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409

Governor's Office,
16 Aug 07

Nairobi,

July 28th 1907

EAST AFRICA PROTECTORATE.

No. 314

(Incl. 1)

My Lord,

With reference to my telegram of the 23rd instant in which I asked that for the words "cultivated by natives" in clause A of the conditions of the proposed lease to the Uplands of East Africa Syndicate, forwarded under cover of Your Lordship's despatch No. 243 of the 19th ultimo, might be substituted "in which natives have rights", I have the honour to transmit herewith a copy of a minute by the Commissioner of Lands dealing with the question of native rights in the area to be conceded.

The general question of the extent of native rights in the Coast District has lately been raised by the Secretary for the Native Affairs, and I agree with Colonel Montgomery that pending the settlement of it should be careful not to fall into what may prove to be the error of assuming that natives have no proprietary claim to

land

H. E. FRITH, SECRETARY OF STATE

FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

Min. of Lands
July 1907



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Governor's Office,
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Nairobi,

July 28th 1907.

EAST AFRICA PHOTOGRAPH

No. 214

(Incl. 1)

My Lord,

With reference to my telegram of the 23rd inst. in which I asked that for the words "cultivated by natives" in clause A of the conditions of the proposed lease to the Uplands of East Africa Syndicate, forwarded under cover of Your Lordship's despatch No. 243 of the 19th ultimo, might be substituted "in which natives have rights", I have the honour to transmit herewith a copy of a minute by the Commissioner of Lands dealing with the question of native rights in the area to be conceded.

The general question of the extent of native rights in the Coast District has lately been raised by the Secretary for the Native Affairs, and I agree with Colonel Montgomery that particular consideration should be careful not to fall into what may prove to be the error of assuming that natives have no proprietary claim to

H. E. YOUNG, SECRETARY OF STATE

land

FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

Min. of Lands
July 1907

Land which is not actually cultivated by them.
 An important consideration, too, is that
 sufficient margin must be allowed for the expansion of the
 native tribes, which is a natural result of the peace
 which has followed our occupation of the Protectorate,
 and this, so far as the particular tract of country
 immediately referred to, will probably be met by allowing
 the natives the right to lands they have been accustomed
 to cultivate, but which do not happen to be actually
 under cultivation at the present moment.

I have the honour to be,
 with the highest respect,

My Lord,

Your Lordship's most obedient,

and devoted servant,

Henry ...

J

ENCLOSURE

July 18, 1907

23827

REC'D

AUG 16 1907

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His Excellency,

I venture to suggest that a modification be made in the terms of the agreement under which the coast area on the coast south of Mombasa is being offered to Uplands of East Africa Syndicate.

The conditions are stated in the Colonial Office letter No. G/19229 dated 11th June, a copy of which has been received with despatch No. 543 dated 19th June.

It is stated in clause (a) that the land to be given will be "subject to the deduction of all land within the area already granted to others or cultivated by natives."

I suggest that for the words "cultivated by natives" should be substituted the words "in which natives have rights."

Recent enquiries on the coast have shown that natives claim, and very likely have a right to, lands which are not at present occupied by them.

There are undoubtedly large areas which have been allowed to fall out of cultivation, but on which good claims may be made to proprietary rights. It is necessary to guard ourselves in this matter. The question has been raised lately in connection with grants on the coast generally, and I have asked the Crown Advocate to specify clearly in the permit to occupy

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occupy temporarily that all native rights (not
only land occupied by natives) are reserved.

Montgomery

COMMISSIONER FOR LAND.
25-9-'07.