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The P Cobbs Land Concession

1910

Sabouto report with wews by Comers of la resp. per Cobb proposals optimetive appliede adoptes

bush lepathis e first wespete welld to up the various points directly con acted with ralobb's concession, express the ale the difficulties articipated in paragraphs 4 and o ill be avoided; and take note that the evernor will write further about in con 's co-operative so eme. It would then go on to observe with reference to paragraph 20 . . despatch, that, although the details of the concession were discussed with ir dobb in this country, the Secretary of Face did not line more than indicate the esperal lines on which he thought an arrangement might a arrived at leaving the actual settlement of the metter in the Governor's a ds; point out that it was at the Rovernor's can desire that the Secretary of State intervened in the matter last summer (Gov./ 34531); and go on to observe generally as to the representations made by Concessionaires in this country in the

sense of the latter part of ir Tiddes's letter to Sir Perch Birchard of the 28th February on Cov. /4702. The second despatch should take up the reference in paragraph 7 to the opinion opened by the Secretary of Thate is to the manner ir which this case has handled by the local departments, and should be enerally in the sense of the first two para raph of the middes Wletter of the 28th February on w./ .. un. das. March 18. W. Fildes I have dinnered this with IN Butter. The When the local authorities appear to have well fine wong a to the astta of the maps of you ampere the parings which I have marked with blue penil a p-3 1 No Kata bught humo: 12 hd me of the less;) with p.p. 15-17 1 the Print attacked to 37722/01 mill see that wo satisfacting superition a fine of the delator action of the local authorities Le te matter proceed is propert? K. JR 19 /

The Secretary to the Administration presents his Compliments to the Superintendent of the Printing Department, Colonial Office, and with reference to his memorandum of June 6th last returns duly corrected the inclosures contained therein.

Nairobi,

July 5th 1910.



NAIROBI, 14 WAR 10

BRITISH EAST AFRICA

February 10th 1910.

EAST AFRICA PROTECTORATE.

CONFIDENTIAL

No.14

(Inel .1)

My Lord

I have the known to acknowledge the receipt of Your Lordship's despatch Confidential of December 10th last respecting Mr. Powys Cobb's concession on the Mau Escarpment and various cuestions connected therewith.

- 2. I note that the transfer of Mr. Welsford's and Mr. Hockley's farms is sanctioned.
- 3. The glad to learn that Your Lordship does not wish that the 'pans' lying within the blocks chosen by Mr.Cobb should be excluded from the total acrease of his grant.
- 4. With regard to persgraph 4 I think that it would be possible and even desirable to throw in a few small suitable patches of forest land in lieu of the right to cut free timber for a term of years, and I shall endeavour to give effect to your Lordship's suggestion, but I feel bound to state that this concession will probably lead to

THE RIGHT HONOURABLE

THE EARL OF CREWE, K.G.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET

LONDON, S.W.

further demands on Mr.Cobb's part and I doubt very much whether his views as to the number and sixe of these patches will coincide with those held by the Government of this Protectorate.

- out Mr. Cobb's boundaries as soon as possible on the lines indicated in paragraph 5 of vour hordship's despatch but in this also the proviso that due repart is to be had to future grants in the neighbourhood is very likely to involve a divergence of crinion. Such a provise it, I need hardly say, most reasonable, but the recognition of its necessity is in a large measure responsible for the delays which have hitherto taken place in settling the terms of this concession.
- 6. I shall be prepared to consider carefully whe cooperative acheme now put forward by Mr.Cobb, but, as Your Lordship observes, the proposal is an entirely new one and I am not therefore delaying my reply to the other questions raised in order to review the erguments for and against it.
- 7. Your Lordship has not asked me for a reply to the strictures contained in Mr.Cobb's letter of the low November last to the Under Secretary of State and I should have been glad to think that they had been rated at their true value and that no explanation was therefore required. I am however given to understand that such is not the case and in justice to the Departments concerned I think it only fair to put the other side of the question before Your Lordship.

- s. The letter raises a number of points, many of them of minor importance which are dealt with in the attached Memorandum by the Commissioner of Lands and its enclosures. The Chief Conservator of Forests is away on tour and his remarks of thought desirable will be forwarded later.
- 9. I do not propose to weary Your Lordship with various a detailed examination of Mr. Cobb's accusations but I should like to record my opinion hat he years been adequately answered by the heads of the Land and Survey Departments, and that it has been clearly shown that there was no desire on the part of the latter to obstruct the concession in any way.
- 10. Mr.Cobb has been kind enough in the opening part of his letter to congratulate me on the promptitude with which I directed my attention to his affairs. In point of fact, though doubtless I should in any case have dealt with the mustion of his concession at an early date, it was due to the representations of the Land office, which had been unsuccessful in obtaining any definite reply from Mr.Cobb or his arents, that I took action as soon as Italic.
- of the Protectorate Administration and on the lack of trust between settler and official would appear to be entirely irrelevant. They are however interesting as showing the strong prejudice which his colours all statements and renders it almost impossible for him to form an importial judgment where his opinions differ from those of the officials with

whom he has to deal.

12. I should like to summarize briefly the position as it appears to me after a perusal of the statements made on both sides.

In 1907 Mr. Cobb made an application for land in a district which had not been surveyed and was not therefore offered by the Land office for settle ment to ordinary applicants, though, so far from being unknown, it was recognized as suitable for certain class of far ing. Mr. cobb's case presented certain special considerations. His possession of capital was undoubted and he represented a group of beneficaeries under a trust. The circumstances were held to justify exceptional treatment and Your Lordship anctioned a grant of 75,000 acres within the boundaries described by Mr.Cobb. The latter were subsequently found on a rough survey to contain nearly 70,000 acres and Mr. Gobb was asked to make a selection. Difficulties arose immediately as he wished to pick out all the best pieces of land within the area and render the remaining 35,000 acres practically worthless for future allotment. He also proposed to include in his property, but not in his total acreage, certain 'pane' and marshy pieces of ground. The Land Office could not conscientiously consent to this and their action has been justified by Your Lordship's provise that special stress should be placed on the importance of laying out the boundaries with due regard to future grants of land in the immediate neighbourhood' and by the decision that 'pans' must be included

included in the acreage of the estate

- 14. Mr.Cobb then stated that he was unable to mark out what he wanted because the maps supplied were inadequate, whereas in point of fact the survey Department was awaiting information which he alone could give as to his requirements and the delay was therefore entirely due to himself.
 - 15. He then raised the question of free timber for estate purposes which he appears from his letter to have tacitly assumed would be granted to him, on what grounds I entirely fail to perceive. He was informed that the Sovernor had decided that he might be allowed to have it for ten years. He contested this and put forward a new claim for definite grants of forest land. At this stage in the negotiations, while a number of questions still remained unsettled, he sailed for England in July 1000 without leaving a representative in East Africa authorized to come to any decision on his behalf.
 - an unsatisfactory state of affairs and brought it to my notice with a view to getting some definite reply out of Mr. Cobb. It is, to say the least of it, somewhat surprising that in the face of the delays so persistently caused by himself he should have had the hardihood to write his letter of November 13th to the Under Secretary of State for the Colories. I may mention that he introduces into that letter the entirely new proposition of a cooperative scheme. This is very characteristic of his methods.

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17. I may state in conclusion that I am far from insensible of the benefits which the presence of men of means confers on this Protectorate and I am more than willing to further "r.Cobb's wishes in every legitimate direction, but I do take the strongest exception to the extremely unjust and unfounded accusations which he has seen fit to bring against departmental officials who have been actuated throughout by no other desire than to do their duty to the Government which they serve.

1°. It would no doubt have been perfectly easy and would have saved those concerned an infinity of trouble and anxiety had they conceded everything for which Mr.Cobb saked and the result would have been eminently satisfactory to that gentleman, but I take leave to doubt whether the interests of the Protectorate as a whole would have been well served by such action on their part.

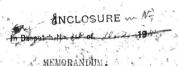
19. I may mention in conclusion that Pr.Cobb has neither visite! or communicate! with the Land rifice in regard to this concession since his arrival at the beginning of January nor has he sought an interview with myself or with the Secretariat. He is said to be now on a visit to German East Africa and is not expected back till the end of this month.

20. I cannot fail again to impress the undestrability of the details of such concessions being discussed at home. I feel positive that if

Government of the Protectorate were the only arbitrators in details, we would have come to more definite agreements long since. I would propose with Your Lordship's concurrence to follow this procedure in the present instance.

I have the hondur to be, Your Lordship's humble,

GOVERNOR



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The correspondence forwarded with the Colonial Office despatch of December 10th shows that ir.

E. Powys Cobb has been accusing practically every official with whom he has had dealings of either incompetence or obstructiveness, and in some cases almost of dishonesty.

I do not know if we are expected to defend our selves from these accusations.

2. The Land Officer (Yr. Darton-Wright), who was acting Commissioner of brands during my absence on leave, has written a note which is forwarded.

The Director of Surveys is absent on tour, but the Deputy Director of the Cadastral Branch has sent a copy of a letter, received from ir. Cobb, dated November 23rd 1968, with a note which shows that Mr. Cebb's accusations against that Department are not correct.

I leave the Chief Conservator of Forests to deal with this part of the letter, and I forward this note to you first, as Ir. Nutchins is absent on tour.

3. If Cobb has entirely misunderstood my action as regards the question of free timber. When he mentioned the subject to me I told him we had been dealing with the matter, and referred him verbally to the Cazette Notification of January 1st 1908, which contains the rules under which permits for free timber are given.

when I found that the Forest Department had given him a permit for one year, I at once had it corrected to one for two year, as contemplated in the notice for new grants.

term of his lease | wrote my letter to H.R. of May 10th 1909 (No.36 in .P.). This was referred to the Execu-

The decision case to was that, unless we were prepared to alt r the rules of January 1st 1908 so as to
extend the term of free permits to every farm in the
Protectorate, and we did not think there were sufficient,
grounds to do thin, in cobb's application could not be
agreed to Put he was allowed a special concession for
10 years instead of two.

the question of the fixing of the boundaries of his blocks with that of free timber.

vator of Porests, and that of Varch 2nd 1009 to Mr. Cobb had no concorn with the free timber question. The heads of the Survey and Porest Departments urged that Mr.Cobb should first indicate what land he wanted on the plan which had been furnished him before sending officials to the spot at great cost of the and money. This appeared to me very reasonable.

the end of part 1 of his Petter. At the interview with Sir James Hayes-Sadler he said he wanted the Forest strip "A" as he wished its shelter for his cattle, and

he

the was also desirous of building a house there. Tr. Hutchins said the strip contained valuable forest, and it was agreed that Tr.Cobb could use the glades and have theshelter he desired, he agreeing not to cut any of the trees.

I thought at the time, and still think, it would be better to include the strip in "r.Cobb's grant:
"Its area is not large, and it might well be included among the pieces of lore to be given for "estate" purposes.

6. I may refer here to "r.Cobb's accusation in part 2 that the accretary of state's letter of Fanuary 8th 1908 lay in the Governor's office and only reached him on May 4th.

That lotter was addressed by the Secretary of State to Mr. Cobb, and a copy sont to the Governor for information.

When in course of conversation with "r.Cobb I found that the letter had not reached him, I gave him a copy of it from my file on May 4th.

7. With these preliminary remarks I proceed to comment on the despatch of the Secretary of State.

(Para.S.) I note that sanction is accorded to the transfer to 'r.Cobb of 'r.D.Hockley's 5000 acre farm.

occurring within his blocks is not agreed to.

(Para.4) I have already explained the reasons for giving Mr.Cobb a permit for free timber for 10 years. It is not a case of restriction, but of giving him a concession

more favourable than has been allowed to other grantees of zhe Crown Land.

I quite agree that it will be bast to let Mr. Cobb have some forest right out. That will ebviate further representations for free timber. But I foresee that when we come to domarcating these bits of forest 'r' tobb will demand a gree deal more than the corest Department is likely to greede. I doubt it 'roobb will be satisfied with a "low small survable patches of forest land" not exceeding half a square male individually".

(Para. 5) We will communicate with Mr.Cobb and ask him to arrange a meeting on the spot with a surveyor and a copy of the instruction to the surveyor will be sent him.

I can confidently say that the Land Peparthent has consistently made every attempt to meet his wishes "within reason". His requests have not always been characterised as such, and we hold that he could have marked off on the plan furnished him approximately the blocks he wishes to take up.

However, we will do our best again, and the Forest Department will be requested to say if Mr. Cobb's allegations that the tongues of forest jutting out into his property do not contain theor suitable for Testate" purposes.

sition for a co-operative organisation alluded to in mammamb para a 6 of the despatch.

In so far as it is intended to bring undeveloped

farms into the Coop property I has against the scheme.
Our policy is to expect each grantee to develop
his own farm, and when the minimum development has
been carried out to allow a free right of transfer.

I do not see how we can provent Mr. Cobb from bringing into his organization developed farms, the owners of which are desired of transferring to him outright or in order to combbe them to carry out further development.

Under existing rules such proposed transfers require the sanction of the secretary of state if the transferee is already a helder of more than 10,000 acres.

Commission of Lands

The Secretary to Administration

(passed thro' the Hon'ble the commr of Lands on his return from tour)

With peference to the long letter of November 13th, 1909, on which I have been asked to make remarks, I would say re (2) that it will be within the recollection of His Excellency that it was from a desire on the part of the Land Department to have this long outstanding matter settled which prompted the Ag. Commissioner of Lands to address His Excellency on 18.10.09 in a long note setting forth the facts of the case.

- (3) No comment.
- (4) The fact that Mr.Cobb reckons most of the Protectorate officials as his personal friends is I think a refutation of his statement that a deep feeling of distrust exists between official and civilian, and I consider a sweeping general statement of this kind as unjust as it is unwarranted.
- doubtless other large tracts equally suitable for settlement regarding which insufficient was known to give information, and which like the area subsequently applied for by Mr. Cobb were not mentioned. The object of most settlers arriving in the country is early settlement, and obviously the Land office's efforts are usually directed to indicate land which can be obtained in the minimum amount of time. If an applicant applies for a terra incognita, he should not, I think, he surprised if delay occurs in subsequent negotiations when the necessary enquiries are being carried out.
 - (7) I am not in a position to refute or confirm but I am prepared to accept Mr.Cobb's statement as correct, and to allow the genuineness of his intentions

to energetically develop, but regarding (8) Mr. cobb in stating that the delay is due to the action of the Protectorate Administration omits to state that one of the causes of the delay is due to the difficulty in getting Mr. Cobb to tell us what portion he desired of the total area defined as covering the 35,000 acres grant which total area turned out to be some 70,000 acres in extent, and he also omits to mention the further new issues raised by himself on the question of simber to be granted for development.

Regarding (9) I regret that I was under a misapprehension, and I thought that Mr. cobb had actually occupied some of the land applied for.

Respecting Part II.

- 1. (a) Is a question for the Forest Department to answer.
- (b) Is a question for the Survey Department to answer.
- (c) As these notes pass through the Jon'ble Commissioner of Lands, with whom, together with the Colonial Office, these issues were negotiated. I will leave the reply under these heads to the Hon'ble the Commissioner of Lands, as also the long paragraph 2, which refers principally to interviews and negotiations with the Hon'ble Commissioner of Lands.
- 3, Is a question for the expert advice of the technical department concerned, i.e. the Forest reportment, though from an outside point of view I would incline to the opinion that the practical method of dealing with matter from the point of view of economy, if it is conceded that so much free timber is to be allowed, would be to include a certain proportion of forest on the estate which lessee would be free to cut, and so do away with

attendant on marking certain trees and the difficulty of so doing in remote situations such as the one under consideration. It would also allow of a much more practical external boundary for the estate, straight line give and take boundaries being employed instead of trying to follow an irregular and curvilinear forest edge.

(9) Mr.Cobb's letter of September 9th was passed to Survey Pepartment, who told me they were dealing with the matter. It was a question dealing purely with maps and surveys, and the Director of Surveys is I think in a position to satisfactorily answer the quibbles raised.

Last paragraph of 9 is not correct.

On July 23rd,1903, he is sent a plan asking him to define <u>where</u> he wants his land. In February we are still without the desired information.

In March,1909, he is again asked to do this by the Hon'ble Commissioner of Lands.

Mr.Cobb has shown himself an adept at evaste. He first pretends the first map sent him is too small a scale and too wanting in detail to make it possible to define what he desires; a larger scale plan is supplied, and he asks before replying that he may be assured in possession of those points of great natural beauty for which he has contended. You being gifted with second sight, and these beauty spots being unknown to us we were unable to proceed. Finally a meeting was arranged, which took place on 7.5.00, when Mr.Cobb indicated roughly the position of the land he wanted. At his request the area was roughly computed by planimeter, yet he has the audacity to state that the important calculations for which he had so often asked were then made in less than half an hour, when up to that date the areas were undefined.

I think that with the perversion of facts before me, did I not incline to the view that Mr. Cobb's memory is at

fault, that there would be a good deal of excuse for the official treating, not the settler in general, but in cobb in particular, with a feeling of qualified trust. From this point forward the facts are known to dis Excellency as it was as a result of not being able to get a reply to my letter of July 7th, that I placed the facts before this Excellency with a view that Mr. Cobb be obliged to complete settlement.

I am pleased to see that His Lordship the Secretary of State is in accord regarding the exclusion of the useless swamps falling within the area granted.

Yet in the lust paragraph but three Mr. Cobb says that the Acting Commissioner of Lands has misunderstood him and makes fresh proposals, which should not in my opinion be accepted. If such a principle were accepted, we should be inundated with similar absurd requests.

Sax- R.B.Wright.

I asked D.C.B. to check this note before passing to you as I wished to be certain that no independent correspondence between Cobb and Survey altered mything which I have stated above.

Wr. Townsend's minute of 11.1.10 govers a letter from Mr. Cobb, which is interesting inasmuch as Mr. Cobb writes on November 1st to the Director of Surveys saying that he must still delay the marking off of boundaries.

Intd/4 R.B.W. 12.1.10. Land Officer,

I cannot find whether Mr.Cobb was surplied with the information regarding area before date mentioned, but this letter (copy) is rather interesting inasmuch as if Mr.Cobb had complied with the Director of Surveys' request he would have received the areas asked for long before he did; the mistake.

Mr.Cobb makes is asking for calculations instead of asking for area, we naturally thought he wished for the arithmetical work, and not as appears from his remarks simply the area. The area of this irregular block had to be taken out by planimeter, as in addition to being irregular it was a plane table survey and not theodolite.

Mr. Cobb constantly refers to the various portions of his land and we were awaiting his plan being returned showing what portions he desired in the area surveyed, and until the plan came we could give him no information on the subject.

SOX- A.E. TOWNSEND.

14

5, Wanne de Gama Street, Rombasa, 23rd November 1908.

The Director of Surveys,

re Establishment of Beacons after Survey

Sir,

I have the honour to acknowledge receipt of your letter No.455 of the 18th inst:

I beg to thank you for being so good as to recognise that we have been discussing this matter at cross purposes.

I regret I am unable to send you the plan supplied to me because I have marked thereon certain additional information which is of use to me, and I have no staff at my disposal to make another copy.

Moreover since now both understand the situation and since I have given the necessary information notice of the Hon ble Commissioner of Lands notice published in the Gazette I do not feel that further action on my part is immediately called for.

Doubtless in a sense you are correct in calling the survey in question a final one, but in another sense your statement is inaccurate because by the memo which you cannot find some of the boundary lines have to be fixed by me and that I have not yet done.

I entirely agree with you that theaction of the other

Descriments does not concern yours but I venture to submit

that their action does concern me very materially, and until

the matters to which I referred in my last letter are adjusted

I fear I must delay the marking off of the boundaries which

will make the survey final.

Some months ago I had the pleasure of discussing this matter with the Director Cadastral Surveys and we then came to an arrangement which was satisfactory to me, and I believe to him also.

I have etc.,

Gov far - Jane - all 1976. DRAFT. Job Dos P. Girouand I have be honore to ack wedge the receipt Mr. Butter March 24 Mr. Rad. 24 of your confidential X Mr. Findes. Am 24 Mr. Just. desparch no 14 of Mr. Cox. Sir C. Lucas. Sir F. Hopwood. Mc 29, 3 + he 10th of February Col. Seety. 1303 3 relating to het Powy 3. Com's con. Cession, 2. I trust that you will be able to

it was at your sustance that I look up the question of the concession with wi Con in this country in conseque ne of your Alegnan . nº 149 J (345°) the 19th october and met fack son stolefunn 7° 158 of the 26 th of €12.3528 october a letter was addressed to wi Com 11 N. 35-281 by my direction calling whom him to refly (m 35200/09) definisely with the least forsthe delay to the enjury addressed to how by he Protectorate Contract the store

had passed and making one or two suggestions for meeting difficulties a feed in the main with the att sude taken up ly the Protectorage Cost on de guestion at case and laft MINUTE to you the task Mr. of making a final Mr. Fiddes. Mr. Just. Mr. Cox. settlement. Sir C. Lucas. 5. I have no Sir F. Hopwood. Col. Seely. Lord Crewe. de in a go en lattish. a practice by which final forms will be offered to concessionaires in the country without the

with concessions Subject to the observance of any general guiding principles which may have been laid down 6. It must however se clearly understood iat and refuse To receive and cousider representations which way be addressed to me in this country, even on he subject of negotiations which have been proceeding in the Protectorale I am sure that you will afree with me in there me a met a refusal would play

with concessions subject to the steer rance of any general guiding principles which may have been laid down 6. It must however ce clearly understood hat I cannot refuse To receive and consider representations which way be addressed to me in this country, even on the subject of negotiations which have been proceeding in the Protectorale. I am sure that you will a free with me in thenking that such a refusal would play

Gor E. a. P 258 CRIACOTT CHIACOTT CONTACT CONT 5 Alarah 1910 DRAFT.

G P (Conf.)

Six

Ministre.

Ministre. W. Barter March 24 desparch replied Mr. Read 24 ufferent to your conf. desp. Mr. Fiddes. 4M 24 Mr. Just Mr. Cox. No 14 of the 10th of Sir C. Lucas. Y Sir F. Hopwood, Jun 29. Felmany on the V Col. Seely. 30.3 subject of w. Pours CMs concession 9 de ne lo take up separately the reference made in 2/5- 4018-20

W' Con supported his statement with copies of a estacts from the cornespondence which had passed between homself and the Protectorate officers, and it was on this correspondence hat my view was formed in favires to the officers involved, I should state that my opinion was land more particularly on the conespondence

place between July 1908 awards. I reget to be compelled to the that I fee nothing in your despatch or its endownes calculated to we were the impression made y a perusal of shar con respondence. 3. I may add the to peneral references made by we com to he administration of me the and he relations between officials and settlers were quoted my bealment of he ly me as a matter of have or course and had no sout of influence on