial sections of the community have nothing whatever to do with a concession like Mr. Cobb's.

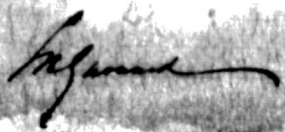
3.

The whole case is typical. The concessionaire gets general sanction for his grant; he then makes conditions and demands further concessions which the Departments concerned cannot conscientiously recommend. Finally he accuses the Government of obstructing him. Every decision that the Government is asked to make is a matter of urgency and must not be delayed for a moment, but when the concessionaire is in his turn asked to make a definite choice, he may and does take weeks and even months over it.

I must apologize for the length of this letter, but must confess to a feeling of regret that Lord Crewe could not have heard both parties, and trust he may now be enabled to mitigate the censure on the Land Department.

I think that a great many difficulties in all concessions would be obviated if they were settled by the Government here. When seekers after concessions can have their claims finally adjudged at home, they are inclined to flout and even ignore the Government of the Colony. I do not mean for one moment that the Government should settle such concessions independently, but no final terms should ever be offered to a concessionaire without local concurrence. If this rule was invariable, the Secretary of State would not be pestered, and the hand of Government would be strengthened where today it is weak.

Yours,


 A handwritten signature in dark ink, appearing to be 'H. J. ...', written in a cursive style.

Gov. E.A.P.

4702

26 FEB 1910

for Mr. Fildes's signature.

28 Feb. 1910

DRAFT.

Sir P. Girouard.
R.C.M.G., D.S.O., R.E.

Dear Girouard,
I have shown this to J.D. and we are in receipt

MINUTE.

- Mr. Butler Feb. 18
- Mr. Read. 18
- Mr. Fildes. 19
- Mr. Just.
- Mr. Coz.
- Sir C. Lucas.
- Sir F. Hopwood. Feb 21. 2
- Col. Seely. Feb 22
- Lord Crewe. Feb 24. II.

for conson

* your letter of the 25th of January on the subject of the case of Mr Powys Cobb. I regret that it is ~~now~~ ~~very~~ ~~late~~ in reply to your ~~letter~~ ~~and~~ ~~is~~ ~~not~~ ~~described~~ ~~by~~ ~~the~~ letter which I wrote to you in Lord Crewe's instructions ~~to~~ ~~the~~ ~~commander~~ ~~in~~ ~~the~~ ~~manner~~ ~~in~~ ~~which~~ the case has been dealt

with by the hand
of the person. I gather
that you ~~had~~ had the
impression that Lord
Crewe's opinion was
based solely on Mr.

Cott's ex parte statement.
But this is not the fact.

Mr. Cott supported his
statement with copies

of correspondence, and
it was on this ~~the~~ ^{the} correspondence
that the view was
formed. ~~the~~ ^{the} justification of the
opinion expressed. I

enclose a part of Mr.
Cott's letter and the
correspondence enclosed
in it, so that you may

Mr. Cott. Nov 18
(2772)
in final

As we did not send a copy of
the enclosures to 2772, as they
consist of local correspondence.
Mr. P. Gorman must know
from the reference in Mr. Cott's
letter exactly what we had
in mind.

see exactly what he
sent 96

There were, as you
point out, certain
general references in
Mr. Cott's letter to
the administration of the
Protectorate and the
relations between
officials and settlers.

These were, of course
~~ignored~~ ^{ignored}, and had no
sort of influence on
the treatment of the
case here. You may
rest assured that the
S. of S. would never
condemn the administration
or any part of it.

to find it a little
difficult to understand
what you say in the
last paragraph of your
letter. It is not the
practice of the S. of B.
to offer special terms
to concessionaires without
the concurrence of the
local authorities. I
cannot recall any
case in which this has
been done. Some of the
larger concessions have
never been negotiated
in this country. But
I believe
it has always been

done by understanding
with the local authorities,
and ^{then} as the result
of prolonged consultation
with them. In ordinary
cases you may feel
quite confident that the
S. of B. is only too
glad to leave the
Government ^{in a free hand}
to deal with concessions
subject to any general
guiding principles which
may have been laid
down.

DRAFT.

MINUTE.

- Mr.
- Mr.
- Mr. Fiddes
- Mr. Just.
- Mr. Cox.
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Sady.
- Lord Crewe.

This does not mean
~~of course~~ that the
S. of B. can refuse to

to anyone who
approaches him in this
country. If a ^{missionary} ~~agent~~

addresses him even
about negotiations
which have been pro-
ceeding in the Protocol

he is bound to consider
his representations.

I am sure that you will
agree that a refusal
to do so would place
the S. of B. in a position
which it would be
impossible to maintain

on to defend. But
his consideration of the
representations will
naturally take the
form, I think, I

may say that it ^{98.}
always does take the
form of a reference
to the Gov.

This is precisely what
has happened in the
case of Mr. Cott. Mr.
Cott sent in a very
long letter stating in
great detail the difficulties
which he thought he had
encountered, ~~the~~
S. of B. and making
suggestions for overcoming
them. The S. of B.
considered his representa-
tions in detail
making it clear to
Mr. Cott that further
reference to you

... necessary
... the
... by 10th (C/39252)
... leading you
... all that
... here
...
... take
... by the ...
... but making one
...
... some
... the difficulties. The
...
...
...
...
...
...
... with

DRAFT.

MINUTE.

- Mr.
- Mr.
- Mr. Fiddes.
- Mr. Just.
- Mr. Cox.
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Seely.
- Lord Crewe.

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Mr. Cott the outstanding
questions connected
with his concession this
meant, of course,
~~the~~^{that} you were to settle
matters with Mr. Cott.
(It appeared from the correspondence that
as he was due to
leave England, for
the Protector to a
at about the same
time as the despatch.
You will agree that
in this case at any
rate, there was no
offer of special terms
without your concurrence.
I trust, therefore, that

Secretary of
State's hope will be
fulfilled, and that
we shall now be able
to regard the
whole matter as
satisfactorily ended.

(Signed) G. V. FIDDES.